

The repair of the men to the dock on three different days after the shipping articles were signed, and the exercise of control over them by the master or other representative of the ship, brings them within this rule. See *The Caroline Miller*, 53 Fed. 136; *Crenshawe v. Pearce*, 37 Fed. 432, 435.

Decree for the libelants for the amounts claimed, with costs.

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THE GOVERNOR.

HASTORF v. THE GOVERNOR.

(District Court, S. D. New York. December 11, 1896.)

TUG AND TOW—MOORING IN EXPOSED PLACE—DUTY TO WATCH FOR CHANGES OF WIND.

The tug G., having in tow a scow to be taken to sea, and being obliged to put back on the approach of a southeast gale, moored the tow outside of Atlantic Basin, which was safe from a southeasterly gale, but unsafe in high westerly winds. During the night the wind shifted to the westward, and the libelant's boat was damaged by pounding: *Held*, that the tug was in fault either for not taking the tow inside the basin, or else for not maintaining a sufficient watch during the night, with help at hand sufficient to remove the tow in time to prevent damage, upon any change of wind to the westward, which was a change to be reasonably anticipated.

Goodrich, Deady & Goodrich, for libelant.  
Macklin, Cushman & Adams, for claimant.

BROWN, District Judge. In the evening of December 30, 1895, the libelant's scow *Aurora*, loaded with garbage, was taken in tow in the East river by the steamtug *Governor*, with other boats to be taken out to sea for the purpose of dumping. After getting round Governor's Island the weather and water was so rough in a southeast gale, that the *Governor* turned about and landed her tow along the bulkhead forming the outside of the Atlantic Basin. During the night the wind shifted to the westward, and the libelant's boat was damaged by pounding in that position before the boats were moved to the interior of the basin; and the above libel was filed for this damage.

The place where the tow was moored was sheltered from a southeasterly gale; but it was exposed to the effects of westerly or northwesterly winds; and in any wind to the west of south, the place was not a safe place for such a tow. There would have been no difficulty in taking the scows inside of the Atlantic Basin at the time they were moored outside; nor during several hours succeeding. The scow was without any fault; and it was at the risk of the tug that she moored the tow in a place exposed to westerly winds. After mooring them in that situation, it was specially the tug's duty to take note of any changes of wind that might prove injurious. Southwesterly gales are usually shorter than the northeasterly gales; and it is a very common thing for a southeasterly gale to shift through the southward to the westward. In the present case the testimony shows that this change was not sudden, but quite gradual, and that the wind after shifting to the southward

so remained for an hour or two, before it got sufficiently to the westward to become dangerous. The tug took no measures to look after the tow during this interval, nor until the damage had begun, and then she was not herself able to handle the tow alone, and had to go up to Rutgers street for a helper; and before the two could get the tow into the basin, the damage complained of was done. It was, in brief, the duty of the tug either to moor the tow in a safe place for the entire night, as against changes of wind that might reasonably be anticipated, or else to keep watch of the changes in the wind, and to begin the transfer of the tow to a safe place in time to avert damage.

Decree for the libellant, with costs.

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THE WHITNEY.

THE SHAMOKIN.

HARRIS et al. v. THE WHITNEY.

METROPOLITAN S. S. CO. v. HARRIS et al.

(District Court, S. D. New York. January 2, 1897.)

**COLLISION—FOG—ROUNDING POLLOCK RIP LIGHTSHIP—LONG TOW—DANGEROUS NAVIGATION WITHOUT SIGNALS FROM TOW—BOTH IN FAULT.**

The barge Shamokin, the second barge in tow behind the tug International, each on a long hawser of 70 or 80 fathoms, when proceeding to the eastward through Vineyard Sound in dense fog, was struck by the steamer H. M. Whitney coming westward at a point about east from the Pollock Rip lightship and sank soon after. The tug and steamer as they approached gave proper whistles for passing, each to the left. The tug was seen as she went past about 200 feet distant; the first barge, 500 feet astern, was passed considerably nearer. No further signal was heard indicating any other barge behind the first, and no hawser was seen; the Whitney, after a few moments waiting, went on to round the lightship, and in a few moments the Shamokin was seen crossing the Whitney's bow from port to starboard, when it was too late to avoid collision. Such tows have long been common in that region, with even more boats in tow. The course in rounding Pollock Rip lightship changes about  $5\frac{1}{2}$  points; and it was necessary for boats meeting in that vicinity, in fog, to keep within the range of the lightship's signals. The steamer's officers supposed that the tug and her tow were proceeding upon a course opposite to their own, and parallel with it. This was not so, because on the exchange of the first signals the steamer and the tug both starboarded; and this mistake largely contributed to the collision. *Held:* (1) That the steamer was in fault for not noticing by her nearer approach to the first barge that she was crossing the line of the tug and tow, and also for not waiting longer, as more than one tow was quite frequent; (2) that the tug was in fault for dangerous navigation around Pollock Rip lightship with such a tow, in so dense a fog without signals from the tow; and that it was her duty either to come to anchor in a safe place before rounding, as she might have done, or else to provide for signals from the tow while rounding Pollock Rip lightship to give notice of the position of the tow in fog.

In Admiralty. Collision.

James Armstrong, Wilhelmus Mynderse, and P. M. Brown, for Harris and others.

Benedict & Benedict, for The Whitney and the Steamship Co.

BROWN, District Judge. The above libel and cross libel arose out of a collision which took place in a dense fog at about 4 p. m.