

lien for such services. "The Heinrich Bjorn," 11 App. Cas. 276.

A. C. Galt, for the Toronto Dry Dock Co., after setting out the condition of the vessel when brought to the Dry Dock Co. and the work which was subsequently done on her:

When an agreement is entered into for the performance of service salvage remuneration will be refused. "Abbott on Shipping," 12 Ed. 547, 548, 569.

Salvage is a compensation allowed for services performed in rescuing a ship, and must involve skill, enterprise, and risk. Sweet's Law Dictionary. There was no risk or enterprise in this case, the vessel being an abandoned hulk.

A salvor is a person who performs useful services as a volunteer. When these alleged salvors entered into an agreement to perform the services, they were under a legal duty.

The services of Jackman was merely towage services, which give no maritime lien. "The Heinrich Bjorn," *ante*. Jackson's services give no maritime lien. No benefit was obtained therefrom.

A maritime lien travels with the *res*, but is subsequent to any lien through which the value of the *res* is increased. "The Bold Beucleugh," *ante*. It is the general rule of maritime law that not more than a moiety of the *res* will be awarded to salvors. "Jones on Salvage." "International v. Lobbs," 11 O.R. 408.

Mulvey in reply: The full value of the *res* was awarded in the following cases: "The William Hamilton," 3 Hagg. 168; "The Castle-town," 5 Irish Jur. 379; "The Rutland," 5 Irish Jur. 283.

The amount of the salvage award is in the discretion of the court. "The Aquila," 2 C. Rob. 37.

MCDougall, Admiralty J.: This is a motion before me, in the several suits brought against the above ship, to determine the priorities of the various claims. Four actions have been instituted for salvage, and one by the Toronto Dry Dock Co. for repairs. In two of the salvage cases the plaintiffs claim under an express agreement as to amount; in the other two salvage cases, the plaintiffs demand a *quantum meruit* by virtue of their alleged salvage services under the maritime lien thereby created. The ship was arrested in the salvage actions

while in the possession of the plaintiffs in action No. 10, the Toronto Dry Dock Company, who claim they are entitled to a possessory lien for the amount of their account for repairs and dock charges. The owners do not appear to the actions in this court. The Dry Dock Company, before any one had commenced an action in the Admiralty Court, had taken proceedings in the High Court of Justice, *in personam*, against the alleged owners, and have secured a judgment by default against two of the defendants in the action, named Baker, for the amount of their claim. The other defendant, Patrick McSherry, disputes their right to recover against him, on the ground that he was not an owner of the vessel at the time she came into the hands of the Dry Dock Company for repairs. McSherry is plaintiff in action No. 6 in this court, claiming a considerable sum for alleged salvage services. All the alleged salvage services were performed before the ship came into the possession of the Dry Dock Company.

A brief history of the ship will be of value as showing the relative position of all parties. The "Gleniffer" was stranded on the shore of Lake Ontario, near Toronto, several years ago. She became a total wreck, and was abandoned by her then owners to the underwriters. These latter sold the wreck to McSherry; McSherry stripped her of her sails, rigging, chains, anchors, and practically all movable articles, leaving the hull partially under water, where she lay for a year or two. In the autumn of 1891 McSherry sold the hull and outfit removed by him to the present owners, two brothers named Baker, for the price or sum of \$400, retaining, however, possession of the outfit until the purchase money was paid. The Bakers proceeded at once to recover the hull, employing the plaintiffs in actions Nos. 6, 7, and 8 to aid them in their endeavours to get the vessel afloat. Their efforts were ultimately successful, and the vessel was taken by the salvors, under the direction of the owners, the Bakers, to the yard of the Dry Dock Company, where the vessel had to be docked immediately on her arrival, as she was kept afloat only by the constant working of a steam pump.

The salvage claims may be described briefly as follows: