

SMITH ET AL. V. THE JOSEPHINE.

{9 Betts. D. C. MSS. 20.}

District Court, S. D. New York. March 8, 1847.

SALVAGE—SERVICE BY UNITED STATES
VESSEL—COSTS.

{This was a libel for salvage by Joseph Smith and others, crew of the sloop of war Plymouth, against the brig Josephine, her tackle, apparel, and cargo.}

BETTS. District Judge. It appearing to the court upon the pleadings and proofs in this case, that this action is founded solely upon services rendered on the high seas, by the United States sloop of war Plymouth, her officers and crew, to an American vessel and cargo, found a wreck and derelict at sea: It further appearing to the court that such services were in no way extraordinary, and consisted wholly in boarding the said vessel, securing hawsers to her, and towing her into the port of New York, the crew being removed from her when the weather rendered it dangerous for them to remain with the wreck: It further appearing to the court that the services aforesaid were rendered the said brig in obedience to the orders of the officer in command of the said sloop of war, and not at the request or the procurement of the claimants and owners of the brig, and were performed and participated in by the officers and crew of the said sloop of war as required and directed by said officer in command: and that no acts specially meritorious were performed by the libellants or other individuals of the crew. It further appearing to the court that the commissioned officers on board said sloop of war do not unite in, or promote this suit and decline to claim or receive any reward of salvage if made therein: It further appearing to the court that under the laws and regulations governing the navy of

the United States it is a part of the official duty of ships of war and their officers and crews, to afford relief to American vessels wrecked or otherwise in distress: Wherefore it is considered by the court that the services rendered the aforesaid brig by the said sloop of war, her officers and crew, or any part of them, are not of the character of salvage services for which they or any of them are entitled to demand compensation out of the vessel and cargo so relieved: It is therefore ordered and decreed by the court that the libel in this cause be dismissed.

But it appearing to the court that the libellants had probable cause upon which to demand the judgment of the court, in the premises, it is further ordered, that no costs be taxed or recovered by the claimants against the libellants. It is further ordered that the said vessel and cargo be discharged from arrest in this cause, or if sale thereof has been already decreed, that the proceeds in court be paid over by the clerk to the claimants or their proctor, after deducting therefrom the costs of the officers of court chargeable thereon.

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