

Action No. 5—Frank Jackman, plaintiff:
 67 hours' work of steam tug, at
 \$6 per hour.....\$402 00
 Towing scows.....5 00
 -----\$407 00

Action No. 6—Patrick McSherry, plaintiff:
 For use of boat, two lines, anchors, and chains, and 21 days' personal services.....267 00

Action No. 7—A. B. Morrison, plaintiff:
 For use of steam pump, per express contract, at \$20 per diem, for 23 days.....460 00
 Half cost of fuel, also per express contract.....24 00
 Ten days' use and work of steam scow, and crew (not covered by any agreement as to price), at \$20.....200 00
 -----684 00
 Less cash paid on account.....167 00

Leaving a balance due of...\$517 00
 Action No. 8—Joseph Jackson, plaintiff:
 Trying to pull "Gleniffer" off ground, 2½ hours with steamer "Eurydice," under express agreement, \$50 for the first hour, and \$10 for each additional hour.....65 00
 These efforts were unsuccessful.

The value of the hull when delivered to the Dry Dock Company was about \$300; after the repairs made to her by the Dry Dock Company the vessel was sold by the Marshal, without any outfit or sails, for \$850.

In the first place, it must be determined whether all or any of the foregoing claims are properly salvage claims or not.

McSherry's claim, in action No. 6, is for the use of the boat tackle, anchors, chains, tow lines, tackle lines, etc., and twenty-one days' personal service, of which only three days were spent on the wreck, the remaining eighteen days being occupied in going about town, it is said, procuring and forwarding supplies. I think the services rendered were salvage services, except the eighteen days' personal services in town, which I disallow as salvage.

The claims of the plaintiff in No. 5, Frank Jackman, and of the plaintiff in No. 7, A. B. Morrison, are also clearly for salvage services. It is argued that the claim of the plaintiff Morrison for the use of the steam pump, being under express agreement, cannot rank as a maritime lien for salvage; the express agreement either ousts the court of jurisdiction, or, if it is found to be an express agreement, it ceases to be a lien, which is a right or privilege seldom arising, it is contended, except in the absence of an express agreement. I cannot concur in this view. The agreement does not alter the nature of the service as a salvage service, and the court will give effect to its provisions in awarding remuneration according to its terms. An agreement fixing an amount to be paid for the services, whether in writing or verbal, is legally conclusive on both parties as to the amount of the reward: "The Fire Fly," Swa. 240; "The True Blue," 2 W. Rob. 177. Such an agreement must, however, be free from fraud or any taint of dishonesty or corruption, and made with a competent knowledge of all the facts: "The Betsy," 2 W. Rob. 170; "The Kingalock," 1 Spk. 263. The proof of the alleged agreement rests with the party who sets it up, and satisfactory evidence must be given of its existence: "The Graces," 2 W. Rob. 297; "The Salacia," 2 Hagg. 265.

Jackson's claim for attempting to pull the boat off, which effort was entirely unsuccessful, I do not consider a salvage service. There is no agreement shown that he was to be paid in any event. Salvage is a reward for benefits actually conferred, not for services attempted, and resulting in nothing. The exertions must in some way contribute to the successful result: "The Edward Hawkins," Lush. 515. Here there is no evidence or allegation that the service resulted in the slightest benefit whatever.

The claims made for services which I hold to be salvage, with the amounts claimed, will be as follows:

Patrick McSherry.....	\$213
A. B. Morrison, contract....	\$484
Less cash paid.....	167

Leaving balance of.....	317
Services not under contract..	200
Total.....	517
Jackman's claim.....	407

Total.....	\$1,137