

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

her before fire could catch on the ship; and also the removal of the lighter was a necessary part of the salvage service which the tugs were rendering to the lighter, and for which they had instituted suits against the lighter. The libel was therefore dismissed.

In Admiralty. Libel for salvage. Dismissed.

Stewart & Macklin, for libelants.

Wing, Shoudy & Putnam, for claimants.

BENEDICT, District Judge. This is an action instituted by the owners and crew of the steamtug Philip Hoffman, and the owners and crew of the steam lighter Josephine B., and the owners and crew of the steamtug Jas. T. Easton, to recover salvage compensation for services rendered to the ship Thomas Hilyard. The facts are these: The Thomas Hilyard was lying at a pier at Harbeck Stores on the south side of the pier, bow in, when a lighter lying at the bulkhead, and having on board over 400 bales of cotton, caught fire. The tug Philip Hoffman and the tug Sadie E. Ellis and the tug Josephine B. commenced to tow the blazing lighter. As the lighter was moving, her guy rope caught upon the ship, and she was held close to the ship for a few moments. After being towed free from that position, the lighter again came in contact with the quarter of the ship. Being towed free from this position, she passed on. The claim of the libelants is that the ship was in great peril of catching fire from the burning lighter while alongside of her, and, inasmuch as the lighter was towed away from the ship by these tugs, they are entitled to be paid a salvage compensation by the ship.

Assuming that it was not by the fault of any of the tugs represented in this proceeding that the lighter came in contact with the ship, and assuming that the ship would have been set on fire by the lighter if the lighter had not been promptly removed from the side of the ship, yet I am of the opinion that the ship was in no substantial danger, because the lighter was at the time in charge of salvors who, as the result shows, were entirely competent to remove the lighter before fire could catch the ship. Moreover, the lighter, at the time she was in contact with the ship, was being towed by these salvors. The removal of the lighter from alongside the ship was a part, and a necessary part, of a salvage service which the tugs were engaged in rendering to the lighter, for which service they have sued the lighter. Under such circumstances, I am of the opinion that they are not entitled to claim salvage from the ship.

Let the libel be dismissed, but without costs.

THE PORTIA.

THE FAIR WIND.

REED v. THE PORTIA.

NEW YORK, N. & H. STEAMSHIP CO. v. THE FAIR WIND.

(District Court, E. D. New York. April 12, 1893.)

COLLISION—STEAM AND SAIL MEETING—CHANGE OF SAILING VESSEL'S COURSE.

A collision occurred in Long Island sound, by night, between the steamer *Portia*, bound west, and the schooner *Fair Wind*, sailing east. On the evidence the court rejected the story of the schooner, that the steamship was first seen to windward, afterwards passed to leeward, and then suddenly changed again, throwing herself across the bows of the schooner, which had always held her course; but the court found, on the evidence, that the steamer, having seen the light of the schooner in season, was properly maneuvered to avoid her, when her efforts were thwarted, and the collision occasioned, by a luff on the part of schooner. *Held*, that the latter was in fault for the collision, in failing to hold her course.

In Admiralty. Cross libels for collision.

Butler, Stillman & Hubbard, for *The Portia*.

Goodrich, Deady & Goodrich, for *The Fair Wind*.

BENEDICT, District Judge. The collision between the schooner *Fair Wind* and the steamer *Portia*, out of which these actions arose, occurred at a point off Eaton's Neck, in the center of Long Island sound, between 10 and 11 o'clock P. M., on July 30, 1892. The night was dark, sky overcast, and at times it was raining. The schooner was bound to the westward; the steamer was bound to the eastward. The wind was about east. The vessels came together at right angles, the schooner's bowsprit bringing up on the port bow of the steamer, then swinging under a port helm. I find it impossible to reconcile the conflicting statements given by the persons on board the respective vessels. Of the two theories put forth, one must be rejected. According to the testimony from the schooner, the steamship when first seen was to windward of the schooner. Afterwards she passed to leeward of the schooner, and then, by a sudden change under her port helm, when she was perhaps two points to leeward of the schooner, and close at hand, she took a course which brought her across the bows of the schooner, the schooner having held her course without change. According to the testimony from the steamship, the steamship was never to leeward of the schooner, but always to windward of the schooner, the courses being nearly opposite. The red light of the schooner was seen by the steamer in time to give abundant room by porting, and the steamer would have cleared the schooner had not the schooner luffed as the vessels drew near each other.

If the steamer was always to the windward, and never to the leeward, of the schooner, the conclusion that the schooner luffed would necessarily follow, for the steamer was swinging to windward. The schooner admits that when first seen the steamer was