

the Venetian, the Revere having made the collision inevitable by her own misconduct. The Revere must be held solely responsible.

The libel of the city of Boston will be dismissed, with costs; and, in that of the owner of the Venetian, an interlocutory decree will be entered for the libelant. Ordered accordingly.

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### THE SWIFTSURE.<sup>1</sup>

#### CHAPMAN v. THE SWIFTSURE.

(District Court, E. D. New York. June 2, 1886.)

#### SALVAGE—SPECIFIC SUM AGREED UPON—DISPUTE AS TO AMOUNT—UNREASONABLE AMOUNT—AWARD.

As the tug W. was cruising in the neighborhood of Sandy Hook she learned that the steamer S. was lying disabled some 15 miles down the Jersey coast, and proceeded to her assistance. The S., with a valuable cargo on board, was lying some eight miles from the beach, unable to proceed, an accident having happened to her machinery. The weather was intensely cold, both vessels were covered with ice, and a thick fog prevailed. A bargain was made between the masters of the tug and the steam-ship to tow the latter to New York. The libel alleged that the agreed compensation was \$4,000; the answer alleged that it was \$400. The value of the tug was claimed to be \$30,000; the value of the S. \$75,000 or \$100,000, her cargo \$80,000, and her freight about \$11,000 or \$12,000. *Held*, on the evidence, that the sum agreed on was \$4,000; and, as this was not such an unreasonable price for the salvage service as to require the court to set aside a contract deliberately made to pay that sum, the libelants should recover \$4,000, but without costs.

#### In Admiralty.

*Goodrich, Deady & Goodrich*, for libelant.

*Butler, Stillman & Hubbard*, for claimant.

**BENEDICT, J.** The clear weight of evidence is to the effect that the master of the Swiftsure agreed with the master of the libelant's tug that a salvage compensation of \$4,000 should be paid for the services of the tug in relieving the steamer. The only question open to discussion is whether the price so agreed on was unreasonable. Upon the evidence, and taking into consideration the value of the steamer and her condition, I am not prepared to say that \$4,000 is a sum so out of proportion to the benefit received as to require the court to set aside a contract deliberately made to pay that sum. The libelants may therefore have a decree for \$4,000.

I give no costs, because I consider the sum awarded a very liberal salvage compensation for the work and labor that the libelant's tug was called on to perform. A distribution of the salvage will be made on application of the parties interested.

<sup>1</sup> Reported by R. D. & Wyllys Benedict, Esqs., of the New York bar.

THE HELEN HASBROUCK.<sup>1</sup>

SOPER v. PAREIS.

PAREIS v. THE HELEN HASBROUCK.

*(District Court, E. D. New York. July 23, 1886.)*

## COLLISION—SCHOONER AND TUG—OVERTAKING VESSEL—LIABILITY.

Where a collision occurred in the North river between a schooner and a tug, whereby the latter was run down by the sailing vessel, it was held, on the evidence, that the schooner was the overtaking vessel, should therefore have avoided the tug, and was in fault for the collision.

## In Admiralty.

*Owen & Gray*, for Soper and the Helen Hasbrouck.*Alexander & Ash*, for Pareis.

BENEDICT, J. The course of the schooner is proved to have been directly up the North river, or one point to the eastward of the course of the river. The difference of one point would not be important. The case turns upon the course of the tug; for if the course of the tug was the same as that of the schooner, or within one point of the course of the schooner, the schooner, which broke ground below the tug, was the following vessel, and bound to avoid the tug. If, on the other hand, the tug's course was crossing that of the schooner, the obligation to avoid the schooner rested upon the tug, and she was in fault for not having done so. Upon this question my opinion is with the tug. The testimony from the schooner as to the course of the tug is too strong, for they make the tug heading towards Central Ferry, Jersey City. Bound, as the tug was, for Sixty-eighth street, in New York, it seems to me incredible that she should have been sailing towards Central Ferry, Jersey City. Her natural course would be the course given by those in charge of her, viz., up the river. Upon that course it is evident that, with a proper lookout, which she says she had, the approach of the schooner from astern might not have been observed. Upon that course she might have been struck as she was struck. Upon the course given her by those on the schooner, such a blow as the schooner delivered her, the schooner bringing up on the tug's fantail, and her martingale jamming the pilot-house door, does not appear to me possible.

The evidence from the respective vessels cannot be reconciled. The testimony of some of the witnesses must therefore be disregarded. The probabilities of the case, the distance of the tug, and the blow that was delivered, lead me to disregard the testimony from the schooner that the tug was seen by them upon a course for Central

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