

to claim salvage for salvage services on the same cargo when afterwards the cargo was wrecked and the services rendered. See same authorities.

(3) That the libelant company, having employed men and paid liberally, and employed machinery to render salvage services, and having in this way rendered salvage services, is entitled to recover salvage compensation, and the amount thereof should not be reduced on the objection of claimants that others, the persons so employed, are entitled to share in the compensation. The remedy of such others, if they have complaint or have not been liberally compensated, is to become parties to the suit, or to make claim against the proceeds, if any are in the registry of the court. See *The Camanche*, 8 Wall. 448; *The Blackwall*, 10 Wall. 1.

(4) The libelant company should have a decree against the cargo of the schooner Bibber, to-wit: About 700 tons of steel rails, for salvage in the sum of \$12,500, and against Mifflin Kennedy, claimant, and Julius Runge and Julius Kauffman, sureties on the release bond *in solido*, condemning them to pay the amount of the decree against the said cargo, with interest thereon at 8 per cent. per annum, from July 16, 1887, and all costs heretofore adjudged against them by the decree of the district court of July 16, 1887, and all costs of this court; and against J. H. Hutchings and J. G. Goldthwaite, sureties on the appeal-bond, condemning them jointly and severally to pay and satisfy the decree herein to be rendered against said M. Kennedy, Julius Runge, and Julius Kauffman.

There is nothing in the evidence to show that the Bibber was put aground through any negligence of the tug, Ivy, nor even of the pilot. The evidence rather shows that the fault was the master's, in misstating the draft of the Bibber. I do not find any evidence that Moeller was interested in the Galveston Steam-Ship & Lighter Company. It is immaterial, however, as his partner Sweeney was. Neither Sweeney, as agent of the Bibber, nor Clarke, as contractor to unload the Bibber, was charged with any duty to the cargo of the Bibber, after the Bibber was stranded, that rendered them incompetent to claim as salvors of the Bibber's cargo, if they thereafter rendered salvage services.

There is not sufficient evidence to warrant any finding that the lighter company or its officials acted otherwise than in good faith, or took any undue advantage of the master of the Bibber. What the company did was open, and the master could see for himself. He could have seen better if he had stayed by his ship.

This case differs materially from that of *The Hesper*, 18 Fed. Rep. 692. The *Hesper* was a steam-ship, aground in fair weather, under the control of her master and crew, who did not abandon her to salvors, and the services rendered her were at the procurement of the ship's agents. The salvage of the *Hesper* was due as much to her machinery and her master and crew, as to the services of the lighters and tugs called to her aid.

By the weight of evidence in the record, the cost of saving railroad iron wrecked on the gulf beach on the basis of work and labor, is 50 per cent. of its value. The salvage of the cargo of the Bibber cannot be said to have been due until decreed by the admiralty court. As a general rule one-half of the value of the property salvaged is the maximum salvage. I have therefore allowed damages, in the way of interest from the date of the decree in the district court.

I have not found the detailed facts as to the weather and the services of the men and boats employed in salving the Bibber and cargo, because the ship was abandoned to the salvors, and it is conceded that the services rendered were salvage services, and the amount of salvage claimed and allowed does not exceed, to any great extent, the actual cost for work and labor to salve wrecked railroad iron.

DECREE.

Considering the foregoing conclusions of fact and law, it is ordered, adjudged, and decreed that the libelant, the Galveston Steam-Ship & Lighter Company, be awarded salvage on the cargo of the schooner Bibber, to-wit: On about 700 tons of steel rails, libeled herein, in the sum of \$12,500 as of date July 16, 1887, and that Mifflin Kennedy, claimant, and his sureties on the release bond, Julius Runge and Julius Kauffman, be condemned, *in solido*, to pay said award of salvage, to-wit: The sum of \$12,500, with 8 per cent. per annum interest thereon, from July 16, 1887, until paid, together with all costs of the district court as adjudged, by decree of July 16, 1887, and all costs of this court to be taxed. And it is further ordered, adjudged, and decreed that J. H. Hutchings and J. G. Goldthwaite, sureties on the appeal bond to this court, be condemned, jointly and severally, to pay and satisfy the aforesaid decree against Kennedy, Runge, and Kauffman, together with costs as aforesaid. And, after five days from notice of filing this decree, execution may issue.

HEYE *v.* NORTH GERMAN LLOYD.¹

(District Court, S. D. New York. November 30, 1887.)

1. GENERAL AVERAGE—PASSENGER'S BAGGAGE—RIGHT TO BE CONTRIBUTED FOR.
Passengers' baggage is to be contributed for in general average. Though reciprocity is the usual rule in general average as respects the right to compensation and the duty to contribute, there are well-established exceptions which include apparel and other articles attached to the person.
2. SAME—PASSENGER'S BAGGAGE—WHEN IT CONTRIBUTES.
Passengers' baggage in daily use does not contribute in general average. Baggage stored in the ship's compartments, and not in use, does contribute.
3. SAME—FIRE IN BAGGAGE COMPARTMENT—DAMAGE BY WATER—SACRIFICE.
The damage to cargo occasioned by water used to extinguish fire in a compartment of an iron steam-ship is a voluntary sacrifice and a general average charge, if the fire was such as to threaten the safety of the whole ship, if not extinguished. It is immaterial that the means to extinguish the fire were easy, if the use of those means involved the damage sued for.
4. SAME—DUTY OF MASTER TO TAKE AVERAGE BOND—FOREIGN CODES.
Fire broke out on a steam-ship in a compartment used for the stowage of passengers' baggage. Water was introduced into the compartment, and in extinguishing the fire the trunks of libelant, a passenger on the steam-ship, were damaged by the water. On the completion of the voyage, no average adjustment was had, or average bonds taken. *Held*, that it was the duty of the master, in case of a loss, to cause an average adjustment to be made, and to

¹ Reported by Edward G. Benedict, Esq., of the New York bar.