

Nothing new about risks of towing a hulk

Regular columnist Simon Tatham looks to the past, depicted in the UK's favourite painting, to examine the challenges surrounding taking a vessel to the scrapyard



► Simon Tatham

At ITS 2018 Marseille more than a dozen shipyards vied for the attention of operators. Challenged whether their products were a work of art, invariably they replied: "Yes, of course!"

Those smiling salesmen probably did not have in mind that a picture of their fine craft might one day hang in the Rijksmuseum in Amsterdam or the Guggenheim in Bilbao. However in the National Gallery in London hangs a picture voted in 2005 as the British nation's favourite painting, and it is of a tug by JMW Turner (1775-1851).

The tug is engaged towing a hulk, *The Fighting Temeraire*, on its last voyage in 1838 to the breakers and I return to that interesting story below.

Then as now, scrap tows do have a tendency to go wrong, for all manner of reasons. Blame should seldom attach to the tug, selected for size and power, assuming at the place of departure it is capable of delivering the contractually indicated bollard pull.

The most common problem, in our experience, is a failure of hirers to correctly trim the tow such that it fails to follow correctly. With no riding crew or with ballast pumps inoperable, this poses a challenge to the tug crew, if they are willing and able to board (which in most cases they are not obliged to do).

In the case of a decommissioned rig, a greater draft than expected or excess marine growth will hamper performance. It is sometimes difficult to understand how a towing warranty surveyor's inspection

might fail properly to deal with the impeding problem.

There is, furthermore, a great reluctance to put into a place of refuge for trimming, where the jurisdictional authorities may ask awkward questions about the contents of tanks or final destination. Consequent delays are a concern to both parties, while excess bunker consumption is a headache to the contractor working on fixed price terms, often at breakeven level in the current tight market. He will have made assumptions in pricing his contract which are no longer valid. Only careful wording of the contract will ensure proper redress for delay in those circumstances.

From time to time there is a tow which sinks en route, giving rise to potential hurdles for the tug owner seeking to recover the hire of which he has been deprived.

An early example of a final voyage under tow to the breakers is depicted in the painting. *HMS Temeraire* had won fame at the battle of Trafalgar in 1805, but had been employed by the Admiralty in its latter years for storage and less warlike activities. It was stripped of its masts, guns and stores and sold by Dutch auction in 1838 for £5,530 (which I very roughly calculate in today's money to be about £600,000 or US\$780,000) to a shipbreaker at Rotherhithe on the River Thames, close to where Tower Bridge stands today.

The first steam driven tug in the UK was built around 1815. The two paddle steamer tugs hired by the breaker from the Thames

Steam Towing Company for the 55-mile tow from Sheerness were perhaps a third or fourth generation design.

The leading tug only is depicted in the painting. Though not very powerful these were very manoeuvrable, being able to turn on the spot on account of their paddles being independently driven. Nor did they need to be massively powerful. Although this was the largest hull tow yet attempted up the Thames, motive power was largely provided by the flood tide, the flotilla anchoring during the ebb period before completing the passage.

At Rotherhithe, on the peak, the vessel was hauled over the mud whereafter its copper nails and fittings were removed and sold back to the Admiralty while its timbers (reportedly of some 5,000 oak trees) recycled into the building construction trade.

This painting is dramatic, depicting the end of the era of sail, the final days of a once brave fighting ship while, in contrast, evoking the coming age of steel, coal and steam.

We do not know on what terms the tugs were engaged, but this was many moons before my old colleague Mike Lacey drew up the first draft of what was to become TOWCON, the outline of which hangs in my office in the City.

I doubt that there was anything even close to the BIMCO knock-for-knock clause, nor do we know whether hirer or contractor took on the risk of grounding, whether salvage was excluded nor whether a final voyage policy was taken out at Lloyd's and a towage warranty surveyor appointed. I suspect not, with great trust being put in the knowledge of the pilot and other seamen.

Evidently the passage was well planned and executed and, if Turner's painting is anything to go by, the calm summer weather may have played its part as well.

Simon Tatham is a partner of Tatham Macinnes LLP and founder member of the TugAdvise.com service. He has more than 30 years' experience of shipping law.



◀ The Fighting Temeraire by JMW Turner (1775-1851), on display at the National Gallery in London, was voted Britain's favourite painting in 2005