

## THE CETEWAYO.

*District Court, E. D. New York.*      March 26, 1881.

## 1. SALVAGE—SECURITY FOR COSTS BY SEAMEN.

Where one of the crew of a salving vessel libelled the saved property to recover his share of the salvage, and a motion was made to compel him to file security for costs, upon the ground that the salvage had been paid to the master of the salving vessel:

*Held*, that in the absence of an agreement on the part of the seaman to waive his right to salvage, he would not be compelled to give security for costs.

In Admiralty.

*Beebe & Wilcox*, for libellant.

*Owen & Gray*, for respondent.

BENEDICT, D. J. This is a motion to compel a salvor to give security for costs. The salvor was one of the crew of a tug during the performance of a salvage service by the tug. The defence appears to be that the libellant is not entitled to share the salvage, because he was employed on monthly wages to work on the tug in the performance of salvage services. This defence, it is claimed, has been proved in testimony already taken in this cause, and upon this ground it is now contended that the seaman should give security for costs. But it is evident that there was no written agreement by the seamen to waive the right to share in salvage, and that the existence of such an undertaking will be matter of inference to be drawn from circumstances. It would have been easy to have made an agreement with the crew to that effect, and if that precaution had been taken there would have been some ground for compelling security for costs. In the absence of such a precaution, and where an order to file security is equivalent to dismissing the libel, I am not inclined to give such a direction.

Motion denied.

This volume of American Law was transcribed for use  
on the Internet

through a contribution from [Phoenix School of Law](#). 