

This is a question of fact, and depends upon the circumstances of the case. If, looking at these, it is fairly to be concluded that the plaintiff was not blameworthy in going on in the increased danger, he is to be justified in doing so, and the defendant will be held responsible for all the consequences following naturally from his own unlawful act. In *Town of Albion v. Hetrick*, 90 Ind. 545, the town had negligently permitted a highway to remain out of repair. A person having the right to travel there, though he knew that the defect existed, yet as there was no other convenient way, and he reasonably thought he could get through, notwithstanding the defect, was held not to be precluded from his right to recover for an injury sustained by the defect of which he had knowledge. In *Wilder v. Railroad Co.*, 65 Me. 332, the plaintiff sued the railroad company for the value of a horse which had been killed on its track. The horse had been turned into the plaintiff's field adjoining the track, which, in disregard of the law, the company had not fenced. It was urged in defense that he was the author of his own wrong, because he knew that the road was not fenced, and took the risk. It was held, however, that he was entitled to the enjoyment of his own rights, and was not necessarily negligent in turning his horse into the field; and he recovered. In *Linnehan v. Sampson*, 126 Mass. 506, the defendant negligently permitted a dangerous bull to be taken along the street. The man leading him was thrown down, and was being gored by the animal, when the plaintiff, coming by, went to see what he could do. He did nothing for the man, but was himself attacked by the bull and injured. The defense was that the plaintiff saw the danger, and might have kept away from it. Upon the ground that he was not in fault in yielding to a call of duty and humanity, in a sudden emergency, it was held that he was not debarred from recovery because he had notice of the danger into which he went.

The result is that the Holton must be held chargeable upon the cross libel for the damages sustained by the Campbell, and it is so adjudged. A reference will be made to a commissioner to take proofs of the damages sustained by the Campbell, and to report the same, with his conclusions thereon, to the court.

THE HELEN F. ROBBINS.

DEMAREST et al. v. THE HELEN F. ROBBINS.

(District Court, E. D. New York. March 3, 1893.)

1. SALVAGE—FIRE—VESSEL IN SLIP—TOWAGE—PUMPING—AWARD.

A lighter loaded with cotton having caught fire in a slip, 2 tugs towed her into the stream, where 15 other tugs joined them, and pumped water on the fire, aided later by the city fire boat, until the flames were extinguished. The value of the saved property was some \$7,000. *Held*, that \$2,000 should be awarded as salvage,—\$200 each to the tugs which towed the lighter into the river, and \$100 apiece to each of the other tugs.

2. SAME—ASSAULT BY FIRE BOAT—ADDITIONAL AWARD.

When the master of a tug which was assisting in putting out a fire on a lighter was assaulted by means of a stream of water from a fire boat, and injured, *held*, that he should receive an additional award of \$100.

In Admiralty. Various suits by the owners of 17 tugs to recover salvage against the Helen F. Robbins. The suits were consolidated on motion. Decrees for libelants.

Wing, Shoudy & Putnam, for libelants.
Carpenter & Mosher, for claimants.

BENEDICT, District Judge. An examination of the evidence produced in these causes has led me to the following conclusions:

I am of the opinion that the sum of \$2,000 is a proper salvage award to be paid by the lighter and her cargo. This sum should be apportioned as follows: To the tug Sadie E. Ellis and the tug Philip Hoffman,—these two tugs being the first tugs at the fire, and by whose exertion the burning lighter was removed from the slip into the stream, where the other tugs could have access to her,—the sum of \$200 each is awarded. The evidence does not enable me to determine the relative value of the services rendered by the other 15 tugs who threw water upon the lighter and her cargo after she had been towed into the stream. I therefore find it impossible to make any discrimination between these 15 tugs, as to the value of their services. To each of these tugs, therefore, I award the sum of \$100. And I award the sum of \$100 to the master of the James T. Easton, who was assaulted by means of a stream of water from a fire boat, and so injured as to be confined to his house for four weeks, and put to an expense of \$60 for medical attendance. It would seem that attacks of this character are coming to be a peril incident to the rendition of salvage services to vessels on fire in this port, and, if so, must be considered in determining the amount of the award. The sum awarded each vessel will be distributed as usual,—one-half to the owners, and the rest divided among the crew in proportion to their wages; and the costs of the proceeding must be borne by the claimants.

 THE THOMAS HILYARD.

TUTTLE et al. v. THE THOMAS HILYARD.

(District Court, E. D. New York. March 7, 1893.)

SALVAGE—TOWING BURNING LIGHTER FROM VESSEL AT WHARF—SERVICE TO
LATTER.

While certain tugs were towing a burning lighter out of a slip, the lighter came in contact with the side of a ship, also lying in the slip. The lighter having been towed away from the slip by the tugs, this suit was brought against the ship on the ground that the removal of the burning lighter from proximity with the ship was a salvage service to the latter. *Held*, that the ship was in no substantial danger, as the lighter was at the time in charge of salvors, who were entirely competent to remove