

against the cargo between the several owners thereof, the court will, at the proper time, consider that application. The decree will be entered in accordance with the finding.

### THE LYDIA.

**EASTERN & A. R. Co. v. THE LYDIA, and eight other cases.**

(District Court, E. D. New York. February 10, 1892.)

#### **SALVAGE—FIRE IN OIL SHIP—STEAM-TUGS—PUMPING.**

Fire broke out about 9 o'clock A. M. in the cabin of the ship *Lydia*, as she was lying at a wharf in the Kill von Kull, with 2,900 barrels of crude petroleum aboard. Nine tugs, supplied with various kinds of pumps, came, one after another, to her assistance, and pumped water on the flames, at the same time taking the *Lydia* to an anchorage in mid-stream. The fire was extinguished about 12 o'clock. The court found that without the aid of the tugs the ship and cargo would have been destroyed, that no other help was obtainable, and that the services of all the tugs were useful. The *Lydia* and her cargo were worth \$31,000 or \$32,000. Held, that \$4,000 was a proper salvage award, which was divided among the tugs according to their merit; special allowances also being given to four men who carried hose to the burning cabin.

In Admiralty. Suits on behalf of the owners of nine tugs to recover salvage compensation of the ship *Lydia* and cargo.

*Wing, Shoudy & Putnam* and *Mr. Burlinham*, for the *Lydia*.

*Goodrich, Deady & Goodrich*, for the *Fisher*.

*George A. Black*, for the *Astral*.

*Benedict & Benedict*, for the *Elder*.

*Stewart & Macklin*, for the *Soper*, the *Golden Rule*, and the *Hoffman*.

*Wilcox, Adams & Green*, for the *Adelaide* and the *Carrie*.

*Carpenter & Mosher*, for the *Wallace*.

**BROWN**, District Judge. About 9 o'clock in the morning of January 21, 1892, a fire broke out in the cabin of the ship *Lydia*. It was extinguished a little before noon by the aid of some nine tugs, in behalf of each of which libels have been filed to recover salvage compensation. All the actions were consolidated and have been heard together.

The *Lydia* was lying in the Kill von Kull at the end of the pier at Bayonne, loading with crude petroleum and iron pipes. She had 2,900 barrels on board, which nearly filled her lower hold. The cargo was highly inflammable, and the gases from it, if confined, were liable to explode. Her hatches had, however, been off, and the ventilation was good, so that the chief danger was not of explosion, but that the fire might spread so as to reach the oily petroleum barrels, in which case I find that the ship and cargo would have been certainly destroyed. The day was clear and cold. The hose upon the dock, which was first sought to be used, was found to be frozen. The small tug-boat *Charles E. So-*

per was near at hand, and very shortly got out a hose, which was directed through the sky-light of the cabin; but after a few seconds' pumping, the pump gave out. The Soper thereupon sounded whistles. This attracted the attention of the steam-tug Isaac L. Fisher, which had previously passed the Lydia and was proceeding westward. The Fisher thereupon returned, made fast upon the starboard side, and sent up her hose on board the Lydia. It was found too short to run to the fire, whereupon a piece was detached from the hose on the dock and joined to the Fisher's hose. This caused some delay, so that the Fisher got playing upon the Lydia at about half-past 9 o'clock. The steam-tug Elder arrived next after the Fisher.

In the mean time the stevedore's men had cut the Lydia loose from the dock, fearing that she might communicate the fire to the oily barrels there; and the Lydia thereupon surging forward to the eastward with the tide soon grounded at her bows after moving about half a length. The Soper and the Elder were then employed for nearly a half hour in getting her off, and out into the stream, where she anchored at about 10 o'clock. The Fisher meanwhile continued her pumping without cessation, and also aided by her engines in getting the Lydia into the stream. While this was going on, the large steam-tug Astral arrived with powerful pumps, and began throwing water upon the Lydia. This was not of much service until the steamer had come to anchor, when the Astral made fast outside the Fisher, and from that time until the fire was out poured into the cabin a stream of about 1,500 gallons a minute. The Elder, as soon as the Lydia was moved, also made fast outside of and across the bow of the Fisher; and from that time kept up a stream of water through her hose until the fire was out. After these came next the Carrie and the Wallace at about the same time; next the Golden Rule and the Adelaide, all of which went upon the port quarter; and last the Philip Hoffman, which was the forward boat on the starboard side. The fire was extinguished a little before 12 o'clock. All the tugs were then discharged by the master, except the Fisher, which was requested to lie by. About 3 o'clock in the afternoon smoke again made its appearance, and the Fisher played with her hose for about 10 minutes more, after which all traces of fire disappeared, and she was discharged at about 6 P. M.

The evidence shows that the ship and cargo would have been destroyed, except for the aid of the tugs. No other help was obtainable. The value of the ship was from \$8,000 to \$10,000; of the cargo, about \$12,412; in all, about \$21,000 or \$22,000. The aid of the tugs was timely, and prevented any serious loss. The main deck was uninjured; the mizzen-mast only charred, so as to remain still serviceable with repairs only. The repair-bills amount to about \$2,300.

For the whole service I think \$4,000 will be a sufficient and appropriate award. Considerable difference arises in the claims of the different tugs for the merits of their respective services. I find that all were useful. Even the Soper, whose fire apparatus proved to be of no use, rendered an important service, besides her aid in the necessary removal

of the ship, in summoning by her whistles the other tugs that first came. In case of fire the first moments are the most important.

To the Fisher, as the first to arrive upon the ground with an effective pump, the largest share is due. Some drawback, however, must be recognized in the allowance to the Fisher from the fact that she was not fully prepared with sufficient hose for the emergency, and that some 5 or 10 minutes were lost in getting additional hose from the dock sufficient to reach the fire.

Next in importance is the Astral, specially fitted with powerful pumps, and worth about \$40,000, or one-third the value of all the tugs engaged. The great volume of water which she threw was most useful in keeping the decks cool and wet, and in preventing the spread of the fire; and there is no doubt that the scattering of the water all around the cabin, as it dashed against the mizzen-mast from her immense nozzle, directed down the companion way, did effective work.

The Elder is entitled to the credit of being somewhat earlier than the Astral, and of assisting in the removal of the ship, as well as for the use of her hose, though of smaller size, during all the subsequent time; and it was her hose that was used in the cabin and directed to the precise points of the fire.

The above-named three tugs are entitled to the largest allowance, because they arrived on the ground some 15 or 20 minutes before the others, and would very likely have been sufficient alone to extinguish the fire. Of the Carrie, the Wallace, and the Golden Rule, which arrived next, the Golden Rule was the most valuable tug, and her hose also was used directly in the cabin. The Wallace was a smaller tug; her hose had no nozzle; and the master of the Lydia testifies that much of her work was useless in pouring water down the booby hatch remote from the fire. The Hoffman was the last and of the least value; but I have no doubt she used her hose for a considerable time, as her witnesses testify. As the later tugs all rendered some service, they are entitled to share in the award, but in diminished proportions.

To each of the four men, who as soon as possible went into the cabin to play the hose, I award personally \$25 each, in addition to their shares as one of the crew of their tugs respectively. To the Soper I allow \$100. To each of the other tugs, having reference to the services rendered, their value, and the other circumstances appearing upon the trial, I award as follows: To the Fisher, \$1,000; to the Astral, \$850; to the Elder, \$550; to the Golden Rule, \$350; to the Carrie, \$300; to the Adelaide, \$300; to the Wallace, \$250; and to the Hoffman, \$200.

A decree, with costs, may be entered accordingly.

## THE PERSIAN MONARCH.

## BRIODY v. THE PERSIAN MONARCH.

(District Court, E. D. New York. February 25, 1892.)

## SHIPPING—NEGLIGENCE—PERSONAL INJURIES—INSUFFICIENT MACHINE—NOTICE.

The fall-rope of a derrick, rigged upon a boom running in line with the keel, to the mizzen-mast of the steam-ship Persian Monarch, to aid in loading and discharging cargo, was carried outside of the ship to a loaded scow, for the purpose of hauling her along-side by a steam winch. Under the strain, one of the guy-ropes parted, and the boom swung around, injuring libellant, who was a longshoreman engaged in attending to the fall-rope. Such a derrick is not usually designed for, or sufficient to withstand, such lateral strains. But upon evidence that this derrick had been many times so employed on this ship, with the knowledge of her officers; that no other mode of removing such barges was practiced by the ship; and that the boom was supplied and rigged with strong vangs, for the purpose apparently of hauling barges along-side,—held, that the ship was liable for the libellant's damages, which, under the circumstances of his case, were assessed at \$3,000.

In Admiralty. Suit to recover for personal injuries. Decree for \$2,000.

*E. H. Mars* and *William Allen*, for libellant.

*Foster & Thomson*, for claimant.

BROWN, District Judge. On the 11th of December, 1890, the libellant was employed as a longshoreman in loading and discharging the steam-ship Persian Monarch in this port. A derrick was rigged upon the mizzen-mast, the boom of which was held up some 12 feet above the deck by a chain running from the end of it to the mast aloft, and kept in position over the keel by a guy or vang of wire rope running from the end of the boom on each side to a block fastened to the deck near the rail. The libellant's duty was to tend the fall-rope. For the purpose of hauling along-side the ship a scow loaded with a cargo of flour, the hook of the fall-rope was carried outside of the ship on the starboard side and fastened upon the further side of the scow. The winch was then set in motion; but the scow being heavy, and the ebb-tide beneath the pier offering additional resistance, the strain became so great upon the guy on the port side, that it parted. Thereupon the boom swung suddenly to starboard, carrying the starboard guy and tackle along with it, and caught the libellant, who was standing by the starboard rail, and pressed him severely against the rail, causing him great injuries, for which the above libel was filed.

Several witnesses on behalf of the claimant testify, and I have no doubt that such is the fact, that a derrick rigged upon the mast is not designed for such lateral strains, or to be used in hauling barges by a longitudinal strain; and that the proper way to use the winch for that purpose is to detach the fall-rope from the block of the boom, or else to use a different hawser, and carry it through the chock on the side of the ship to the barge outside. The stevedore also testifies that the use of the fall from the boom was improper, and was only used when the offi-