

## TWO HUNDRED AND TWO TONS OF COAL.

[7 Ben. 343.]<sup>1</sup>

District Court, S. D. New York.

May, 1874.

## SALVAGE—CONTRACT BY MASTER.

When a contract for salvage of a canal-boat and cargo was made by the master, the sunken boat being within easy reach of all parties interested: *Held*, that such contract must be closely scrutinized; that the rate agreed upon being exorbitant, the contract would not be upheld, and the amount of salvage would be reduced from \$900 to \$250.

[Cited in *The C. M. Titus*, 7 Fed. 831.]

The canal-boat *John C. Churchill*, loaded with coal, sank in the Kill von Kull; and the master, without consultation with the owners of the cargo, agreed with the libellant to give him sixty per cent, of the value of the cargo for the raising and recovery of it. The owners of the cargo disputed the claim as exorbitant, and the salvor libelled the cargo so recovered.

Goodrich &amp; Wheeler, for libellant.

John McDonald, for claimants.

BENEDICT, District Judge. This action is brought to condemn the cargo of the canal-boat *John C. Churchill*, for services in the nature of salvage, rendered by the libellant in raising the coal in the canal-boat from a place where she had sunk in the Kill von Kull. The proofs show a written contract made between the master of the boat and the libellant that the latter should raise the boat and cargo, and receive for his compensation sixty per cent of the value of boat and cargo, which would be some nine hundred dollars. This contract is set up in the libel, but the prayer of the libellant is for such compensation as may be just Agreements to pay for salvage services made by masters of canal-boats, when within easy reach of all parties interested in the property to be saved,

are subject to be closely scrutinized, and will not be upheld in a court of admiralty when it appears that the price agreed on by the master is unreasonable or exorbitant

In the present case the proofs show affirmatively a situation of the boat and her cargo which would not justify an agreement to pay so large a portion as sixty per cent, and satisfy me that justice will be done to the libellant if, in view of all the circumstances, the sum of \$230 be awarded to him for his services in respect to the cargo, with the costs of this action. Let a decree to that effect be entered.

<sup>1</sup> [Reported by Robert D. Benedict, Esq., and Benj. Lincoln Benedict, Esq., and here reprinted by permission.]

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