

THE HENRY FRANK.†

Circuit Court, E. D. Louisiana. November 17, 1881.

TOWAGE, AS SALVAGE SERVICE.

Where a steam-boat valued at from \$35,000 to \$40,000 in a gale of wind broke from her landing in the harbor, and without any steam or other propelling machinery, and with only a watchman on board, drifted down stream to her own peril, and that of the shipping in the harbor, when two tugs went to her assistance, and towed her, after much trouble, to a place of safety, it was a salvage service, and \$300 was deemed a just compensation,—three-eighths to the men and five-eighths to the boat.

Appeal in Admiralty.

Joseph P. Hornor and F. W. Baker, for libellants.

B. Egan, for claimants.

PARDEE, C. J. Out of the conflicting evidence in this case enough can be ascertained to show that on the fourteenth of April, 1879, at about 9 o'clock P. M., the steamer Henry Frank, a large steam-boat, 764 worth from \$35,000 to \$40,000, in a gale of wind blowing at about 34 miles per hour, broke away from her landing in this harbor, and without any steam or other propelling machinery, with only one man on board, was blown and drifted down the stream, to her own peril and the peril of other shipping in port. The watchman on board rung his bell for assistance, and two tugs, the N. M. Jones and the Maud Wilmot, went to her relief, got lines aboard, and towed her, after much trouble, in shore to a place of safety. The night was dark and the river rough; the service requested and rendered was valuable and necessary; and there was something more than ordinary risk and peril to the boats and men rendering the service. Yet the fact that the Canal-street ferry-tug Jerry was running, shows that the service can hardly be classed as dangerous. The evidence is conflicting as to which tug-boat first arrived, and which rendered the most

efficient service, but I do not think it necessary to go into the question. The ship was adrift and helpless, and the libellants rendered services in picking her up and landing her in safety, and there can be no doubt of their claim for compensation as salvors. The district judge has allowed \$300,—three-eighths to the men, and five-eighths to the boat,—and I see no reason to disturb his judgment, unless it should be as to the rate of distribution between the libelling boat and the crew; but this is not asked, and the rate may be just, considering all the circumstances.

Let a decree be entered for the libellants the same as in the district court, and for costs in both courts.

Both parties had appealed.

† Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

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