

THE CARRIE.¹

(District Court, E. D. Virginia. January 25, 1883.)

SALVAGE—COMPENSATION.

A steamer, heavily laden, suddenly sprung a leak, and quickly filled, in the narrow channel of the James river. She was hastily abandoned by her master and crew, without casting anchor or setting lights, and settled lightly on the bottom, where she was liable to be run into by several large ocean steamers which were due to pass the following night. At her master's request, a steam yacht went to her rescue, and in the course of two or three hours towed her to a wharf. *Held*, that this was a salvage service, for which \$600 should be awarded on a salvaged value of \$2,400.

This was a libel in rem filed by J. L. Schoolcraft against the steamer *Carrie* and cargo, to recover salvage. On the afternoon of December 15, 1882, the *Carrie*, which was coming up the James river heavily laden, bound for Petersburg, sprung a leak, and suddenly began to sink while in the vicinity of Blair's wharf. Her master and crew hurriedly left her in a small boat, and, some time later, wet, chilled, and exhausted, reached a schooner in the river. They had had no time to cast an anchor or put up anchor lights. The boat sank in the channel, grounding slightly in deep water, where she was liable to be run into by large steamers, several of which were due to pass during the night. Soon after the disaster, the yacht *Mary* arrived in the vicinity, and, in answer to a signal, went alongside the schooner on which the master and crew of the *Carrie* had taken refuge. At the master's request, she first put himself and the crew ashore at Blair's wharf, and then went to the *Carrie*, which she succeeded in towing to the same point in the course of two or three hours. The master then resumed control of her.

Jackson & Sands, for libellant.

Chas. S. Stringfellow, for respondent.

HUGHES, District Judge. This is plainly a case of salvage, and a case for a liberal salvage reward. The *Carrie* was in a helpless condition; her own crew powerless to save her, and hopeless of doing so. Her master called upon the owner of the *Mary* to undertake the rescue of his vessel, and spoke of 50 or 75 per cent. of the value raised as the probable reward. The fact that no anchor was thrown out, and no light put up, conclusively evidenced abandonment. It can hardly be said that in a case of abandonment in a river, with the land of each shore in sight, there was no *animus recuperandi*. But, if this like abandonment had occurred on the high seas, the case would have been one of absolute derelict. The vessel was in imminent peril. She was likely either to sink, and to be crushed on the bottom by the powerful steamers soon to pass up and down, or, if she had continued afloat, she was liable to be collided with and sunk by the same great

¹ This case has been heretofore reported in 5 Hughes, 445, and is now published in this series, so as to include therein all circuit and district court cases elsewhere reported which have been inadvertently omitted from the Federal Reporter or the Federal Cases.

vessels. The mere fact that the work of saving occupied the *Mary* only two or three hours does not materially affect the case. In the case of *The Blackwall*, 10 Wall. 1, where fire engines from San Francisco put out a fire on the steamer in the harbor in 30 minutes, the supreme court of the United States sanctioned an award of many thousands of dollars salvage. Really, the only open question in the case is, what shall be the amount of award? I consider the value of the *Carrie* after she was delivered at Blair's wharf was \$2,400. I will give a decree for a fourth of this value; that is to say, for \$600. As to the portion of the cargo that was saved, I will give a decree for half its net value.

TWO HUNDRED AND SIXTEEN LOADS AND SIX HUNDRED AND SEVENTY-EIGHT BARRELS OF FERTILIZER.¹

(District Court, E. D. Virginia. July 13, 1881.)

DEMURRAGE—LIEN ON CARGO—EFFECT OF DELIVERY.

When cargo has been absolutely delivered to the consignee before service of process thereon, the lien for demurrage is lost.

This was a libel for demurrage filed by Thomas K. Jones, master of a schooner, against her cargo of fertilizer. The libel was filed on the day on which the delivery of the cargo to the consignee was completed, and process was not served thereon until the following day.

HUGHES, District Judge. There is no doubt that a cargo may be libeled for freight so long as it is on the vessel or in custody of a wharfinger or warehouseman, holding either actually or constructively for the owner of the vessel. But, when the cargo has been absolutely delivered to the consignee against whom the freight is claimed, the maritime lien is lost, and the jurisdiction of the admiralty court to enforce it is lost with it; for it is settled law that "the lien of a ship-owner for freight, being but a right to retain the goods until payment of freight, is inseparably associated with the possession of the goods, and is lost by an unconditional delivery to the consignee." See the opinion of Chief Justice Taney in *Bags of Linseed*, 1 Black, 108. The libel must be dismissed at the libellant's costs; and the clerk may check upon the fund in bank for the costs, and, after deducting these, then in favor of the master for the residue of the sum.

¹ This case has been heretofore reported in 5 Hughes, 310, and is now published in this series, so as to include therein all circuit and district court cases elsewhere reported which have been inadvertently omitted from the Federal Reporter or the Federal Cases.