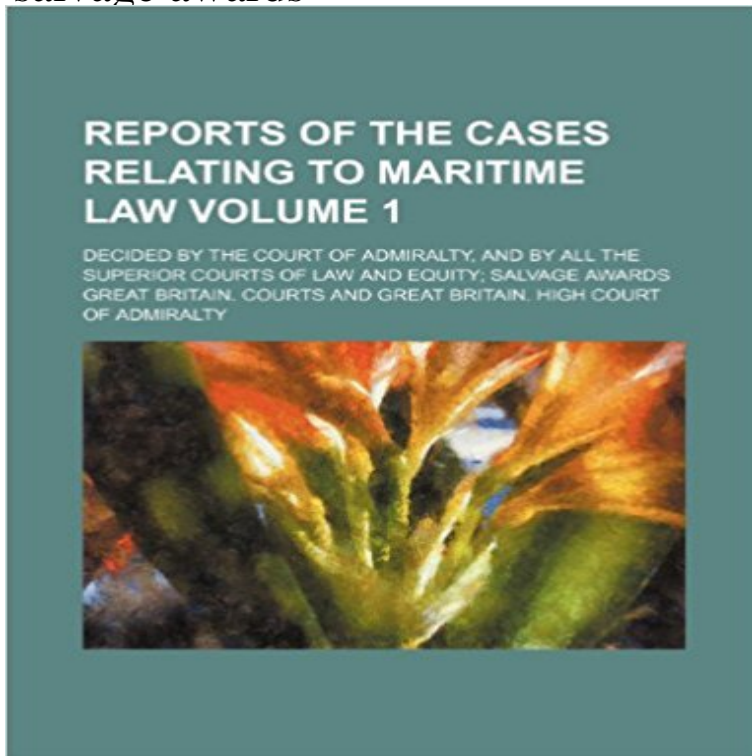


Reports of the cases relating to maritime law Volume 1; decided by the Court of Admiralty, and by all the superior courts of law and equity salvage awards



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1868 Excerpt: ...to have been contended by the underwriters, that even if both these facts were to be discarded as immaterial, the circumstances were not such as to constitute what is called a constructive total loss. The arrangement made at the trial appears to have been, that the opinion of the jury should be taken on this disputed question of fact, and that, subject to their finding, the case should be reserved for the court. The case is by no means clearly stated; but I think that what I have stated above is the effect of the statement in paragraph 10, that the learned judge left to the jury the question whether there was a constructive total loss at the time when the vessel was submerged, and the assureds agent determined not to raise her, or after she was raised, and the jury found both these questions in favour of the pit.; but, in putting these questions to the jury, no account was taken of any liability on the part of the cargo or freight to contribute in general average towards the expenses of raising the vessel, or towards the general average loss at sea, and it is to be taken as a fact, that if such liability for either loss ought to have been taken into calculation, and the estimate of the cost of raising and repairing ought to have been reduced by the amount of general average to be so contributed, then that there was not a constructive total loss. Some questions are raised as to the effect of the lateness of the notice of abandonment, on which it is unnecessary to come to any determination, as I conclude that on this statement there never was such a state of things as could amount to a total loss, whatever notice of abandonment was given. In coming to this conclusion I do not regard the general average incurred at sea, but proceed

entirely on the ground that...

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