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.

McDOUGALL *v.* HAYES.

(Circuit Court, D. Washington, W. D. July 9, 1891.)

1. FEDERAL COURTS—JURISDICTION—PARTIES.
In a suit by one claiming ownership to land by conveyance from one who has made an entry thereon under the land laws of the United States, but who has not received a patent therefor, against one claiming the ownership by virtue of a subsequent entry, a petition of intervention filed by the United States alleging that plaintiff's entry was fraudulent does not make the United States a party, to give the federal courts jurisdiction, since courts have no jurisdiction to pass upon title to land to which the United States has not parted with its legal title, where there is a controversy between a person claiming title under the land laws of the United States as against the government itself.

2. SAME.
Since, under the law of Washington Territory, the territory was divided into four districts, and the legislature was given power to fix the time and places of holding courts within those districts, with the limitation that courts for the transaction of business in which the United States was interested or might be made a party could be held at no more than three places in each district, and since the legislature provided for courts in the second district for such business at three places other than Montesano, and provided that the court at Montesano should not have jurisdiction of suits in which the United States was interested or a party, such court could not allow to be made or make the United States a party to a suit.

At Law.

Junius Rochester, for plaintiff.

P. H. Winston, U. S. Atty., for the United States.

HANFORD, J. In the case of Malcolm McDougall against Green C. Hayes a demurrer to the complaint of intervention by the United States of America was interposed and submitted some time ago. I find from examining the record that this is a suit which was originally commenced in the territorial district court for the second judicial district of Washington Territory, holding terms at Montesano, in Chehalis county. Malcolm McDougall is the plaintiff and Green C. Hayes is the defendant named in the complaint. The suit is brought to recover possession of a tract of land in Chehalis county, the title to which is in the United States of America, no patent having been issued. The plaintiff claims ownership of the property by mesne conveyances from one William Campbell, who, it appears, made an entry of the land in the United States district land-office, paid the government price for it, and received from the receiver of the land-office a duplicate receipt, such as the land-office issues upon final proof being made, and which, if regularly issued, would be evidence of the entryman's right to a patent. The defendant, Hayes, never filed an answer or demurrer, or raised any issue; but, after the suit had been commenced, a complaint on the part of the United States of America as an intervenor in the action was presented by the United States attorney to the judge of that court, who indorsed upon it an order granting leave to file it. Subsequently there was a stipulation signed and filed in the case, made between the attorneys for the plaintiff and the attorney representing the United States, allowing the complaint of intervention to stand as the answer of the defendant, Green C. Hayes,