

scurvy is found to be a disease preventable by serving to the men the lime juice which the law requires, supplemented by a diet of fresh vegetables, the ship should not, not merely on grounds of humanity, but in the interest of the owners and the freighters, be required to provide such nutriment, and serve it to the crew. However this may be, it is plain that where the statutory requirement is disregarded entirely, and scurvy makes its appearance among the crew, in the absence of any proof or any reason to suspect that the seeds of the scurvy were contracted by the men on a previous voyage, the ship should be held liable for the damage sustained by reason of the disease. An interlocutory decree will be entered, declaring the liability of the vessel for the cause of action sued on, and an order of reference to the commissioner will be entered, requiring him to ascertain and report upon the duration and severity of the disease in the case of each seaman; also, whether they were treated in the hospital or by private medication, and, in the latter case, whether they had the opportunity to obtain admission to the hospital; and the effect of the disease on the patients, if in any instance a permanent loss of health has ensued; and also a just compensation for the time during which, by reason of the disease, they were incapacitated from working or obtaining a living.

LAMBERT *v.* FREESE.

(District Court, N. D. California. January 22, 1890.)

COLLISION—EVIDENCE.

A barge built of four-inch planks, with the usual guard along the gunwale, collided with a dredger built of timbers 12 inches square, firmly fastened together with log-screws, and further strengthened by iron bands. The dredger afterwards sunk. *Held*, that the fact that the barge sustained no injury from the collision showed that the sinking of the dredger could not have been caused thereby.

In Admiralty.

E. P. Cole, for libellant.

Milton Andros, for respondent.

HOFFMAN, J. The libel in this case is filed to recover the value of a dredger alleged to have sunk at the Devil's Elbow, in the San Joaquin river, in consequence of being struck by a barge in tow of a tug-boat owned by the respondent. The testimony is very voluminous. It is unnecessary to examine it in detail. That the dredger was struck by the barge is, I think, clear. But whether through the fault of either the latter or of the tug may admit of doubt. The dredger was moored in a sharp bend of the stream within, as one of the libellant's witnesses states, 40 to 50 feet of the edge of the channel. It appears that in making a sharp turn at the Devil's Elbow tugs descending the river with barges in tow find great difficulty in preventing the latter from sheering towards

the left bank. Collisions from this cause are of very frequent occurrence, but usually attended by no serious consequences. The tug was going on "the slow bell," which would give her a velocity through the water not much more than was necessary for her to retain steerageway. The tow-line was of the usual and proper length. There seems to have been no want of diligence on the part of the persons in charge of either vessel. The dredger was moored in the part of the bend, which, perhaps, unnecessarily increased the difficulties and dangers of the navigation by tugs and tows coming down the river. Had her position been a little lower down, or, possibly, a little higher up, it seems to me that those difficulties and the chances of collision would have been appreciably diminished. But I do not insist on this point; for I have found it impossible to reconcile the libellant's contention, that the dredger sunk in consequence of the collision, with the fact that the barge sustained no injury whatever. The dredger appears to have been constructed of very heavy material. Its hull was formed of timber or logs laid one above another in a tier, five logs in height. These timbers were twelve inches square, and were firmly fastened together by log-screws. There was, on each side a spud case, also constructed of heavy timbers, while the strength of the structure was further increased by iron bands or straps, the position of which it is unnecessary to describe. The barge was built of four-inch planks, with the usual fender or guard running along the gunwale. It appears to me, that it was impossible for the barge to have struck the dredger with a force sufficient to cause the latter to sink, without herself sustaining damages which would have borne witness to the violence of the collision. That this was the view of the parties in interest, immediately after the occurrence, may be reasonably inferred from their conduct. A few days after the accident, the respondent, Mr. Freese, was called upon by a person supposed to be the owner, or agent of the owner, of the dredger. Mr. Freese represented to him that the dredger could not have been sunk by the barge, as the latter had sustained no injury whatever, and that the sinking of the dredger must have been caused by her leaking, or by carelessness and neglect of those in charge of her. Whether the owners of the dredger acquiesced in this view does not appear; but it is certain that the present libel was not filed until nearly two years afterwards. As to the condition of the dredger with respect to the leaking, the testimony is irreconcilably conflicting. There is much, however, in the evidence of Mr. Spurgeon, a witness for the libellant, that seems to indicate a singular want of care, or an indifference, on the part of the two persons in charge of the barge after the accident occurred; or, perhaps, their conduct may be explained by the absence of any expectation on their part that any serious consequences would result from the collision. On the whole, I am of opinion that the libellant has not satisfactorily shown that the sinking of the dredger was caused by the collision. Libel dismissed.

THE RAHWAY.¹MILLARD *et al.* v. THE RAHWAY.

JAYNE v. SAME.

WINNETT *et al.* v. SAME.

(District Court, E. D. New York. June 10, 1891.)

SALVAGE—FIRE ON COTTON VESSEL—PRESENCE OF TUGS BELONGING TO OWNER OF BURNING VESSEL.

A lighter loaded with cotton and flour caught fire about half past 1 o'clock in the morning, while lying at a pier. The tug A. immediately made fast to her, and towed her into the stream, at the same time pumping water on the fire. Shortly after being towed into the stream, the barge was surrounded by tugs belonging to the owner of the barge, and as able as the A. to do all that might thereafter be required. The tug T., belonging to other owners, also arrived at 2 o'clock, and the tug H. came at 7:30 in the morning, and was told that her services were not required, notwithstanding which she put on a stream of water. The barge was finally sunk, to extinguish the fire. The value of the property saved was \$21,587.50. The value of the A. was \$15,000. The time of her service was rather more than 24 hours. The risk to her was small. *Held*, that the A. should recover \$2,000 as salvage, the T. \$500, and the H. nothing at all.

In Admiralty. Consolidated suits to recover salvage compensation.

Wilcox, Adams & Macklin, for Millard & Winnett.

Peter S. Carter, for Jayne.

Robinson, Bright, Biddle & Ward, for claimant.

BENEDICT, J. These three actions consolidated are brought to recover salvage compensation for services rendered to the barge Rahway and cargo on the 13th of December, 1890. The material facts are as follows: On the morning of December 13, 1890, the barge Rahway, belonging to the Pennsylvania Railroad Company, and laden with a cargo consisting of 691 bales of cotton on deck and 43 bales of cotton and 300 bags and 150 barrels of flour in the hold, was lying moored at pier 39, East river. The weather was cold, and a strong wind was blowing. About half past 1 in the morning fire was discovered in the cotton on the barge by a watchman on the adjoining dock, and very shortly the whole barge was enveloped in flames. The tug Adelaide, observing the fire, proceeded immediately to render assistance. Upon arriving at the burning barge she made fast to her at once, and towed her away from the docks into the stream, meanwhile pumping water on the fire. It was about 1:45 in the morning when the barge was towed into the stream by the Adelaide. The two boats then drifted down the East river, the Adelaide pumping water on the fire. At 1:50 the city fire-boat Havemeyer came along-side the barge, and commenced to throw water. At 1:55 the tug Uncle Abe, owned by the Pennsylvania Railroad Company, came along-side, and began to throw water upon the fire. At 2 o'clock, and

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