

THE ROMAN PRINCE.

(District Court, S. D. New York. April 20, 1898.)

SALVAGE—FIRE—PROMPTNESS—PERSONAL DANGER—FIRE DEPARTMENT.

The tug D. being prompt to render assistance, and the deck hand incurring some exposure in rendering effective aid, though the engines of the fire department soon appeared in force, was allowed \$300, one-half to owners, and one-half to master and crew, of which the deck hand and master were each awarded \$50.

This was a libel in rem by Augustus Demarest and others against the steamship Roman Prince to recover for salvage services rendered in extinguishing fire.

Cowen, Wing, Putnam & Burlingham, for libelants.
Convers & Kirlin, for claimant.

BROWN, District Judge. At about 6 p. m. of May 4, 1897, shortly after the discharge of the steamship Roman Prince had begun at the Atlantic Docks, a fire broke out in the steamship's middle hatch among some bales of wool and liquorice. The libelants' tug Defiance, attracted by the smoke, arrived alongside about five minutes after the fire broke out; her aid was asked by the ship's officers, and her pump and hose were immediately applied to the fire; first, through the middle hatch, and a few minutes afterwards, through a small side hatch, down which the deck hand Le Fontaine went with the hose, at some peril to himself and at the cost of some burns. The steamship's donkey pump and hose, as I must find upon the evidence, were also used from the first. Upon signal to the fire department of Brooklyn, several engines arrived about 10 or 15 minutes after the fire broke out; but at that time it was nearly under control, and no flames were then visible, in consequence of the previous service of the pumps of the steamship and of the Defiance combined. Pumping was continued for some time afterwards to extinguish the smoldering fire; and so successful was the result, that the entire damage amounted to only about \$1,200.

The chief elements of merit in this case are (1) the great promptness of the tug in rendering assistance; (2) the close application of her hose where most needed, by going down the small hatch; and (3) the success in preventing any large damage from a fire, which if not immediately checked, would probably have caused a far greater loss. The aid obtainable from the fire department, however, and its appearance on the scene, in force, only a few minutes after the arrival of the Defiance, must prevent any large award. Upon all the circumstances, I think an allowance should be made to the Defiance of \$300; of which \$50 should go to the master, \$50 to Le Fontaine, who took the hose down the hatch, and \$50 to the rest of the crew in proportion to their wages; the residue, to the owners. Decree accordingly with costs.

In re STUTSMAN COUNTY, N. D.

(Circuit Court, D. North Dakota, S. E. D. June 24, 1898.)

1. REMOVAL OF CAUSES—SUITS TO COLLECT TAXES.

The proceeding for the collection of delinquent taxes provided for by chapter 67 of the Laws of 1897 of North Dakota is a "suit" within the meaning of Act 1887-88.

2. "SUIT" DEFINED.

A proceeding in a court of common law or equity, which culminates in a judgment that conclusively determines a right or obligation of the parties, so that the same matter cannot be further litigated except by writ of error or appeal, is a "suit," within the meaning of the federal judiciary acts. In re City of Chicago, 64 Fed. 897, criticised.

3. JURISDICTION—MATTERS OF PROCEDURE.

The act of 1887-88 does not require, as a condition of the removal of a case to the federal court, that in matters of procedure the case be one that could have originally been commenced in such court.

4. SAME—SEPARABLE CONTROVERSY.

The proceeding under the North Dakota act of 1897 is not a single suit, but as many suits as there are parcels of land; and, if the same person owns several parcels, such suits are consolidated by his joining all the parcels in a single answer.

5. SAME—DIVERSE CITIZENSHIP.

Where jurisdiction depends upon the citizenship of the parties, it is the party that is named in the record that is meant; and an objection that there might be other parties entitled to defend, but not named in the record, will not avail to defeat jurisdiction.

Frederic Baldwin and S. E. Ellsworth, for complainant.

James B. Kerr, for defendant.

AMIDON, District Judge. Chapter 67 of the Laws of 1897 of the state of North Dakota makes provision for the collection of delinquent taxes by a proceeding in the district court. The enactment is taken from a statute that has long been in force in the state of Minnesota. Section 1 provides that the county treasurer shall make a list of all taxes upon real estate in his county which have been delinquent for certain years. The list is required to contain a description of the parcels of land upon which the taxes have not been paid, and opposite such description the name of the owner to whom assessed, if known, and the amount of the tax, with penalty and interest. Such list is to be verified by the affidavit of the treasurer, and is then filed in the office of the clerk of the district court of the county. "The filing of such list shall have the force and effect of the filing of a complaint in an action by the county against each piece or parcel of land in such list described, to enforce against it the taxes therein appearing against it, and the penalties and interest for the several years for which such taxes shall remain unpaid, and to obtain a judgment or decree of the court for the sale of such piece or parcel of land to satisfy the amount of such taxes remaining unpaid, with penalties, interest, and costs; and also the effect of notice of the pendency of such action, to all persons interested in such lands." Section 2 provides that, in case the land is rented, a writ of attachment shall issue, upon the application of the county treasurer, to seize such rents, and have the same applied in payment of the taxes. Sections 3 and 4 provide that the