

REVIEW OF CURRENT ENGLISH CASES.

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ADMIRALTY—TOWAGE CONTRACT—CLAIM OF TUG FOR SALVAGE OF TOW—BURDEN OF PROOF—COUNTERCLAIM FOR BREACH OF TOWAGE CONTRACT—CLAIM FOR SALVAGE BY OTHER TUGS OF SAME OWNER—CLAIMS OF MASTERS AND CREWS OF TUG ENGAGED AND OF OTHER TUGS OF SAME OWNERS.

The Maréchal Suchet (1911) P. 1. This was a claim for salvage, and a counterclaim for damages for breach of a towage contract. The circumstances being that the owners of a tug called the "Guiana" were employed to tow a sailing vessel. The tow ran aground. The owners failed to shew that this was due to any vis major or inevitable accident, or that there was no inefficiency in the tug, or want of skill on the part of the master and crew thereof. The vessel remained aground for four days during which the tug engaged to tow, and three other tugs of the same owners, and others came to her assistance. On the fourth day the vessel came off. Evans, P.P.D., held that the towing tug was not entitled in the circumstances to salvage and that it was not necessary to plead negligence in order to defeat this salvage claim. He also held that the owners of the towing tug were not entitled to salvage for the services rendered by their other tugs, as they had failed in their towage contract; as it was an implied term of the contract that the tug to be furnished should be reasonably sufficient for the work; and that the master and crew of the "Guiana" were not entitled to salvage because they performed no more than their "duties" in the towage service; but that the masters and crews of the other three tugs perform "engaged" services for which they were entitled to compensation. As regards the counterclaim, he held that there was no evidence of the inefficiency of the tug, and the point was left in doubt, and though it was necessary for the purpose of converting a towage claim into one for salvage that the owners of the tug employed, to tow should shew that their tug was efficient, it was, for the purpose of a counterclaim for breach of the towage contract, equally necessary for the plaintiffs by counterclaim to shew that the tug was inefficient, and that a special condition of the towage contract which provided that the owners of the tug were not to be responsible for damages resulting to the vessel while in tow, though not a ground for