

THE LAHAINA.¹

(District Court, E. D. New York. March 15, 1884.)

SALVAGE—AMOUNT—ALL THE CARGO AND HALF THE VESSEL ALLOWED.

The steam-ship C., valued at \$180,000, the day after leaving New York, found the schooner L. in the trough of the sea, without steerage-way, a large hole in her side, and seriously damaged forward. The L.'s crew announced their intention to abandon her in case the C. declined to take her in tow. The C. towed the L. back to New York, losing thereby three days' time, breaking a steel hawser, and paying pilotage and towage, amounting to \$279. The schooner and cargo were sold, the net proceeds being \$3,514.25. The proof showed that the cargo of the L., from its nature, would have been wholly lost if the L. had not been taken in tow by the C. No one appeared to claim the cargo. The court allowed the whole of the proceeds of the cargo—not a large sum—and one-half the net proceeds of the vessel, to be paid the salvors for salvage, and, in addition, the above expenses of the steamship and \$200 for damages to hawsers, to be first deducted from the proceeds and also costs.

In Admiralty.

Jas. K. Hill, Wing & Shoudy, for libelants.

Goodrich, Deady & Platt, for claimants.

BENEDICT, J. This is an action for salvage services rendered by the steam-ship *Caledonia* to the schooner *Lahaina* and her cargo. The *Caledonia* was an iron steam-ship, engaged in the Mediterranean trade, and bound from New York to Glasgow with a general cargo, including 300 cattle. The day after leaving New York, when *Shinnecock* bore N. W. about 25 miles distant, she sighted the three-masted schooner *Lahaina* flying a signal of distress. The schooner was six to eight miles distant, some three points on the port bow. The steamer bore away for the schooner, and, coming along-side, found her in the trough of the sea, without steerage-way, a large hole in her side, and seriously damaged forward. The crew of the schooner asked to be taken to a harbor of safety, and announced their intention to abandon their vessel in case the steam-ship declined to take her in tow. The master of the steam-ship concluded to endeavor to take the schooner to New York, the nearest port of safety, and, having made fast to her by a four-inch steel hawser, started back for his port of departure. The swell was heavy, and the steel hawser parted. Then a thirteen-inch hemp hawser was put on, which held. The next morning they were off Sandy Hook, and that day the wreck was left safe in harbor at New York. The steam-ship lost three days' time, and she paid pilotage and tow-boat expenses amounting to \$279. The value of the steam-ship was \$180,000. The schooner and her cargo were sold in this proceeding, and the net proceeds, after paying all expenses, amount to \$3,514.25. The proof shows that the cargo, from its nature, would have been wholly lost if the wreck had not been taken in tow by the *Caledonia*, and it seems to

¹ Reported by R. D. & Wyllys Benedict, of the New York bar.

have been supposed that, owing to the condition of the cargo, the proceeds would barely equal the duties upon it and the expenses of its sale. No one has appeared to claim the cargo, although considerable time has elapsed since the filing of the libel, and notice of the proceeding has been sent to the party in interest. So far as the cargo is concerned, therefore, the proceeding is by default.

Under such circumstances, I am justified in allowing the whole of the proceeds of the cargo in court, the same not amounting to a large sum, to be paid to the salvors, whose exertions saved the same from certain loss. In regard to the schooner, where an appearance has been entered for the owners, and they have been heard upon the question of the amount of salvage proper to be allowed out of the proceeds of the vessel, considering, in connection with the circumstances already mentioned, the small value of the property saved, the value of the salving ship, and the fact that, had not the schooner been taken in tow, she would have been abandoned, a water-logged wreck, in the track of vessels bound to New York, I am of the opinion that one-half the net proceeds of the schooner must be allowed to the salvors for salvage. In addition, the expenses paid out by the owners of the steam-ship, amounting to \$279, and \$200 for damages to the hawsers are, however, to be first deducted and paid to them. The libelants must also recover their costs.

THE BELLE OF OREGON.¹

(District Court, E. D. New York. March 8, 1884.)

SEAMEN—CONTRACT TO SEND THEM HOME—DAMAGES—MITIGATION.

Where natives of the Philippine islands shipped as seaman on an American vessel at Iloilo for a voyage to New York, and the master bound himself to return them to their country at his expense, and the men left the vessel at New York without objection, no provision being made for their remaining on board, and afterwards the master offered to the boarding-house man at whose house the men were that the men should return to the vessel and go in her to Portland, Oregon, *held*, that on the proof the men did not desert the vessel at New York, and were not bound to remain on board her; that under the agreement the men were to be sent home direct, and not by way of Oregon, and that no offer had been shown to send them home, even via Oregon; that there had been, therefore, a violation of the contract on the part of the vessel, and the vessel was liable for the damages that the libelants might have sustained, to be ascertained by a reference. As a matter of protection to the foreign sailors, the vessel was allowed now to provide them with a passage home, and to show this in mitigation of damages.

In Admiralty.

Beebe & Wilcox, for libelants.

W. H. Field, for claimant.

¹Reported by R. D. & Wyllys Benedict, of the New York bar.