

The value of the vessel when saved, in the hands of the salvors, and at the date of delivery to the plaintiffs the Dry Dock Company, was \$300. This amount is the fund to be distributed unless the salvors are entitled to claim up to the added value resulting from the work done by the Dry Dock Company. Singularly enough, I can find no express decision on the point. In the cases of "*The Gustaf*," Lush. 506, and "*Immacolata Concezioni*," 9 P.D. 37, the question was not raised; it may be because the maritime liens which were in priority in these cases were small in amount, compared with the amount realized from the sale of the *res*; probably, in each case, below the actual value of the *res* at the time it came into the hands of the shipwright. In the case of "*The Gustaf*," the vessel sold for £810, and the liens preferred to the claim of the shipwright came only to £390. In the case of "*The Immacolata Concezioni*," the proceeds of the sale paid into court were £2,328; wages were paid to the amount of about £500. Though that amount was not then settled, priority was given to such wages as had been earned up to the date of the ship's coming into the possession of the shipwright.

The principle laid down in the case of "*The Gustaf*," and followed in the case of "*The Immacolata Concezioni*," was that the shipwright takes the vessel into his possession *cum onere*; i.e., with the existing obligations, then completed and done; and it would appear to me that the equitable and just meaning of taking the vessel *cum onere* would only extend to the value of the *res* at the time of its coming into the shipwright's hands. If the *res* at that time was of less value than the aggregated amount of the maritime liens attaching to the vessel, then the holders of such liens must abate their claims to the extent that their security failed them. I do not mean to say that it is always a simple thing to determine the value of the *res* at the time of its entering the shipwright's yard; but it can be very closely approximated. Especially should this rule be applied to claims for salvage. In the case of such claims the court rarely allots for salvage more than a moiety of the property saved. Surely a vessel worth \$1,000 when saved and worth \$5,000 after the shipwright has got through his work on her—though his, the shipwright's, individual claim may exceed, and usually would exceed,

the selling value of the patched-up vessel—could not fairly be valued at \$5,000 for the purpose of estimating the amount to be awarded for salvage. If this rule were to prevail the salvors need only to postpone suing for their claims till the shipwright has expended a large sum on the vessel and then make a large claim for salvage, and for an award therefor far in excess of the actual value of the property so saved. I think the value of the *res* must be taken at the time she is saved and handed over by the salvors, and it is in reference to this value that the amount to be allotted for salvage is to be computed.

In this case I find the value of the "*Gleniffer*" when handed over to the Dry Dock Company to have been \$300, and I fix the amount of salvage at the sum of \$150, being a moiety of the value of the property saved. I do not think there were any special circumstances of danger or risk involved in the services rendered in this case which would warrant my making an award exceeding what appears to be the usual limit in cases of salvage. The only exceptional feature in the present case is the small value of the property saved; but that, standing by itself, I do not consider as sufficiently exceptional or extraordinary to take the case out of the usual rule. I also allow the salvors their costs, but these (including their share of the costs of arrest and sale) are not to exceed the sum of \$150, so far as the funds in court are concerned. This \$150 for costs and the \$150 allowed for salvage exhausts the full value of the *res* in the hands of the salvors at the time they delivered it over to the Dry Dock Company for repairs.

The owners in this case not appearing, the salvors are awarded the full value of the property saved, because I assume that the sum which will be taxed for costs will equal, if not exceed, the sum of \$150, the other moiety of the value of the *res* saved. This view protects to a just extent the possessory lien of the Dry Dock Company. They will have to pay their proportion of the costs of arrest and sale; these will be in the same proportion to the salvor's share of these costs as \$550 bears to \$300. After the payment of these costs and the money awarded to the salvors, the Dry Dock Company will be entitled to the balance of their fund in court to be applied on their claim and costs.