

THE CALIFORNIA.¹
COMPAGNIE BORDELAISE DE NAVIGATION A VAPEUR v. THE
CALIFORNIA.

District Court, E. D. New York.

October 3, 1888.

SALVAGE—DISABLED STEAM-SHIP—TOWAGE—AWARD.

The German steam-ship California, from Hamburg for New York, when about 300 miles east of Sandy Hook, broke her high-pressure piston. She drifted for two days, the weather being very stormy, until she was within 58 miles of Nantucket shoals, and 67 miles from St. George's banks, and 54 miles from the Bavis bank. Here the steam-ship Chateau Margaux, from New York to Bordeaux, hove in sight, and, at the request of the master of the California, turned back in her course, and brought the latter vessel into the harbor of New York. In doing so she lost a week's time, and incurred an expense of about \$2,000. The California was worth, with her cargo, freight, and passage money, \$260,850. The value of the Chateau Margaux, her cargo, freight, and passage money, was \$568,000. *Held*, that the Chateau Margaux was entitled to \$15,000 as salvage, and \$2,000 for her expenditures.

In Admiralty. Libel for salvage.

Wing, Shoudy & Putnam, for libellant.

Ullo, Ruebsamen & Hubbe, for claimant.

BENEDICT, J. This is an action to recover salvage compensation for service rendered to the steam-ship California by the steam-ship Chateau Margaux, in April, 1888. The California was a German steam-ship, bound on a voyage from Hamburg to New York. The Chateau Margaux was a French steamer bound from New York to Bordeaux. It appears by the statement of the master of the California that on the morning of the 5th of April the engine of the California stopped by reason of the breaking of her high-pressure piston, and could be no longer used. The steamer was then about 300 miles to the eastward of Sandy Hook. She was brigantine rigged. In the afternoon of the 5th the wind began to freshen. During the night of the 5th the weather was very stormy, and the ship drifted very hard to the north-west, so that the soundings shoaled from 55 fathoms to 31 fathoms between noon of the 5th and 5 o'clock in the morning of the 6th. It was reckoned that the steamer by midday of the 5th had made three miles under sail. Between 4 P. M. and 8 P. M. of the 5th it was reckoned that ten miles were made. Between 8 P. M. and 12 P. M. of the 5th eight miles were made, the wind then blowing hard from the southerly. From midnight of the 5th to 4 A. M. of the 6th, wind still blowing hard from the southerly, the steamer was estimated to have run eight miles. At 4 P. M. of the 6th the wind was shifting to westward, and the soundings showed 31 fathoms, with fine sand. Between that and 8 P. M. of the 6th the steamer drifted into deeper water. She could do little in the way of steering. At 12 P. M. of the 5th the log says: "Had no steerage-way on the ship." The entry of the

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log at 4 P. M. is: "No steerage-way on the ship." The same entry was made on the next watch, and also from 8 o'clock A. M. till noon. At 4 o'clock of the 6th the ship wore around on the southern tack. She could not tack. In the afternoon of the 6th the log says: "Tried to wear, but the ship refused to obey the helm, and we were obliged to continue on the same course as before." This was because she was in a cross sea. The log on the morning of the 7th contains the same entry. The ship at this time refused to obey because there was no wind. On the morning of the 7th the steamer was about 56 miles from Nantucket shoals and 67 miles from St. George's banks, and 54 miles from the Bavis bank. She had taken aboard a pilot at 8 P. M. of the 6th, and the weather was fine. Between 5 and 6 A. M. of the 7th the Chateau Margaux hove in sight. The California displayed a flag of distress, and a signal that she wished to be taken in tow. The Chateau Margaux bore to her, and a request was sent by the master of the California that the Chateau Margaux would tow the California to New York. To this the master of the Chateau Margaux assented, at the same time in writing calling the attention of the master of the California to the fact that instead of taking her to Halifax he retraced his steps at the request of the master of the California, and for her convenience. The Chateau Margaux having taken the California's hawser, towed her into the port of New York in safety, and there left her at anchor at 6:25 P. M. on the 8th of April. The Chateau Margaux was able to make with the California in tow some eight miles an hour. In the performance of the service no damage was sustained by the Chateau Margaux, save only her thrust shaft became heated and burned, requiring a day's extra labor by the engineers to repair it. The weather was for the most part fine. In the afternoon of the 5th the wind increased, and hauled to the west-north-west, and became fresher, and the vessels strained so much that it was deemed wise to put out a second towing hawser. Whereupon the steamers were stopped, and the Chateau Margaux lowered her small boat with the first officer, who went to the California, and took a steel wire hawser shackled from the starboard anchor chain of the California, and made it fast to the starboard quarter of the Chateau Margaux. The sea was high, but not breaking. The service was attended with some danger. At the same time a series of night signals were arranged between the masters, providing for a display of rockets in case of anything wrong. The vessels crossed Sandy Hook bar without accident on the morning of the 8th of April, and at 6:25 of that day the towing line of the California was cast off at quarantine, and both vessels came to anchor. The following day the Chateau Margaux was engaged in endeavoring to procure coal and other necessary supplies. The bearings of the thrust shaft were replaced. On wednesday it was too foggy to go to sea. On Thursday she sailed again upon her voyage; having lost about a week by reason of this service. The cabin passengers were naturally restive during the delay, but limited their action to complaints. When the Chateau Margaux arrived at Santander

and Bordeaux, although she was under extra expense, she was unable to depart from Bordeaux on her sailing day. A detention, of two

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days beyond her return sailing day occurred, during which time she had to maintain 160 passengers at additional expense. The disbursements of the Chateau Margaux caused by this service, for pilotage, coal, oil, engine-room supplies, provisions, etc., amount to \$2,000. The value of the Chateau Margaux is about \$400,000. Her cargo was worth \$150,000. The freight and passage money amounted to about \$18,000. The value of the California, as shown by her subsequent sale in her home port, was \$173,000; cargo and freight, \$75,000; passage money, \$12,650; amounting in all to \$260,650.

It is not doubted that on this occasion a salvage service was rendered by the Chateau Margaux. The only dispute is as to the amount. The libelant claims that the amount should be the sum of \$25,000, and refers to the case of *The Daniel Steinman*, 19 Fed. Rep. 918, where this court awarded \$25,000, as supporting a similar award in this case. In many respects this case is as favorable for the libelant as was the case of the *Daniel Steinman*; but the case of the *Daniel Steinman* differs from the present case in this: that the *California*, when spoken, was about 300 miles from New York, whereas the *Daniel Steinman* was over 600 miles to the eastward of the port of New York, consequently not so likely to be spoken by vessels going out from New York as was the *California*. Here there was the highest probability that the *California* would be spoken by some vessel able to tow her. She was in fact spoken by another vessel shortly after the Chateau Margaux had spoken her. The peril of the *California* was, therefore, in my opinion, less than the peril from which the *Daniel Steinman* was relieved. The service in the case of the *Daniel Steinman* was towage of over 600 miles. The service here was a towage of 300 miles. The white Star steamer that towed the *Daniel Steinman* had 697 passengers on board. The salving steamer in this case had but 24 passengers. The risk of a far greater trouble was assumed by the *Daniel Steinman* than by the Chateau Margaux. I do not think, therefore, that the case of the *Daniel Steinman* is sufficient to justify an award of \$25,000 in this case. Reference is also made by the libelant to the case of *The Suevia*, disabled by a broken shaft, and towed four days by the *Istriam*, where Sir JAMES HANNEN awarded £4,650 on a value of £68,000. *The Suevia*, March 26, 1888, reported London Shipping Gazette, March 29, 1888. Also to the awards made by English courts, where vessels have been taken to Halifax, and it is suggested, not without force, that it would be unfortunate if the impression should gain ground that better salvage awards are obtained when vessels are taken out of their course to Halifax, rather than on their direct track to New York. In the case of *The City of Richmond*, 2 Pritch. Dig. 1925, where a steamer was towed 240 miles to Halifax, an English court awarded £7,000. In the case of *The City of Chester*, Id. 1926, where a salvage award of £6,600 was given, where the vessel was towed 225 miles to Halifax. In the case of *The France*, towed 187 miles to Halifax, the award was £4,500 for services involving no danger and little difficulty. "These and

other cases I have examined, and in the light of these decisions have found in this case that \$15,000 is in my opinion a proper sum

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to award the Chateau Margaux for her services, to which I add \$2,000 for her expenditures caused by the rendition of the salvage service in question.

¹ Reported by Edward G. Benedict, Esq., of the New York bar.