

ployed on the steambot, and whose personal conduct in regard to the affair was in no wise blamable, testify that at the particular time the libelant was injured, and as generally the custom on board the boat when on a voyage, a wooden block was inserted and fastened in the slide in which moves the lever which operates the nigger engine, in such a way that the engine could only run one way, and could not be reversed. The witnesses testifying to this were the first mate, second mate, watchman, and captain of the watch, and there are two circumstances that corroborate their testimony,—one that the libelant was taking the fall off the drum at the time of injury, which would have been unnecessary if the engine had been reversible; and the other that a call was made to reverse the engine to release libelant from the drum, and the little boy said: "You can't do it. There's a stick in it." The only evidence to the contrary is that of libelant's partner, who testifies to the custom, but denies that the block was there on that particular occasion. If the wooden block or chock was in its place, then it made no difference whether the boy in charge of the nigger engine was competent, so far as injury could result to the libelant, for the boy could only run the engine one way; and whether it properly operated to hoist or lower the stage, and, in so doing, take in or pay out the slack of the rope, would depend entirely upon whether the turns were properly put around the drum; and that was entirely the business of the fall tender.

The whole evidence in the case satisfies us that the libelant contributed to his own injury, and does not satisfy us that the steambot or her owners were guilty of any fault which contributed to said injury. A decree against them for damages could only be on the ground that they had employed an improper person to run the nigger engine, and while this improper person was running such engine the libelant was hurt. The amount due to the libelant for wages was offered to him before suit was brought, but was refused. In the claimant's answer the tender was renewed, but no legal tender of amount due, with costs to date thereof, has been made. The decree appealed from should be reversed, and the case remanded, with instructions to the district court to enter a decree for the libelant for the sum of \$6.75, and costs in that court, the costs of this court and of appeal to be paid by libelant; and it is so ordered.

THE CURLEW.

FRANKLIN CONSOLIDATED COAL CO. v. THE CURLEW.

(District Court, S. D. New York. July 9, 1892.)

MARITIME LIENS—SUPPLIES—PERSONAL CREDIT OF CHARTERERS.

When the libelant supplied coal at Baltimore for the British ship *Curlew*, to the charterers, who were her owners *pro hac vice*, at their place of residence, and without any reference to the ship as security, charging the charterers individually on their books, and making no claim against the vessel until after the charterers' failure, *held*, that the supplies were furnished

on the personal credit of the charterers, not on the credit of the vessel, and a libel against the vessel for the value of such supplies should be dismissed.

In Admiralty. Libel by the Franklin Consolidated Coal Company against the steamer Curlew for supplies. Libel dismissed.

J. Adriance Bush, for libelants.

Butler, Stillman & Hubbard, for claimants.

BROWN, District Judge. The supplies in this case were furnished at Baltimore. At the time they were furnished, the steamer was under a charter to Henry Bros. & Co., who were well-known resident merchants of that city. The terms of the charter were almost identical with those in the case of *The India*, 14 Fed. Rep. 476, affirmed 16 Fed. Rep. 262; and they amounted, therefore, to a demise of the ship, constituting the charterers owners pro hac vice. See, also, *The Bombay*, 38 Fed. Rep. 512. The dealings of the libelants were with the charterers in person, at their place of residence, and without any reference to the ship as security for the supplies. They were presumably furnished, therefore, upon the personal credit of the charterers. The latter had no right to charge the ship, and evidently had no intention to do so. There was nothing that authorized the libelants to suppose the ship was intended to be charged, or that they had any right to charge the ship. In fact they did not charge her. Upon their books, as well as in the bills rendered, Henry Bros. & Co. alone were charged individually. For the first portion of the bill a note was taken, and no claim was made upon the vessel until after Henry Bros. & Co. had failed.

It is evident that in this case both in law, as well as in fact, the supplies were furnished upon the personal credit of the charterers. The matter has been so frequently discussed in adjudicated cases, that nothing further need be said. See *The Aeronaut*, 36 Fed. Rep. 497; *The Stroma*, 41 Fed. Rep. 599, affirmed, 53 Fed. Rep. 281; *The Samuel Marshall*, 54 Fed. Rep. 396. The libelants were chargeable with notice of the relations of Henry Bros. & Co. to the ship. They knew that the firm was in business in Baltimore. Any inquiry would have shown that they were charterers. If they made no inquiry, they took the risk of the fact. They could not have supposed the firm to be officers of the ship; and if they did not mean to deal with them as owners, or on their personal credit, it was their duty to inquire what the connection of the firm with the vessel was. *Stephenson v. Francis*, 21 Fed. Rep. 715, 921. *The Samuel Marshall*, 49 Fed. Rep. 754, and cases therein cited.

The libel is dismissed, with costs.

THE WELLINGTON.

WOOD et al. v. THE WELLINGTON.

LEWIS et al. v. SAME.

(District Court, N. D. California. March 17, 1893.)

Nos. 10,516, 10,523.

1. SALVAGE—COMPENSATION—PRIOR AWARD.

The power of an admiralty court to award salvage should be exercised with great care, and, where a large award has been made to the master of the salving vessel for a highly meritorious service, an additional award to the mate or other persons, for substantially the same service, should not be thereafter made; such persons having remained silent while the master was prosecuting his libel, although, if they had been parties to the former action, a different distribution might have been made.

2. SAME—DISTRIBUTION—DELAY IN BRINGING SUIT.

When no gross sum has been fixed as an award to the officers and men of a salving vessel, the respective rates of wages are not necessarily a just measure of the awards to be made to certain salvors, who fail to sue until others have recovered their compensation.

In Admiralty. Libels by I. W. Wood and others and John Lewis and Louis O. Eckles against the British steamer Wellington, etc., (Joan O. Dunsmuir, claimant,) for salvage. A statement of the facts of the case will be found in *The Wellington*, 52 Fed. Rep. 605. Decree for libelants.

H. W. Hutton and Walter G. Holmes, for libelants Wood and others.

Beverly L. Hodghead, for Lewis and Eckles.

Andros & Frank, for claimant.

MORROW, District Judge. A salvage service was rendered by the steamer San Pedro to the steamer Wellington November 3, 1891. The owner of the Wellington voluntarily paid to the owners of the San Pedro \$10,000 for this service; but as no provision was made for the compensation of the officers and crew of the San Pedro for their services, either out of this sum or otherwise, William Robertson and nine of the crew filed a libel in this court July 13, 1892, against the steamer Wellington, claiming such compensation, and on August 1, 1892, Charles H. Hewitt, the master of the San Pedro, filed a separate libel against the salved vessel, claiming to have rendered services of a highly meritorious character in his capacity as master of the San Pedro. The two libels were consolidated and heard October 4, 5, and 6, 1892. The case was taken under advisement, and on October 20, 1892, a decree was entered in favor of Capt. Hewitt for \$2,500, and in favor of the other libelants for \$100 each. 52 Fed. Rep. 605. The officers and members of the San Pedro numbered 40 persons at the time of the salvage service. January 6, 1893, or 14 months after the service, and 2 months after the decree in favor of the first libelants, I. W. Wood, chief engineer, Therold Stein, second assistant engineer, Thomas Cleary, third assistant engineer, and seven seamen, joined in a libel, claiming sal-