

No. 7

RESIDENT MAGISTRATE'S COURT, MANGONUI.—13th MAY, 1881.

[Before Thomas Ball, Esq., R. Wyles, Esq., and J. L. Chapman, Esq., J.P.s.]

Joshua Hutchison v. John Anton Subritzky.

THE defendant appeared on a summons issued by Robert Wyles, Esq., J.P., charging him with having unlawfully in his possession certain goods belonging to the barque "Janus," stranded at Awanui Heads, and pleaded not guilty

Joshua Hutchison, constable, sworn, states: During the early part of the month of April I received information from Messrs. Lane and Brown, also from Captain Gifford, that they had lost certain goods from the barque "Janus," wrecked at Awanui Heads, which they believed were unlawfully taken from the wreck against their wishes. I laid the information just read to the Court, and obtained a search-warrant (produced). I proceeded to Awanui on the 26th April. I met the defendant, Mr. Subritzky. I told him I had come to look after goods supposed to belong to the barque "Janus." He said, "I have some goods here. Come along and I will show you." I went with him to a large building about two hundred yards from his dwelling-house. He said, "Here is what I have got." He showed me a large cask about three-quarters full of pork. He showed me two coils of whale-line in the same house. He said, "Now I have a cask with some butter in it at my own house, which I will show you." I went to his house, and in his store he pointed out to me the cask now before the Court, with the same quantity of butter in that there is now. I told him I had a search-warrant, and would have to take charge of the things on behalf of the owners. He said, "Very well. I will claim salvage on them for my trouble." I took charge and had them shipped to Mangonui. The whale-line now before the Court is the same that I seized. I shipped it by the cutter "Vixen." The cask of pork is in the Customhouse. There were two coils of rope and a cask of butter. The other coil of rope is in the Customhouse. I have not recovered all the goods in the information, but a portion of them on the defendant's premises.

William D. Gifford, sworn, states: I was master of the barque "Janus," wrecked at Awanui Heads on the 22nd March last. I lost some goods from the vessel after the wreck. I do not know how I lost them, but they went some way or other; they were unlawfully taken away without permission. I lost a quantity of meat in casks, several casks containing three or four barrels each; two casks of butter containing four small casks, 400 lb. each large cask; several casks of whale-line, also several tubs of whale-line. I have seen some of the goods since; I saw them in the Customhouse as mine. I identify the goods before the Court as mine; there are two marks on the whale-line by which I identify it, which I put on myself. There is no particular mark on the butter: it corresponds with all my other butter. I never abandoned the wreck. I made an effort to save the cargo. I employed Messrs. Lane and Brown; previous to this I made efforts by my own men. Messrs. Lane and Brown were not sent for; they made their own appearance. I employed Lane and Brown under contract; they received one-third of oil and one-half of all stores and effects saved; they were joint owners from this moment. Some of the goods were landed on shore, some put on board the "Medora"—Mr. Subritzky is the owner—the steamer "Iona," and the cutter "Vixen." Messrs. Lane and Brown had a steam-launch and boats belonging to the ship. Goods landed or sent on shore were not under any one's special care. I do not know the date when I first missed the goods; it was about three weeks ago. There was a considerable quantity of goods lying on the beach, over and above what was put into the vessels. I made no contract by gift or any other way for any one else to take these goods. All goods landed were out of tideway. After the ship broke up goods shifted ashore, but these goods could not have drifted ashore. Up to the time these goods were taken the ship had not broken up. I suppose the cask of pork and butter to have been full; the cask of pork is now about half full; the value of the pork is 3½d. per lb., there were 950 lb. in the cask. The butter was 100 lb. originally I value it at 9d.; there is about 90 lb. missing. There is about 400 lb. in both coils of rope: this is worth 10d. per lb. I have seen no other parts of the lost property since.

William Brown, sworn, states: I am a shipwright, of the firm of Lane and Brown, residing at Whangaroa. I heard of the wreck through Topi, of the "Vixen:" he was there for timber. I left Whangaroa on the following Monday, and reached the wreck about 8 o'clock on Monday night; went on board on Tuesday morning; took survey of position; came ashore; made Captain Gifford an offer to discharge the ship. The offer was this: I was to have one-third of the oil saved, one-half of the stores saved, and the hull of the ship, £20. We were to pay all expenses. The offer was accepted. I engaged all the officers of the ship, also the "Medora," to take away cargo as I got it out of the ship. I chartered the "Medora." We filled the "Medora" up with a miscellaneous cargo. She remained there for several days after she was filled up. I do not know the reason for stopping. She went a little further up the river. I made arrangements with Ludolph Subritzky the goods were to be sent to Whangaroa. After the vessel was loaded or ready to sail on Friday evening she remained until Sunday. She could not have got out on Saturday. After she was loaded she did not come alongside the wreck. On the Saturday night and Sunday it blew hard, and the "Janus" broke up. A good deal of the cargo went up the river. The cargo was in casks; the casks were low in the water. I could not tell what were in the casks. I know the meat would not go out of the ship—it would sink; butter would float. After the contract we become joint owners of the property. After the ship broke up we lost about half of the property. We lost two casks of butter. I learn from those who know about it that the casks of butter contained about three kegs in one and four in the other, each containing about 100 lb. I identify the rope now before the Court as a portion of my property, also that at the Customhouse. We missed a tub and a half of whale-line from the ship on Thursday night. There was no one on board at the time; it was taken during the night. Half the coil was in use; I was the last person to use it; it was missing in the morning. All the other line was down below in the hold. I slept on shore that night in a tent with the men. The "Medora" was the only vessel lying there at the time. The "Medora" was three-quarters of a mile up the river from the wreck at the time.