

SCHUTZ ET AL. V. THE NANCY.

{Bee, 139.}]¹

District Court, D. South Carolina. March, 1799.

SALVAGE—COMPENSATION—AGREEMENT MADE WHILE IN DISTRESS.

Salvage must always be a reasonable allowance, to be fixed by the court upon consideration of the circumstances. All agreements, therefore, entered into in situations of distress at sea, are contrary to law, and will be set aside.

The Nancy, on her passage from Martinique to St Kitt's sprung a leak, which being considerable, and one of the pumps being rendered useless, the crew agreed to stand for the first port. Four days after this, they threw overboard part of the cargo; in ten days more, made the land, and sent on shore for a pilot. The next day, the ship struck on a bank off Cape Romain, and at four in the evening fell in with a Danish ship, the mate of which was sent on board to ascertain her situation. The Danish captain also boarded her, and agreed, at the request of the captain of the Nancy, to stay by her that night, and, on the following day, to put his chief mate on board, who should take the command of the vessel and conduct her into port. It was further agreed between the two captains that, for these services, the Danish captain should receive such a sum as arbitrators might allow. The pump of the Nancy was repaired by the captain and crew of the other vessel; and she was towed by them till three o'clock the next day, when a pilot boarded her. The Danes then cast the ship off, and she was brought safely over the bar of Charleston.

THE COURT, in this case, said that salvage was unquestionably due, but must be reasonable; and that agreements entered into at sea, by persons in distress, were void in law: as in cases of duress on land. This

was done in the case of *Cowell v. The Brothers* [Case No. 3,294], decided here. The judge also compared the circumstances of *The Nancy* with those of *The Canada* [Id. 219] and *L'Esperanza* [Id. 1,647], which had also been argued here; and after a full view of the case ordered that the sum of one thousand dollars should be allowed to the libellants by way of compensation.

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

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