

Case No. 3,092.

THE CONCORDIA.
PENT V. THE CONCORDIA.

{5 Adm. Rec. 400.}

District Court, S. D. Florida.

Dec. 17, 1855.

SALVAGE—COMPENSATION.

- {1. Salvors, having no means of saving a cargo of cotton but by rafting, have no right to exclude others having vessels on the spot from participating in the salvage service.}
 - {2. The first salvors should be allowed 8 per cent, on the value of the cotton saved by the second set for saving it from fire by scuttling or cutting a hole in the side of the ship.}
- {Cited in The Tolomeo, 7 Fed. 501.}

The CONCORDIA.PENT v. The CONCORDIA.

[In admiralty. Libel by Anthony Pent and others against the ship Concordia, her cargo, etc., for salvage services.]

O. B. Wart, for libellants.

S. J. Douglas, for respondent.

MARVIN, District Judge. It is ordered, adjudged, and decreed, that the libellants and petitioners have and recover in full compensation for their services in saving said cargo and materials, the one half of the net proceeds. It is ordered, that the bills for costs and expenses of this suit and for all other charges upon the property, be brought into court with the proper proofs or vouchers, on or before Wednesday next, at ten o'clock in the forenoon, to be submitted to the court, and allowed or disallowed, and that the costs, expenses and charges allowed by the court, except the proctor's fee for defending this suit, be deducted from the gross proceeds of sales, and the remainder be considered the net proceeds, the one half of which is hereby allowed for salvage. That the clerk pay out of said proceeds the costs, expenses and charges allowed by the court, and the salvage ascertained as aforesaid, and pay the residue to Captain Cushing, late master of said ship; and that he be admonished that he receives said residue discharged of any claim upon them for any pretended charges not allowed by the court, and that he ought not to pay any such charges, all legal charges being made by this decree a charge upon the gross proceeds. That the division of said salvage be reserved for a further decree.

Afterwards, to wit, on the 20th day of said month, the judge made and filed an order in this case on the salvage, costs, and charges, in the words and figures following, to wit:

It is the opinion of the court in this case that the first set of salvors had no right to exclude the second set from saving the cotton in their vessels, the first set not having at the time the means to save it, except by rafting; and they had no right to expose the property on the raft when there were wrecking vessels on the spot, ready to receive it. It is also the opinion of the court that the first set have a claim upon the cotton saved by the second set for saving it from the fire by the scuttling or cutting of a hole in the side of the ship, and letting in the water, as by them alleged, and that eight per cent. upon the salvage of the second set ought to be allowed for this service to the first set. It is ordered and decreed that the portion of costs and charges to be paid by the salvors be apportioned among them according to their respective interests; that eight per cent. of the salvage allowed the second set be deducted from their salvage and assigned to the first set; and that it be referred to Commissioner Baldwin to divide the salvage; and that he allow Edward Percey, mate of the ship, two shares out of the salvage of the second set.

The costs and charges upon the proceeds of the said property having been brought into court in pursuance of the decree lately pronounced, it is now ordered that the following bills be allowed against said proceeds:

The bill of the clerk of the court	\$113 39
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The marshal's bill	101 39
Libellant's proctor's fee	20 00
O'Hara & Wells, bill for wh'fge & storage	268 18
California House for hoarding crew	47 45
Bill for provisions for crew	26 49
Notary public's fees	21 57
Bowne & Curry's bill for house for crew	5 10
One witness fee	1 50
	\$604 97

—Making the aggregate bills allowed six hundred and four dollars and ninety-seven cents, which deducted from seven thousand one hundred and thirty-nine dollars and ninety-nine cents, leaves as a net proceeds six thousand five hundred and thirty-five dollars and two cents, the one half of which, or three thousand two hundred and sixty-seven dollars and fifty-one cents, is allowed to the salvors, and the same sum (less one hundred and forty-eight dollars, the respondent's proctor's fee, which is to be paid out of the residue by the clerk), or three thousand one hundred and nineteen dollars and fifty-one cents to be restored and paid to the late master for and on account of whom it may concern.