

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
The owners, master, and crew of the steam-
ship or vessel "Campeador" v. The owners
of the steamship or vessel "Nieta," her
cargo and freight (The "Nieta"), from the
High Court of Admiralty of England;
delivered 23rd July 1875.*

Present :

SIR JAMES W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR HENRY S. KEATING.

THIS is an appeal from the decision of the High Court of Admiralty in a salvage suit instituted by the owners of the "Campeador" against the "Nieta," both Spanish steamships; the "Campeador," which is the vessel claiming salvage, being of about 659 tons, and of the value of 14,000*l.*, and with her cargo altogether of the value of 15,000*l.* or 16,000*l.* It appears that off Cape St. Vincent the "Campeador," which was prosecuting a voyage from Valentia in Spain to Liverpool, on the 5th December, about noon, sighted the "Nieta" with a signal of distress hoisted at her main peak. The signal was answered on board the "Campeador," and she immediately proceeded towards the "Nieta." The two vessels were both bound for the port of Liverpool. At the time the "Campeador" proceeded towards the "Nieta," in answer to the signal of distress, the latter vessel was about five miles to the north-west of Cape St. Vincent. It was fine weather

with a moderate breeze from the north, and with what is described to be a lively sea in the same direction. It appeared that the engines of the "Nieta" were broken down, and the persons on board her signified that they wanted to be towed into Lisbon. Those on board the "Campeador," by signal, agreed to render them that assistance. Accordingly the "Campeador" was brought as close as she could to the "Nieta," and a hawser was ultimately made fast to the "Campeador," and she commenced towing the "Nieta" towards Lisbon. No doubt the engines of the "Nieta" were totally useless for the purpose of rendering any assistance, and the towage into Lisbon was completely done by the "Campeador." Early on the morning of the 6th, such wind as there was, and the sea which had been lively, moderated, and the ships got into Lisbon Harbour about daybreak on the morning of the 6th. About 10 o'clock there was a breakage of the hawsers, but ultimately they were set to rights, and a pilot from Lisbon having been taken on board, the "Nieta" was safely brought into the port of Lisbon; and for purposes of making a protest, or at all events for purposes the propriety of which was not questioned in the Court below, the "Campeador" appears to have been detained two days, and after that detention to have proceeded on her voyage from Lisbon.

Their Lordships entirely agree with the Judge of the Court below that it was a case of salvage, the services performed however having been under the circumstances properly described as in the nature of towage services; and they also agree with the observations of the learned counsel, that encouragement should be given to vessels to render assistance to other vessels which are in distress, as the "Nieta" in this case certainly was; but still, in carrying out that principle, regard

must always be had to the nature and amount of service required, the amount of service performed, and the circumstances how far danger, inconvenience, or delay are involved in rendering the assistance required and to be paid for.

Now in this case the assistance was that referred to, which the learned Judge in the Court below has, as their Lordships think, not improperly designated towage services, without any risk or danger, or any inconvenience other than the delay, which, if the Admiralty practice be a guide, would be remunerated by the sum of 25*l.* per day. There is a suggestion of other port charges, which however are not figured out, and which therefore it may safely be taken were not to any considerable extent. Looking to all these circumstances, the learned Judge in the Court below considered that he remunerated the salvors sufficiently by awarding them 200*l.* with costs. The question their Lordships have to consider is whether that sum is so inadequate that they ought to be called upon to interfere with the discretion so exercised by the learned Judge. The rule laid down in the case of the "Amerique" may be referred to upon this occasion with reference to the alleged value of the "Nieta," which, although a circumstance to be considered, is not to be allowed to raise the quantum of remuneration so as to be altogether out of proportion to the services actually rendered. Assuming, as their Lordships do assume, that the "Campeador" ought to be liberally remunerated for the services which she performed and the delay occasioned thereby, they cannot come to the conclusion that the learned Judge has, in the exercise of his discretion, awarded a sum so decidedly inadequate as to justify them in interfering with the exercise of that discretion.

Under these circumstances, their Lordships

will humbly advise Her Majesty to affirm the judgment of the Court below, and to dismiss this Appeal, with costs.