

objects which she made out, and to go clear, and that the dangerous condition resulted from the fact that she was subsequently involved in an unexpected length of tow, I find that her speed was not immoderate. Moreover, if I were to assume that her speed was immoderate under the circumstances, and that the hawser was reasonably cut to avoid apparent danger presented by her precipitate and perilous proximity, still I should find and hold that her negligence was not the proximate cause of the loss, but that the loss resulted from other and intervening causes not foreseen, and for which the Mount Hope was not responsible. Libel dismissed.

THE NANNIE LAMBERTON.

THE FANNIE P. SKEER.

THE ROLLIN H. WILBUR.

EMPIRE TRANSP. CO. v. THE NANNIE LAMBERTON et al.

KIERNAN v. SAME.

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

TUG AND TOW MEETING STORM—DUTY TO MAKE EXAMINATION BEFORE ENTERING ROUGH WATER.

The tug *N. L.*, with two other tugboats, came up through the Kills in threatening weather, with a large number of canal boats in tow. They went out of the Kills between 12 and 1 a. m. in a westerly gale, blowing 31 miles an hour, and in the rough weather of the upper bay the tugs were unable to handle the tow well, and several of the boats foundered from the rough seas. *Held*, that the tugs were in fault for leaving the Kills in such weather without the customary previous examination of the condition of the water and weather outside.

Macklin, Cushman & Adams, for libelants.
Goodrich, Deady & Goodrich, for claimants.

BROWN, District Judge. I do not think it necessary to make any extended reference to the testimony in the above cases. I am persuaded that there was not on the part of the tugs the exercise of that reasonable prudence which is necessary and customary before taking a tow out of the Kills into the bay in threatening weather. It is evident that after this fleet got into the bay, it experienced very rough weather. The three tugs were, in fact, insufficient to handle the tow efficiently. While in the Kills, the wind was naturally much less felt, as is well known. The necessity of caution in leaving the Kills when the weather is unpromising is well understood; and in many cases the practice of sending out a tug in advance to observe the weather in the bay, before taking out the tow, has been proved before me; and if there were no such proof, considering the dangers likely to be encountered in the bay on moving from a partly sheltered to an exposed situation, the necessity of such examination would be an obligation of reasonable prudence. The evidence indicates also that on this same night at about the time the defendants came out, a Pennsylvania tow made

such previous examination, and did not come out till morning, though better equipped in force than the defendants' tugs.

The weather in this case was unpromising from the time the tow left Perth Amboy. It was rough, and blew a gale when crossing Newark Bay. This was itself sufficient notice of the necessity of special caution before leaving the Kills. Between 12 and 1, when the tow left the Kills, it was blowing 31 miles an hour—a smart gale from the westward—altogether dangerous for such a tow of open boats to meet. I do not find sufficient evidence to charge the tow injured with any fault, or with any degree of unseaworthiness. The very rough night affords, it seems to me, a reasonable explanation of all the defendants' criticisms.

Decrees for the libelants, with costs.

THE VICTORIA.

THE POCAHONTAS.

THE KOMUK.

MINCH v. THE VICTORIA et al.

(District Court, S. D. New York. February 15, 1897.)

TUG AND TOW—DUTY OF EXAMINATION BEFORE ENTERING ROUGH SEA AND WEATHER.

The tug V., with two other tugs coming down the North river with a fleet of canal boats, ran into a violent southeast storm and rough water in Haverstraw Bay, in which the tow was afterwards broken up. There was abundant previous warning of storm, both from the ordinary indications and from cautionary signals displayed, and the tug entered Haverstraw Bay without previous examination of the condition of the bay. *Held*, that the tug was liable for lack of reasonable prudence with such a tow, and was responsible for the damage.

Carpenter & Park, for libellant.
Stewart & Macklin, for respondents.

BROWN, District Judge. The above libels were filed to recover for the injuries to and loss of certain canal boats and their cargoes, in Tappan Zee, in a storm, while coming down the Hudson river in tow of the above-named tugs on the morning of the 29th of August, 1893.

The libellant's boats were part of a fleet of 32 boats, i. e., 8 tiers of 4 boats each, which came from Albany in tow of Ronan's Line, on a hawser. On reaching West Point, in the evening of August 28th, the 3 tugs above named, which had come up from New York that afternoon and evening, took the tow, relieving the tugs that had brought it down from Albany. On the 28th, cautionary signals were given in New York, indicating the approach of a violent southeast storm. In crossing Newburg Bay considerable rough weather was met, with indications of storm. The tow, however, proceeded on from West Point, being more or less in the shelter of the Highlands until they reached Stony Point, at about 1 a. m.