

the accuracy of the account, and subject the items to the severest scrutiny. The record shows that the libelant furnished, on the demand of Dr. Parker, and with the consent of Hurlburt & Co., a steam windlass, for which a charge of \$525 was made. This windlass was not necessary to put the vessel in the stipulated class of Lloyds, nor was it ordered by the Lloyds surveyors. It was supplied on the order of Hurlburt & Co., not acting as the agent of the owners, but on their own behalf, in accordance with the terms of an agreement entered into between them and Dr. Parker, to whom, on their own account, they had sold the vessel. It was not furnished on the credit of the vessel, but upon that of Hurlburt & Co. There should also be deducted from the libelant's claim an allowance for the value of the coal taken from the ship's bunkers at the time she was stripped for the inspection of the surveyors. It was about 50 tons, and the value not stated. For the amount of the bill rendered after making these deductions, the libelant is entitled to a decree.

THE THOMAS B. GARLAND.

FIFIELD et al. v. THE THOMAS B. GARLAND.

(District Court, D. New Jersey. November 30, 1897.)

SALVAGE—COMPENSATION—STRANDING.

The services of a steamer, worth about \$7,000, which was loaded and ready to proceed to sea, in pulling off at high tide, at considerable risk and some danger to herself, after an unsuccessful attempt at the previous high tide, a schooner worth \$8,000, grounded in the shifting sands on the inner shoal of the inlet to Great Egg Harbor, N. J., held to be salvage services, for which \$500 should be awarded.

This was a libel in rem by John C. Fifield and others against the schooner Thomas B. Garland to recover compensation for salvage services.

H. H. Voorhees and Henry R. Edmunds, for libelants.

B. C. Godfrey and John J. Crandall, for claimants.

KIRKPATRICK, District Judge. On the 8th day of May, 1896, the schooner Thomas B. Garland, in attempting to enter Great Egg Harbor Inlet, in this district, with a cargo of ice consigned to Frank Champion, of Ocean City, in the county of Cape May, went aground on what is known as the "Inner Shoal," on the west side of the channel. The hour of her grounding was about 5:30 in the afternoon, at a time when the tide was at the top of the flood. The wind was light, and the schooner was unable of herself to float. The ebbing tide made matters worse, and the life-saving crews of the stations on the near-by land visited the vessel, and were unable to furnish any relief. The captain and pilot left the ship, and went to Somer's Point, which is on the inside of the inlet, across the bay on the mainland, and there interviewed the captain of the steam tug Nellie Rawson, and asked for assistance. The Rawson was loaded and ready to put to sea, but agreed that if able to reach the schooner, and pull

her off in the morning, so as to avail herself of the morning tide to cross the bar, she would render assistance. The amount of water in the channel on the side on which the schooner was grounded, as well as on the bar at the outlet of the inlet, was hardly sufficient at high water to float either the schooner or the steam tug. The Rawson, with the captain of the schooner aboard, visited the schooner on the top of the morning tide, and made several unsuccessful attempts to float her. The steam tug then went away, and endeavored to cross the outer bar of the inlet to proceed upon its voyage, but was unable to do so, on account of the want of sufficient water. At the request of the captain of the schooner, the Rawson again made fast to the schooner at the top of the flood tide in the evening, and after successive efforts, by aid of its own power and that of anchors which it had run, succeeded, by surging, in loosening the schooner from the sand, and setting her afloat. Prior to the afternoon attempts to float the schooner, she had been lightened of perhaps one-quarter of her cargo by jettison. The channel leading into the Great Egg Harbor Inlet is narrow and dangerous, surrounded on either side by treacherous shoals of shifting or quick sands, and the amount of water which the Rawson, loaded, required, was the full tide, and therefore the services which she rendered were of a dangerous nature. In the attempts to loosen the schooner from the sand by the surging operation, the bits of the steamer were loosened, and the boat otherwise damaged, so much so that afterwards it was necessary to put her on the dock, and \$151.90 of repairs were found to be necessary.

I am satisfied from the evidence that the position of the Garland after she went aground was a dangerous one. She was on the west bank of the channel, in shoal water, distant about one-quarter of a mile from the shore, on a bottom of shifting sand, exposed to any storm which might arise, and protected from the force of the open seas only by a bar upon which at high tide there was about eight feet of water. Of herself the schooner could do nothing, and the only available aid was that which was afforded by the Rawson. No nearer help was nigh, nor could any be obtained without sending to either New York or Philadelphia, which would entail a delay of perhaps 36 hours. Under the circumstances, I consider the services rendered by the Rawson meritorious, for which they are entitled to salvage.

This claim for salvage is objected to on the part of the claimants on the ground that, before entering upon it, the captain of the Rawson had agreed to perform the service for the sum of \$50. This is denied by the captain of the Rawson, and the evidence on the part of the claimants does not support it. The value of the schooner is about \$8,000, and that of the tug about \$7,000. Under the circumstances, I think a fair award to the libelants for the services rendered would be \$500. Let a decree be entered for that amount, with costs.

MEMORANDUM DECISIONS.

ALASKA GOLD & SILVER MIN. CO. v. BRADY. (Circuit Court of Appeals, Ninth Circuit. January 3, 1898.) No. 272. In Error to the District Court of the United States for the District of Alaska. Lorenzo S. B. Sawyer, for plaintiff in error. R. C. Harrison, for defendant in error. Dismissed.

ALLISON v. UNITED STATES. (Circuit Court of Appeals, Third Circuit.) In Error to the District Court of the United States for the Western District of Pennsylvania. Before ACHESON and DALLAS, Circuit Judges, and KIRKPATRICK, District Judge.

PER CURIAM. This case does not differ from that of *Culp v. U. S.*, 82 Fed. 990, and for the reasons set forth in the opinion in that case the judgment herein is affirmed.

BOSWORTH et al. v. MELLOR et al. (Circuit Court of Appeals, Seventh Circuit. October 28, 1897.) No. 417. Appeal from the Circuit Court of the United States for the Southern District of Illinois. Bluford Wilson and P. B. Warren, for C. H. Bosworth and others. James H. Connolly, T. C. Mather, and John H. Overall, for Jesse B. Mellor and Clara C. Mellor. Dismissed on motion of appellants.

CARPENTER et al. v. EBERHARD MFG. CO. (Circuit Court of Appeals, Sixth Circuit. December 13, 1897.) No. 518. Appeal from the Circuit Court of the United States for the Eastern Division of the Northern District of Ohio. Poole & Brown, for appellants. Bakewell & Bakewell and Webster, Angell & Cook, for appellee. No opinion. Affirmed.

CENTRAL TRUST CO. OF NEW YORK v. FARMERS' LOAN & TRUST CO. (Circuit Court of Appeals, Sixth Circuit. November 11, 1897.) No. 515. Appeal from the Circuit Court of the United States for the Western District of Tennessee. Butler, Notman, Joline & Myndersee, Wallack & Cook, and Turley & Wright, for appellant. Turner, McClure & Ralston and Estes & Fentress, for appellee. No opinion. Affirmed, on appellant's motion, with certain directions as to the method to be pursued by the circuit court in exercising the right to redeem the mortgage being foreclosed.

CITY OF DENVER v. BARBER ASPHALT PAV. CO. (Circuit Court of Appeals, Eighth Circuit. September 27, 1897.) No. 902. In Error to the Circuit Court of the United States for the District of Colorado. This was an action at law by the Barber Asphalt Paving Company against the city of Denver to recover a balance alleged to be due it from the city for the performance of four contracts for grading and paving with sheet asphalt portions of four of its streets. In the circuit court a demurrer to the bill was sustained, and judgment entered for defendant, and complainant sued out a writ of error to this court. Heretofore, and on January 6, 1896, an opinion was filed, reversing the judgment below, and remanding the cause, with instructions to overrule the demurrer and permit the defendant to answer.