

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of The English, Scottish, and Australian Chartered Bank v. Putwain and another (Cargo ex "Gothenburg"), from the Vice-Admiralty Court of Queensland ; delivered Thursday, 11th January 1877.*

Present :

SIR JAMES COLVILE.

SIR ROBERT PHILLIMORE.

SIR BARNES PEACOCK.

SIR ROBERT COLLIER.

THIS case has been very ably argued on both sides ; but their Lordships do not think it necessary at this late hour to enter into any details as a foundation for the judgment they are about to deliver. There are some expressions in the judgment of the Court below which might at first sight lead to the conclusion that the learned Judge was of opinion that in a case of derelict there was some fixed sum to be awarded, and that in this respect it differed from other cases of salvage. To guard against any mistake, their Lordships would observe that that is a doctrine which has long been repudiated by the Admiralty Court and by this Committee. And it is well known to all who practise before either of those tribunals, that the case of derelict is only so far considered as enhancing according to the circumstances the merit of the salvage, but it is to be dealt with in all respects as any other case of salvage would be dealt with.

There is another maxim which has been laid down by their Lordships at this Board, and which they have seen great reason to adhere to

on all occasions; and that is, that where an award of salvage has been made by the Court below, unless it be extravagantly and immoderately large, their Lordships will not advise Her Majesty to interfere with the sentence merely on the ground that if it had come before them in the first instance they might have awarded a less sum. It may be that in this case some of their Lordships are of opinion that if they were dealing with the case *in prima instantia*, they would not have given the full sum of 3,211*l.* out of the 9,030*l.* which was saved in this case; but their Lordships, after a mature consideration, have arrived at the clear conviction that this case cannot be ranged under the category of those which are so immoderately and extravagantly wrong as to induce them, as the Appellate Court, to interfere with the award of the Court below; and they therefore think that it will be proper to advise Her Majesty to dismiss this Appeal, and to dismiss it with costs.