

When the appellant got to Lion Head, he took charge of the salvage operations. The respondent's tug was employed or allowed to assist, though no bargain was made for her remuneration. The appellant was not obliged to use her, but he availed himself of her presence, and she aided the "Molyess" in syphoning the barge and in towing her off. That was an essential part of the actual salvage service, and there was no reason why the respondent should not recover for what he did. Under the Merchant Shipping Act, R.S.C. 1906 ch. 113, sec. 759, the rendering of such services is recognised as giving a claim for salvage. The respondent's claim for \$95 was not unreasonable.

The respondent was entitled, in the result, to the contract-price, \$500, less an allowance of \$120, and to \$95 for salvage, making in all \$475. From this should be deducted 5 tons of coal at \$8, \$40, and the amount of the cheque received by the respondent, \$250, in all \$290, leaving a balance due to the respondent of \$185, for which he should have judgment.

The judgment below should be varied by reducing the amount to \$185, with costs of action; and, as the appellant succeeded only in part, there should be no costs of the appeal.

Appeal allowed in part.

FIRST DIVISIONAL COURT.

OCTOBER 27TH, 1920.

SEAFORTH CREAMERY CO. v. ROZELL.

Libel and Slander—Slander of Plaintiffs in their Business—Loss of Profits — Evidence — Damages — Counterclaim for Libel of Defendants in their Business—Privileged Occasion—Express Malice—Internal Evidence of—Jury.

Appeal by the plaintiffs from the judgment of LENNOX, J., upon the findings of a jury.

The action was for slander of the plaintiffs in their business; and the defendants counterclaimed for libel of them in their business. At the trial judgment was given for the plaintiffs for \$200 damages and for costs, and for the defendants upon their counterclaim for \$200 damages and for costs.

The appeal was heard by MEREDITH, C.J.O., MAGEE, HODGINS, and FERGUSON, J.J.A.

R. S. Robertson, for the appellants.

William Proudfoot, K.C., for the defendants, respondents.