

sian was considerably damaged. Proceedings were commenced in this country, but before they had proceeded far action was commenced in the Vice-Admiralty Court in Lower Canada, and there the case was tried. The decision of the Canadian Court was that the Polynesian was solely to blame. Her owners proposed to appeal to the Privy Council, but the case was settled on the Polynesian undertaking to pay 50 per cent. of the Cynthia's damage. The action pending in this country was thereupon revived, and the case went to the Registrar and merchants in order that the amount of the damage might be ascertained. The owners of the Cynthia made an affidavit for this purpose, in which they stated that there was no salvage of the wreck; that it was impossible to find anyone to attempt it, and that the underwriters had determined that the abandonment of the wreck was the only prudent course. No doubt that affidavit was *bonâ fide*, and the owners of the Cynthia were under the impression that there would be no salvage. The Registrar consequently made his report on the basis that the vessel was a total loss. On that report the owners of the Polynesian had made payment; but they had quite recently ascertained, first of all by means of the newspapers, that one of the owners of the Cynthia had since undertaken to give something for the wreck as it lay, and for what might be recovered from the cargo. There was no doubt there had since been a substantial salvage. Under these circumstances he applied that the report of the Registrar might be re-opened, if necessary.

The President observed that the report had been made on May 13, 1891, and the money had been paid. Was there any decision showing in these circumstances that the matter could be re-opened?

Dr. Raikes cited the *Franconia* (3 P. D.), the *James Armstrong* (4 L. R., A. and E., 380), and the *Thyatira* (5 Aspinall).

Mr. Butler Aspinall, for the owners of the Cynthia, contended that the Court had no power to re-open the matter, that if such power existed it ought not to be exercised in the present case, and that by agreement between the parties, the owners of the Polynesian were estopped from this application.

In the course of the argument it transpired that the value of the property salvaged was about 160*l*.

The Court refused the application.

The PRESIDENT, in giving judgment, said, I have no real doubt