

steps that was not loose. This of itself was sufficient to prevent a recovery. The other question of fact, as to whether the evidence showed that the rubber on the step had been out of repair for a sufficient length of time to impart notice to the defendant, has no special application to this case; for here the negligent act of the appellants consisted in placing the keg in the place where, from its position, danger was liable to occur. We have constantly recognized the principle, for which appellants contend, that no one can be held liable for an injury which was not the result naturally and reasonably to be expected from the act of his employé, and could not have been foreseen. *Railway Co. v. Kellogg*, 94 U. S. 469; *Sheridan v. Bigelow*, 93 Wis. 426, 67 N. W. 732; *McGowan v. Railway Co.*, 91 Wis. 147, 64 N. W. 891; *Henry v. Railroad Co.*, 50 Cal. 183; *Motey v. Marble Co.*, 20 C. C. A. 366, 74 Fed. 155. But it logically follows that the converse of this proposition must be true,—that the master should in all cases be held liable for an injury which was a result naturally and reasonably to be expected from an act of his employé, which could have been foreseen and guarded against by the exercise of ordinary care and reasonable diligence. The decree of the district court is affirmed, with costs.

THE GEORGE W. CLYDE.

COMMERCIAL TOWBOAT CO. v. THE GEORGE W. CLYDE.

(Circuit Court of Appeals, Second Circuit. April 7, 1898.)

No. 101.

SALVAGE—ADEQUACY OF AWARD.

An award of \$1,000 to two tugs which went promptly to the assistance of a steamship (in apparent danger of sinking from collision), valued with its cargo at \$50,000, and in 15 minutes, without danger to themselves, beached her in a safe place, will not be disturbed as inadequate.

Appeal from the District Court of the United States for the Eastern District of New York.

Goodrich, Deady & Goodrich, for appellant.

Wing, Shoudy & Putnam, for appellee.

Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The appellant insists that the award of the court below of \$1,000 for the salvage services rendered by its two tugs to the steamship was inadequate. The tugs happened to be near the steamship when she was so badly injured by a collision with another vessel that there was apparent danger of her sinking immediately, in water 60 to 80 feet in depth. They went to her assistance, and her master requested them to tow her to the shallow water, which was about a quarter of a mile away. They did so, and, in less than a quarter of an hour after the collision, she was beached in safety. The value of the steamship and her cargo was \$50,000. The services involved no risk to the tugs. Those in charge of the steamship discovered, as soon as the towing services

began, that the situation was less critical than they had at first supposed. In fact, she could have reached the place to which she was towed without assistance, and would have done so if it had been necessary. The tugs acted promptly and energetically, but the service was a short one, involving no danger to the persons or property of those engaged in it, and, as it turned out, could have been dispensed with by the steamship. Upon this state of facts, we ought not to disturb the decree. We cannot say that the award was manifestly inadequate. "The allowance of salvage is, necessarily, largely a matter of discretion, which cannot be determined with precision, by the application of exact rules. Different minds, in the exercise of independent judgment upon the same evidence, seldom coincide exactly in their view of the facts, or give the same prominence to the varied elements which make up the case. An approximate concurrence is all that can be expected." *The Baker*, 25 Fed. 771. For this reason, appellate courts are not disposed to interfere in salvage cases, unless the award is manifestly excessive or inadequate, or has proceeded upon some erroneous principle. *The Emulous*, 1 Sumn. 214, Fed. Cas. No. 4,480. The decree is affirmed, with costs.

THE ELLA.

REAKIRT v. THE ELLA.

(District Court, D. Delaware. April 9, 1898.)

No. 554.

1. MARITIME LIENS—MARITIME CONTRACTS.

A sale of coal, pursuant to which the coal is delivered to a vessel to be carried as cargo under bills of lading to the purchaser as consignee, the vendor having knowledge that the purchaser is engaged in the business of selling such coal for other than maritime purposes, is not a maritime contract; nor do the facts that the consignee owns such vessel and that a portion of such coal, after having been delivered to the consignee, is supplied by it to such vessel as necessary fuel, serve to create or support a maritime lien.

2. SAME.

The question whether a maritime lien attached for the price of the coal must be determined on the facts and circumstances as they existed at the time of its original delivery to the vessel, and cannot be affected by any subsequent application of the coal by the purchaser.

(Syllabus by the Court.)

Levi C. Bird and A. E. Sanborn, for libelant.

Lewis C. Vandegrift, for claimant.

BRADFORD, District Judge. This is a libel in rem filed September 30, 1896, by Margaret L. Reakirt, of the City of Philadelphia, Pa., trading as Reakirt Brother & Company, against the steamboat *Ella*, to recover the price of coal furnished in that city by the libelant on the credit of that vessel, as is alleged, from April 14, 1896, to August 22, 1896, inclusive, amounting, after deducting certain allowances, to \$707.22, together with interest thereon from the last mentioned date. The *Ella* was owned solely by The Philadelphia and Smyrna Trans-