

To the owners of the vessel, - - - - -	\$1,000 00
To Capt. Wallace Brown, - - - - -	600 00
To Robert F. West, - - - - -	500 00
To Robert Matchet, the mate, - - - - -	400 00
To each one of the other three smacksmen, \$300, amounting to -	900 00
To James Ramsdell, the owner of the whale-boat, - - - - -	350 00
To each one of four other Nantucket men, \$300, amounting to -	1,200 00
	\$4,950 00

I should have allowed to the Nantucket men more than to the smacksmen, on account of their extra expenses at New London, and in returning home, but I cannot avoid the idea that there was a flavor of unfairness in their hurrying away from Nantucket, without communicating with the captain, who, they had good reason to suppose, was organizing an expedition for the relief of his vessel. On the other hand, the captain would not probably have found his vessel. He would not, in all probability, have got away in his chartered vessel from Nantucket, either in the day-time on Wednesday or on Thursday.

MUNTZ and others v. A RAFT OF TIMBER.*

(Circuit Court, E. D. Louisiana. January, 1883.)

1. JURISDICTION.

A raft of timber is subject to the jurisdiction of the admiralty court in the matter of salvage.

2. SALVAGE.

If part of a salvage service is performed by one set of salvors, and the salvage is afterwards completed by others, the first set are entitled to reward *pro tanto* for the services they actually rendered, and this even though the part they took, standing by itself, would not, in fact, have effected the salvage.

In Admiralty.

R. King Cutler, for libelants.

E. Warren, for claimants.

PARDEE, J. On a very foggy morning in February, 1880, a large raft of logs broke loose in the upper part of the port of New Orleans. It was discovered by the steam-tug *Margaret*, a little steam ferry-boat then plying across the river from Louisiana avenue, in the city of New Orleans, to Harvey's canal. The men on the raft called to the ferry-boat to assist in landing the raft. The *Margaret* went to the assist-

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

ance of the raft at considerable peril to herself, and with her steam-power and crew rendered more or less service in getting the raft towards the right bank of the river, where she could be landed in safety to herself and the other shipping in the port; but before the landing was accomplished the large tow-boats Continental and Wasp came up, and, taking charge of the raft, towed it to a safe landing-place in the lower district.

The owner, captain, and crew of the Margaret libeled the raft for salvage. The district judge allowed \$51 for the boat and crew. In this court on appeal it is urged—*First*, that a raft of timber is not subject to the jurisdiction of the admiralty court in the matter of salvage; *second*, that the Margaret was too small and weak to be able to render salvage services to a large raft; *third*, that no salvage services can be allowed compensation where the property is not saved, and that the raft in this case was saved by the large tug-boats and not by the Margaret; *fourth*, that the services of the Margaret were of no value to the raft.

A few undisputed principles taken from the text-books settle this case:

“Salvage is compensation for maritime services rendered in saving property or rescuing it from impending peril on the sea, or on a public navigable river or lake, where interstate or foreign commerce is carried on.” Marvin, Salvage, § 97. “Salvage may be shortly described as an allowance made for saving a ship or goods, or both, from the damages of the seas, fire, pirates, or enemies.” Jones, Salvage, 1. “It is absolutely essential that the salvors should have rendered actual assistance to vessel in distress.” Jones, *supra*, 4. “If part of a salvage service is performed by one set of salvors, and the salvage is afterwards completed by others, the first set are entitled to reward *pro tanto* for the services they actually rendered, and this even although the part they took, standing by itself, would not, in fact, have effected the salvage.” Jones, *supra*, 9. “Salvage constitutes an important subject of the admiralty jurisdiction, and this jurisdiction may be exercised as well *in personam* as *in rem*.” Conkl. Adm. 273. “The district courts shall have jurisdiction as follows: * * * *Eighth*, of all civil causes of admiralty and maritime jurisdiction.” Rev. St. § 563.

The district judge was of the opinion from the evidence, that the services of the Margaret and her crew were more or less valuable in saving the imperiled raft, and allowed \$51 as compensation.

This judgment should be affirmed, and a decree having that effect will be entered.

MUNTZ and others v. A RAFT OF TIMBER.*

(Circuit Court, E. D. Louisiana. January, 1883.)

JURISDICTION—RAFT—SALVAGE.

In a case where a raft is adrift in a fog on the Mississippi river, in peril of loss and great damage to itself and to other property, where the persons on the raft in charge called for assistance, and services of a maritime character were rendered, and the court entertained and maintained jurisdiction of a libel for salvage, its decision need not be taken as holding that a raft is a vehicle of navigation, or can commit a maritime tort.

Tome v. Four Cribs Lumber, Taney, 536, distinguished.

In Admiralty. On petition for a rehearing.

R. King Cutler, for libellant.

E. Warren, for claimants.

PARDEE, J. A rehearing is applied for on the authority of *Gastrel v. Cypress Raft*, 2 Woods, 213; *Jones v. Coal Barges*, 3 Wall. Jr. 53; *Tome v. Four Cribs Lumber*, Taney, 536. The case in Woods' Reports was a claim made for the ownership of logs cut by trespassers on lands in Mississippi, and incorporated with other logs in the raft in controversy. The case in Wallace, Jr. was one of collision between two barges. Neither of these cases touches the question before the court. The case in Taney, while it may declare the doctrine claimed by claimants' proctor, in this case, seems to have been decided more upon the merits than upon the jurisdiction of the court. The court says, however:

"The result of this opinion is that rafts, anchored in the stream, although it may be a public navigable river, are not the subject-matter of admiralty jurisdiction in cases where the right of property or possession is alone concerned."

It is not necessary to dispute this conclusion or any other in the Taney case, in order to maintain jurisdiction in this case. Instead of a raft anchored, or one afloat, according to the usage of the trade, this case showed a raft adrift in a fog, in peril of loss and great damage to itself and to other property, where the persons on the raft and in charge called for assistance, and services of a maritime character were rendered. The decision in this case need not be taken as holding that a raft is a vehicle of navigation, or can commit a maritime tort, or as being subject to any other obligations and responsibilities than a bale of cotton would be subject to under the same circumstances.

The petition for rehearing is refused.

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