the present case we think the circumstances of the accident do not show that the bag gave way because it was not reasonably adequate for the occasion, but they show that it gave way because a violent and unnecessary strain was put upon it. The bag was a comparatively new one, made expressly for an ash bag, and of the kind customarily used as it was being used when the accident took place. It had been bought in London on the previous voyage of the steamship and was being used interchangeably with several other similar, but older, bags, which were apparently sufficiently strong. It had been filled and emptied several times, as had the others, immediately before it fell. The storekeeper, who had the custody of the ash bags, had not observed any defect in it. Neither had any of the others of those in the employ of the steamship whose duty it was to supply, or repair, or use the ash bags. The bag had two handles, and, on the occasion in question, was fastened to the chain by passing one handle through the other, and hooking that handle to the chain. There was no reason why the hook should not have been passed through both handles. The evidence is that this was frequently, if not generally, done. Hooked as it was, the whole strain fell upon one handle, instead of being distributed between both. While the bag was being hoisted, the chain slipped off the drum of the winch, jerking the bag violently, and the handle gave way. In view of its apparently sound condition before the accident, we cannot assume that it would have given way if it had been fastened to the hook so that the strain would have come upon both handles instead of one, or even that it would have given way fastened as it was, except for the slipping of the chain. The evidence does not show how the chain happened to slip, and we are left wholly to conjecture whether those in charge of the hoisting apparatus were negligent. If they were, as they were fellow servants of the libelant, their negligence cannot afford him a ground of recovery against the steamship. We are satisfied that there was no negligence on the part of the steamship, and that the accident to the libelant was not a culpable one, or, if it was a culpable one, was caused by carelessness which cannot be attributed to the vessel.

The decree is reversed, with instructions to the district court to dismiss the libel, with costs.

The AGNES MANNING.

BRISTOL CITY LIME CO. v. The AGNES MANNING.

(District Court, E. D. New York. January 11, 1894.)

SALVAGE—DERELICT.

Fifty per cent. of the value of a vessel, and expenses, was allowed as salvage, when it appeared that the vessel, when picked up by the libelant's steamer, was derelict, having been abandoned a week, and was leaking, with 10 or 11 feet of water in her hold; that a previous unsuccessful attempt at towing had been made by another steamer; and that libelant's steamer had brought her into port in safety, after 6 days' towing.

In Admiralty. Libel for salvage. Decree for libelant.

Wheeler, Cortis & Godkin, for plaintiff.
Benedict & Benedict, for defendant.

BENEDICT, District Judge. This is an action brought in behalf of the owners, master, and crew of the steamship Exeter City to recover salvage compensation for services rendered the schooner Agnes Manning. In March, 1893, the steamship Exeter City, a merchant steamer bound to New York, when about 420 miles east of Sandy Hook, fell in with the schooner Agnes Manning, abandoned. The Manning was laden with a full cargo of coal, had been abandoned for about a week, was leaking, and when boarded had 10 or 11 feet of water in her hold. Previous to the abandonment, an effort had been made to tow the schooner by the steamship Nestoria. The effort, however, was given up after two hawsers had been broken. Thereupon the crew of the Manning left their vessel, and went on board of the Nestoria, which proceeded on her voyage. The Exeter City, about a week after, made fast to the Manning, put men on board of her, and, after six days' towing, brought her into the port of New York in safety. The appraised value of the Manning is $27,000, and her cargo $2,000. The service was performed at an expense to the owners of the Exeter City of $850. The remarks of this court made in deciding the case of The Anna, 6 Ben. 166, Fed. Cas. No. 398, more than 20 years ago, where it is said: "For the taking in charge and saving of a wreck so situated the reward should be such as to insure at all times the rendering of any amount of labor, the incurring of any risk, and the deviation by any vessel from any voyage, in order to supply the wreck with a crew, and make her presence safe," may be repeated here.

The libelants are entitled to a liberal salvage compensation for the services rendered. The only question is what would be a liberal compensation. It is claimed on behalf of the libelants that the amount awarded should very much exceed the average amount heretofore given in cases of derelict, it being now apparent that the rewards given are not sufficient to induce vessels to incur the hazard of towing a wreck, so that commerce is impaired by the number of floating wrecks left abandoned, and the government itself has felt it its duty to send national vessels out in order to destroy these obstructions to navigation. This consideration is not without weight in determining the amount of salvage in a case like this. In my opinion, 50 per cent. of the value of the property saved will be a liberal reward, deducting first the sum of $850, expended by the salvors, which sum is to be first paid to them.

THE CAYUGA.

LEHIGH VAL. TRANSP. CO. v. MILLER et al.

(Circuit Court of Appeals, Sixth Circuit. December 4, 1893.)

No. 99.

1. PAROL EVIDENCE—RECEIPTS—RELEASE AND DISCHARGE.
A writing which, besides being a receipt, contains stipulations of release and discharge from all claims growing out of a collision except one, cannot be disputed or controlled by parol evidence. Association v. Wickham, 12 Sup. Ct. 84, 141 U. S. 564, distinguished.

2. RELEASE AND DISCHARGE—CONSIDERATION—VALIDITY.
Where one consents to pay in full a bill the correctness of which he in good faith disputes, only on condition that certain other demands against him shall be released, such payment constitutes a good consideration for the release.

3. COLLISION—DAMAGES—LOSS OF USE—TOWAGE.
Where a barge in tow of a consort belonging to the same owners, which can tow her with little extra expense, is injured by the fault of a strange vessel, so as to lose her trip, the value of her use as an item of damages should not be diminished according to the arbitrary rule which allows one-third of the gross earnings for towage, but only by the actual expense the towage would have caused.

4. ADMIRALTY—APPEALS—COMMISSIONER'S REPORT—EXCEPTIONS.
Alleged errors in a commissioner's report will not be considered unless they were clearly excepted to, so as to bring them to the notice of the court below.

5. SAME—REVERSAL OF ERRONEOUS FINDING.
A finding of a commissioner on a question of fact will be reversed when clearly erroneous.

Appeal from the District Court of the United States for the Eastern District of Michigan.

In Admiralty. Libel by John A. Miller and others against the steamer Cayuga (the Lehigh Valley Transportation Company, claimants) for collision. Decree for libelants. Claimants appeal. Modified and affirmed.

Statement by SEVERENS, District Judge:

On the 28th day of April, 1890, the propeller D. M. Wilson, with her consort, the barge Manitowoc, both being then owned and employed by the libelants, was proceeding on a voyage from Kelly's island to Duluth under charter for a cargo of wheat to be carried from the latter place to Kingston, and when they were in the vicinity of Port Huron the Manitowoc was run into by the steamer Cayuga, a vessel belonging to the Lehigh Valley Transportation Company, the above-named appellants, and was seriously damaged. In consequence of her injuries, the Manitowoc was obliged to go into dock at Detroit for repairs, where she was detained for that purpose for the period of 18 days, and then returned to Lorain, her ultimate destination. The result was that she lost her trip. The Wilson, after getting her consort into port, proceeded to Duluth, took on a cargo, which she carried to Kingston, and then came back to Lorain, where she joined the Manitowoc, it being according to the original purpose that the two vessels should come to that port after discharging their cargo of wheat at Kingston. The arrival of the Manitowoc at Lorain was on the 18th day of May. The arrival of the Wilson at Kingston was on the 14th. The crew of the former vessel quit on her return to Detroit disabled.

The liability of the Cayuga for the consequences of the collision seems not to have been much disputed. At all events, the parties set about a settlement of the damages upon the assumption of such liability. A large item in the bill presented by the libelants to the manager of the Cayuga was that