

sound and strong. The sound condition of the boat, the sinking of the boat at low water, taken in connection with the positive evidence on the part of the libelants as to the depth of water, places the weight of the evidence with the libelant. Accordingly, it must be held that the tug-boat left the canal-boat at a place where it was unsafe for her to lie, by reason of which neglect the canal-boat was sunk.

There will therefore be a decree for the libelants, with an order of reference.

THE CALVIN S. EDWARDS.¹

SHARPLEY *et al.* v. THE CALVIN S. EDWARDS.

(District Court, E. D. New York. July 1, 1891.)

SALVAGE—DERELICT.

Where a schooner was found by salvors off the New Jersey coast, derelict, with four or five feet of water in her, and held to an anchor by a single hawser nearly chafed off, and was brought into port in safety in the face of a threatened storm, it was held, that the cargo of lumber aboard the vessel, and which was valued at \$1,500, should pay a salvage of \$675.

In Admiralty. Suit to recover salvage.

Wing, Shoudy & Putnam, for libelant.

Robert S. Minturn, for the vessel.

Peter S. Carter, for cargo.

BENEDICT, J. This is a claim on the part of the owners of the schooner *Eleanora* and the owners of the steam-tug *Idlewild* to recover salvage compensation for services rendered to a derelict. The schooner *Calvin S. Edwards*, laden with lumber, was discovered by the schooner *Eleanora* below *Absecomb*, abandoned, with four or five feet of water in her; the gaff, foregaff, and forebeam broken; no boats, no water-barrels on board; all sails gone but the topmast staysail; held to an anchor by a single hawser fastened to her bitts, and nearly chafed off; her chains were overboard with no anchors attached. As she was situated, she would have held on but a very little while longer. The *Eleanora*, finding her abandoned, made a line to her, put three men on board of her, and commenced to tow her towards New York. This was about 9 o'clock in the morning, and the sea was calm. After a while the wind began to breeze up, and the line parted. Then another line was made fast to her. By the time the *Eleanora* had arrived with the derelict off *Barnegat* the weather was looking very ugly. About 9 o'clock in the evening, the tug-boat *Idlewild*, coming in sight, was signaled, and asked to assist the *Eleanora* to get the derelict into port. This she agreed to do upon an understanding that any salvage that might be realized would be divided equally between the tug and the schooner. By the combined efforts of these two vessels the derelict was brought safely into

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

port. After this libel for salvage had been filed against the derelict and her cargo, it was agreed between the owner of the derelict schooner and the libelants that the derelict schooner should pay a salvage of 45 per cent. of the sum realized at the sale of the derelict by the marshal. No agreement was made as to the cargo, and the question now to be determined is as to what salvage should be paid by the cargo. No owner of the vessel has appeared. The only person appearing to contest the demand of the salvors is the owner of the cargo. This intervenor, having been allowed to appear and defend for the cargo, contends that \$250 would be sufficient salvage for the whole service, and that \$100 would be sufficient for the cargo to pay. I cannot agree to this contention. The case is one of a derelict saved by the exertions of two vessels from a probable total loss. Upon the facts stated, I do not consider that it will be unjust to award the sum of \$675 for saving the cargo, the value of which has been agreed on at \$1,500.

THE SARAH THORP.

THAMES TOW-BOAT CO. v. THE SARAH THORP.

(District Court, D. Connecticut. June 11, 1891.)

COLLISION—DAMAGES—WAGES OF CREW OF INJURED VESSEL.

A tug was injured in a collision with a steamer, owing to the steamer's fault. *Held*, that the wages and provisions of the crew of the tug during the expected time she was undergoing repairs, a period of 21 days, should not be allowed as damages against the steamer.

In Admiralty. On exceptions to commissioner's report.

The steam-tug America, owned by the Thames Tow-Boat Company, was injured in a collision with the steamer Sarah Thorp. On a libel by the Thames Tow-Boat Company it was adjudged that the collision was owing to the steamer's fault, and a reference ordered to a commissioner on the question of damages. See 44 Fed. Rep. 637. The commissioner made his report, and both parties excepted.

James Parker, for claimant.

Samuel Park, for libelant.

SHIPMAN, J. The questions arise upon exceptions to the commissioner's report. Upon the first exception of the claimant \$224.07 are deducted from the commissioner's allowance of wages and provisions for the second engineer, steward, three firemen, and two deck-hands during the time of repairs. It does not seem to me that these seamen should have been kept in the employment of the libelant at the expense of the claimant during the 21 days' repairs, which, before the work was commenced, it was known would cost about \$3,000. The other exceptions of the claimant and the exception of the libelant are disallowed.

Let a decree be entered for \$4,231.20, and costs to be taxed.