

Case No. 219.
[Bee, 90.]¹

ALLEN V. THE CANADA.

District Court, D. South Carolina.

March, 1798.

SALVAGE SERVICE—WHAT CONSTITUTES—COMPENSATION.

1. Compensation granted for keeping company with the distressed vessel, at the earnest request of her captain.
- [2. Cited in *The Williams*, Case No. 17,710, as authority for remedy in rem for services not upon or in contract with the ship, not upon which the salvation of the vessel depended.]
[In admiralty. Libel for compensation for services. Decree for libelants.]

From the pleadings and evidence it appeared that the *Canada*, [John] Sewall, master, on a voyage from Jamaica to England, having lost her rudder, and sprung her foremast in a storm, was obliged to bear away for the first port. She came to anchor off the bar of Charleston; when the captain came ashore for assistance, and returned with a new rudder, six fresh hands, and a pilot. The ship, in another storm, parted her cables, and was driven out to sea. After several days she fell in with Allen's brig, bound from New York to Charleston, and entreated Allen to stay by the ship, and assist, if necessary, in conducting her back to the bar. With this he readily complied; kept company all day, and carried a light through the night. The next day they made the lighthouse; and, the wind being more moderate, the brig towed the ship towards the bar for two or three hours; after which the ship anchored, and the brig came up to Charleston. The ship arrived, without further assistance, on the following day; and the present suit is brought for compensation. Salvage was claimed in the libel, but that ground was abandoned. Though the captain of the ship had expressed great solicitude to have the brig in company, yet the pilot and others from Charleston, who went to her assistance, concur in saying that the ship was in no immediate danger. She carried sail, notwithstanding the injury done to the foremast, and was manageable, notwithstanding the loss of her rudder. Though leaky, she was cleared of water by pumping half an hour in every hour, and that with a single pump; the cargo was not at all damaged. The crew of the ship, however, acknowledge that they derived much comfort from the presence of the brig, as they could rely upon her aid in case of greater danger. The two vessels were together a day and a half; but the brig never went out of her course, nor did she receive the least damage. Three hundred dollars had been offered by way of compensation, but refused.

The judge decreed four hundred, and ordered the defendant to pay costs of suit.

¹ [Reported by Hon. Thomas Bee, District Judge.]