

right exists only at common law to a possessory lien, and the origin and extent of that lien is defined by Buller, J., in *Lickbarrow v. Mayor*, 6 East 25 n., thus: "Liens at law exist only in cases where the party entitled to them has the possession of the goods, and if he once part with the possession after the lien attaches, the lien is gone."

Later cases shew explicitly that one necessary ingredient of lien is that the person claiming it should have full possession, meaning thereby exclusive and continuous possession, and, if the things are moved from the place of repair, it must be to a place where absolute and entire dominion over them can be retained—a thing which can rarely be done: see *Mors-le-Blanch v. Wilson*, L. R. 8 C. P. 227, at p. 238; *Ex p. Willoughby*, 16 Ch. D. 610, 612.

When the vessels in this case were floated, it was on navigable water, and when they were tied up it was at first to a place where plaintiff had only permission to go from Castner, and ultimately to a dock which was in public use and to which plaintiff has no exclusive possession or right of access . . . [Reference to *King v. Indian Ordnance Co.*, 11 Cush. 231; *The Scio*, L. R. 2 Ad. & Ecc. 353, 356.]

Still further, the acts of removal and tying up were not done by plaintiff alone, but in conjunction with the employees of the defendants and the agent of the owner.

That possession was not retained by plaintiff on the moving of the vessel to the dock, is evident from the presence on board the dredge as caretaker and agent of the owners of a succession of persons following each other down to the date of the litigation. It may be that there is no need to keep the vessel within the premises of the repair-man to preserve the lien, and that placing a ship-keeper aboard to retain possession for the lien-holder when the ship is floated on public waters, might suffice, as was suggested and apparently sanctioned in *British Engine Co. v. Ganes, E. B. & E.* 361 (affirmed, 8 H. L. Cas. 342). But here that act of supervision was attended to by and in the interest of the owners, and affords a visible token of their being in possession throughout.

There can be no intermittent possession quoad such a lien—once lost it is gone and cannot be restored by repossession: *Hartley v. Hitchcock*, 1 Stark. 408; *Jones v. Peart*, 1 Stra. 557; *Forth v. Simpson*, 13 Q. B. 680; *Reilly v. McIlmurray*, 29 O. R. 167.

My decision is against any right to hold the vessels for the payment of the debt, and they must go to the possession of the owners as against this claim of plaintiff.