

ments only. In those few moments fortunately these two tugs appeared, and by their exertions property valued at \$433,000 was saved from the danger of substantial and immediate destruction. The libelants in support of their contention that 4 per cent. or \$17,320 should be awarded, cite the case of *The Tees*, 1 Lush. 505, where £1,000 was awarded to a tug for hauling a burning vessel valued at £12,350 out of a dock into the river, and to a place of safety, at some risk of life. But the report of the case of *The Tees* is too meager to entitle it to be cited as authority for awarding \$17,320 in this case. The extent of daring displayed in the case of *The Tees* is not stated, nor can the extent of the peril be ascertained from the report. Indeed, cases of salvage can be seldom compared with advantage. It is the aim of this court, in all cases of saving vessels from fire at the piers, to give such rewards as will insure on such occasions the most prompt, energetic, and daring effort of those who have it in their power to furnish aid and succor. With that in view, taking into consideration the ordinary character of the services rendered by the tugs, and the short time occupied; considering also the promptness displayed, and the success attained; and mindful of the large value of the property saved, and the extent of the peril to which it was exposed; and observing that, although the sum earned by those tugs by this hour's labor will be very many times greater than the sum they would have charged for the same labor rendered in ordinary towing, their services saved the owners of the steamer from what might otherwise have been a very large loss, I award to each of the tugs the sum of \$2,000.

THE ANGELINE ANDERSON.¹

ROSS *et al.* v. THE ANGELINE ANDERSON.

SAME v. BALES OF COTTON.

(District Court, E. D. New York. April 7, 1888.)

1. SALVAGE—ABANDONMENT OF SERVICE—LOSS OF CLAIM.

On the occasion of the fire at the Morgan Line pier, New York, in February, 1887, two tugs took hold of the lighter Angeline Anderson, which had been lying near the pier, loaded with cotton, and which had taken fire. The tugs took the lighter as far as the mouth of the slip, where in some way she got adrift from them. The tugs paid no further attention to her, but devoted their whole attention to the burning steam-ship Lone Star. The lighter drifted into the slip above, where the fire department played water upon her, and other tugs took her to Hoboken, where the fire was finally extinguished. *Held*, that the tugs lost all right to claim salvage compensation by abandoning the lighter when the hawser parted, thereby leaving her to drift into a position of greater peril than she was in at the place whence she was taken.

2. SAME—FAILURE.

Success is a necessary element in a claim for salvage.

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

In Admiralty. Libels for salvage. There were two separate suits: one against the lighter, and the other against the cotton which composed her cargo at the time of the fire.

Benedict, Taft & Benedict, for libelants.

Julian B. Shope, for claimants.

BENEDICT, J. These are actions to recover of the lighter Angeline Anderson and her cargo of cotton a salvage compensation for the services of the tugs Margaret Sandford and the Harry Roussel, in towing the Angeline Anderson, on the occasion of the fire which occurred in the month of February, 1887, when the pier of the Morgan Line was burned. It is sufficient, without stating particularly the services performed by these two tugs in getting the lighter to the mouth of the place where she was when she caught on fire, to say that there is no disputing the fact that, after the lighter had reached the mouth of the slip, she in some way got adrift from the tugs; that after the parting of the hawser to the lighter the tugs devoted all their attention to the steamer Lone Star, and paid no further attention to the lighter, which thereafter drifted into the slip above. There the fire department played water upon her for some time, and the tug-boats Indian and Excelsior came and took her to Hoboken, where these two last-mentioned tug-boats, with their crews, and with 100 men from on shore, and a barge, were occupied until the following night in extinguishing the fire. Whatever may have been the value of the services of the libelant in connection with this lighter, they, in my opinion, lost all right to claim salvage compensation therefor by abandoning the lighter when the hawser parted, thereby leaving her adrift in a position of greater peril than she was in at the place from where she was taken. The only excuse made in behalf of the tugs is that it was no fault of theirs that the hawser to the lighter parted; and that, having the steam-ship Lone Star in tow at the same time, they were justified, by the necessity of caring for the steam-ship, in leaving the lighter to be cared for by the other tugs. But although it may have been no fault on the part of the tugs that the hawser to the lighter parted, it was their misfortune, for it severed completely the connection between them and the lighter, and left the lighter to depend upon other and different salvors for safety. Success is a necessary element in a claim for salvage. In this case the two tugs wholly failed of success, and for that reason they are not entitled to a salvage reward. Let the libel be dismissed, with costs.

THE EDITH.

(District Court, S. D. Georgia, E. D. March 24, 1888.)

SEAMEN—WAGES—ENFORCEMENT IN ADMIRALTY—VESSEL IN CUSTODY OF STATE COURT.

The district court will refuse a motion to dismiss a libel on a boat for seamen's wages, based upon the ground that the boat is in the custody of a state court under a former levy, where it appears that such levy was upon a half interest only; but will stay proceedings until the termination of litigation in the state court, and will give notice at the sheriff's sale of the libelants' claim for wages.

In Admiralty. On motion to dismiss levy.

Du Bignon & Frazier, for the motion.

Isaac Beckett, contra.

SPEER, J. The steam-boat Edith was levied on by the sheriff of the state court for a debt against a part owner. She was sold, and the one-half interest of the debtor bought by Frazier. Subsequently, she was again levied upon under an execution for costs against the original owners, but Frazier's interest was not levied on. The marshal thereafter, with a proceeding in this court for wages of the seamen, levied upon the entire boat, tackle, apparel, etc. The motion is to dismiss this levy, upon the ground that the boat was in the custody of the officers of the state court.

The question whether a lien for seamen's wages may be enforced in the admiralty court against a vessel notwithstanding she may be under arrest in the state court, if an open question, has been, upon principle and authority, answered in the affirmative. It is true, however, that a majority of the supreme court of the United States have held otherwise. *Taylor v. Carryl*, 20 How. 583; 2 Pars. Mar. Law, 522, and authorities cited. It will be profitable to the student of admiralty law to read the citations upon the topic, made by this copious and lucid text writer. But in this case there is a one-half interest to which the lien of the state judgment does not attach; nevertheless, the entire vessel is in the hands of the sheriff. Now, the elastic powers of admiralty will enable this court to respect the prior seizure by the state officials, and, at the same time, protect the seamen's demands for wages. With this two-fold purpose in view, it is ordered that the motion to dismiss the levy be refused and overruled, but that the marshal will proceed no further therewith until the termination of the litigation in the state court. Ordered further that the marshal give notice to all purchasers at the sheriff's sale that the steam-boat Edith will be subject to the libelants' claim for wages, so soon as the jurisdiction of this court can be made effective, and that all proceedings in this cause be staid until the further order of the court.