

# Adjudication of Shipwrecking Claims at Key West in 1831

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On April 20, 1831, an announcement was made, "to the Public" concerning the settlement of civil cases for the Maritime Industry of Wrecking in the Carribbean, in the primary edition of the *Key West Gazette*. The notice read: "All vessels arriving at, or departing from this place, shall be reported at as early a day as possible. . . . In the event of a wreck being brought to this place, we shall endeavor to transmit the earliest information, and in every instance, when it is practicable, we shall publish in what manner the salvage may be determined, whether by arbitration or the decision of court."

Previously methods of handling wrecking claims had gone through a series of modifications. In the early twenties and before, no established rule existed. During that period most of the cargoes and ships rescued had usually been taken to Nassau or Havana for adjudication. As early as 1823 a wrecker law adopted by the Territorial Council of Florida permitted a notary or justice of the peace to call a jury of five persons to determine the disposition of "rescued property and the quantum of salvage." It was charged that wreckers along the coast generally carried their goods to Key West and under summary proceedings were allowed an exorbitant percentage, sometimes amounting to 57 to 95 per cent of the goods saved. That law was declared "invalid" by Judges Smith and Lee of "The Admiralty Court of the South Carolina District," and the tribunal incompetent.<sup>2</sup>

"Loud complaints had gone up regarding the doings of the Justice intrusted with the important work. Consequently the superior courts were given original and exclusive jurisdiction in all civil cases of Admiralty of Maritime jurisdiction." Nevertheless, the wrecker courts had defenders. It is on record that 95 per cent of the net proceeds of the property saved went to the salvagers in the celebrated case of the Brig *Revenge*.<sup>3</sup>

By 1826 the U. S. Government had effected a law requiring all salvage claims along the Florida Coast and from the waters thereabouts to be arbitrated in the U. S. Under the new ruling most of the legal business was transferred to Saint Augustine. Since the headquarters of wrecking was in Key West, the location was inconvenient. Therefore, in 1828 Congress gave Florida another judge, establishing the Southern Judicial District with the seat of justice in Key West. James Webb was the first man appointed to the bench in November 1828. He remained in office ten years. After his resignation William Marvin served this office from 1839 to 1845.

No other modifications in the laws governing this business were instituted until February 23, 1847 when Congress drafted a rule to make all salvors obtain an occupational license from the judge of the District Court of Florida. The court was obligated to see that each master had a seaworthy and well-equipped ship and to ascertain that the owner of the vessel was a reputable person.

Regardless of where settlement was tendered various arrangements for making payment to the salvaging crews were employed. Individual circumstances frequently required different procedures. For purpose of illustration cases have been taken from the *Gazette* news weekly in 1831.<sup>1</sup> The first libel suit published in this paper was brought by L. T. Sellers, claimant, against Thomas Rooke, libellant. The salvaged property was sugar from the schooner *Waverly*, which had been grounded March 24th on Florida Key 150 miles from Key West. April 12th Judge Webb executed this verdict: "Exertions of the libellant and crew perserved the cargo (with) extreme peril and labor" on their part. They shall receive "one-half of the amount of the sales." This was usually the maximum obtained by the salvor through the court. However, not less than one-third of the net value of the cargo or vessel was ordinarily accepted as full payment.

Occasionally one-half of the property rather than cash was forfeited. Compensation of this nature was recommended when the *Exertion*, of Eden, mastered by Captain John Thomas, went on the rocks near Tortugas with cotton on board. The barque, en route to Providence, R. I., from New Orleans, was a total loss "having bilged before assistance could reach her." The damaged cargo, sails and rigging were rescued by Captain Hoxie of the Schooner *Pizarro* aided by five or six fishing smacks.

If the shipowner could not pay cash, part of the spoil was decreed

for sale. This was done when the Brig *William Tell*, which was commanded by Captain Riley, was grounded on the night of April 11th at one o'clock in the morning on Bird Key near Tortugas Light. The voyage had begun eleven days previously at New York. The next port was to be New Orleans. The cargo consisted of an assortment of dry goods, cutlery, etc. Some of the commodities were shifted to the wrecker of Captain Hoxie and the Brig with its crew brought to Key West. The court allowed \$3,000 to be paid by sale of a portion of the freight to meet the charge.

Sometimes the libellant and the claimant compromised upon a certain price for service rendered. Such was true in the case of the Brig *Mary Hart* eight days out of New Orleans headed for New York with 180 hogsheads of molasses below deck. The vessel cast away in "heavy Weather" on Mosquito Shoal near Key Tavernier on May 30th. Wrecking parties from the Sloops *Brillant*, *Packer*, *Martha-Jane* and *Johnson* and Schooners *Thistle* and *Weden* removed part of the cargo. Shortly thereafter the damaged ship was towed to this port. One thousand dollars was the settlement made to the salvors for their work.

As would be expected the fall or hurricane season increased the relative number of disasters in the Caribbean. One of the initial catastrophies of the autumn of 1831 was associated with considerable bickering as to how much the salvors were entitled to for the work expended when the Brig *Concord*, commanded by Captain M'Known, was wrecked on Tortugas Reef October second. The vessel was 27 days out of New York en route to Mobile with \$15,000 worth of groceries, dry goods and other material on board. During the first three weeks, stormy weather had been encountered repeatedly along the Atlantic Coast. The ship's sails were torn to shreds. Agroundment occurred at night in a thick, heavy, blowing gale. Rescue of the balance of cargo and crew was performed under the direction of Captain Clift of the Sloop *Spermacetti* from Tortugas Light. When the case came to trial, the keeper of the beacon, Edward Glover, received \$750 and expenses from the U. S. Court for his aid in the effort. Many persons were under the impression that a much larger sum should have been allowed. "Some thought that at least \$5,000 would be given." However, Judge Webb voiced the opinion that lighthouse keepers might be "induced to operate their light for other than preservation" particularly if "temptation" of large fees was made available. In addition to the above sum the final judgement entailed payment of one-half of the net proceeds from the auctioned commodities

after miscellaneous expenses were deducted to the libellant, John Appleton.

Similar arbitration was ordered when the Brig *Doris* of Matanzas on the way to Portland, Maine, went on the rocks at Carysford Reef November 16th. Though damaged, most of the cargo of 300 hogshead of molasses were removed. Thirty percent of the amount collected from the sale of the goods or an equivalent of \$2,145 went to the wreckers.

Although the Good Samaritan Spirit to save lives and seacraft usually existed, business interests stirred the scavengers forth. Rumor of a shipwreck resulted in a frantic effort on the part of all persons engaged in the salvage industry to seek out and raze the incapacitated ships. Naturally the rescuers were not always successful in finding their game. For instance, on October 21st the Spanish Schooner *Seguroda* anchored at Key West. The crew gave out information to the effect that on the way from Charlotte Harbor they saw the Schooner *Ploughboy* stranded at Key Andote. As soon as the news had spread about town three fishing smacks and the Schooners *Florida*, *Rooke*, *Ariel* and *Bizeul* were ready to join the prospecting party. In the meantime there was mutiny aboard the *Ploughboy*. The crew deserted leaving no one on deck except the mate and Captain Stover. The two men heaved overboard "20 hogshead tobacco and a quantity of Pig Lead . . . one anchor and chain." Then the craft floated free with the incoming tide. Ultimately they maneuvered the ship into Key West without further aid.

Adjudication of the case of the *Florence* demonstrates how the shipmaster contacting the wrecked vessel first, reaped the greater portion of the spoils. The barque carried 300 tons of dry goods, furniture and other commodities. She had been off the ways only two months when damage on Tortugas Reef occurred November 9th. The total value of ship and cargo came to \$20,000. For salvaging the vessel and part of the load the wrecking chief was given \$3,000. Another \$200 was distributed among the crew.

Generally the citizens of the islet directly or indirectly benefitted by the wrecking industry. On the other hand they were often burdened with the care of the survivors who had to be clothed, sheltered and provisioned. Most of these unfortunates awaited means to continue their travel. Others took up residence in the community. The majority were law abiding but occasionally there were those who made a nuisance of themselves. A case in point was when the passengers from the *Maria*, which was mastered by Captan McMullin, became belligerent and

created a rumpus in town. The ship had become stranded on Carysford Reef November 25th, 15 days out of Philadelphia. The haul consisted of dry Goods, provisions and 230 laborers for the "Canal." Captain Houseman and Barker, respectively, of the Sloop *Sara Isabella* and Schooner *Motto* removed the cargo, crew and passengers. The latter were sheltered in a temporary encampment in Key West. Tents were provided. On December first the laborers had "free indulgence in their orisions to Bacchus." They threatened McMullin and his men. On a Friday so many of them congregated on Brown's Wharf that business had to be suspended. The citizens appealed to the Commandant of the Post, Major Glassel and Captain Shubrick of the U. S. Sloop of War *Vincennes* for military aid. Cooperation was granted promptly. A group of Marines under the command of Lieut. Engle landed at Greene's warehouse while troops under Lieut. Manning patrolled the streets. There was no further trouble.

In conjunction with the establishment of a policy for the civil cases coming under the Admiralty Courts, it became necessary to clarify the position of U. S. Naval Craft in lending aid to ships in distress. This was done officially in September 1831. The Federal Government issued a memorandum to the effect that "No compensation will be tendered for aid to distressed vessels (by any) ship of war."

Before dismissing our subject a brief account on the economical side of the wrecking industry is worthwhile. "Early in the thirties 250 to 320 American vessels" entered Key West annually and "ten to twenty foreign" were also included. See Table I. The imports and exports were less than \$100,000 a year. From December 1824 to December 1825, \$293,353 worth of salvaged property was sold here. The same year \$100,000 was paid for duties.

By 1835, there were 20 good sized vessels engaged regularly in wrecking. In addition there were some few of small tonnage. From 1848 to 1859, 618 ships were damaged on the Florida coasts with cargoes valued at \$22,000,000. Salvors collected \$1,595,000 for bonuses plus \$2,666,000 for expenses incurred in the trade. At the time the statistical report was made it was estimated that an equal number of wrecks south of Cape Canaveral remained unadjudicated. <sup>2</sup>

TABLE I

Number of ships entering Key West 1826 to 1830;  
Entrance at the Customs House.<sup>1</sup>

Year	1826	1827	1828	1829	1830	Total
Foreign ships	30	16	23	19	30	118
American ships	167	247	304	264	260	1242
Total	197	263	327	283	290	1360

## References

1. Key West *Gazette*, Volume I, 1831.
2. Rerick, R. H.: *Memoir of Florida*. Southern Historical Association, Atlanta, Ga. Volume II, 72, 1902.
3. Dodd, Dorothy: *The Wrecking Business on the Florida Reef*. *The Florida Historical Quarterly*. 22, 171-199, 1944.