cases of *The "Pacific"* and *The "Hebe"* (cited above) proportionate amounts were given. The ship and the cargo were making common cause here, and so both could be taken into account in fixing the salvage award. The expense of the salvage operations to this defender (£150) must also be considered in fixing the amount to which he was entitled.

At advising—

LORD TRAYNER—We have here two salvage claims, one for the salvage of a derelict ship and her cargo, the other for life salvage.

The value of the derelict ship is stated by the Sheriff-Substitute to be £800, and her cargo £300. The value of the cargo is admitted, but the petitioner says that the value put upon the derelict ship is excessive, and should not exceed £450. I think there is evidence of value sufficient to warrant the finding of the Sheriff-Substitute, and I take it therefore that the salved property was of the value of £1100. The Sheriff-Substitute has awarded £400 to the salvors, which I cannot regard in the circumstances of this case as otherwise than an exceedingly liberal award. I should not have been disposed to allow so much, but the Sheriff-Substitute's award is not so extravagant as to induce me to interfere with it.

The claim for life salvage must, I think, be disallowed. By the 544th section of the Merchant Shipping Act 1894 claims for services rendered in saving life from foreign vessels (which was the case here) are only allowed where the salvage services have been "rendered wholly or in part within British waters." The services here claimed for were rendered on the high seas at a point where the nearest land was distant about 200 miles. It is said that the services were rendered partly in British waters because the salvors brought the rescued men to Hull. But I think the men were salved whenever they were taken off the disabled vessel they were abandoning and placed on the deck of another vessel which was seaworthy. They were thus rescued from the peril which rendered salvage service necessary. It was not necessary that in order to be salved they should be landed in an English port, or indeed in any other port.

The LORD JUSTICE-CLERK and LORD YOUNG concurred.

LORD MONCREIFF was absent.

The Court pronounced this interlocutor:—"Sustain the appeal and recal the interlocutor appealed against in so far as it finds—(1) that the pursuer (appellant) is bound to pay to the Neptune Steam Fishing Company, Limited, the sum of £150; and (2) finds the pursuer (appellant) liable to said company in the expenses of process: Find in fact that the services for which the said company claim now to be recompensed were not rendered wholly or partly within British waters, and in law that the said company have no claim to be recompensed for said services to the pursuer (appellant): Assoilzie the pursuer (appellant) from the claim made by said company: *Quoad ultra* dismiss the appeal and decern: Find the pursuer (appellant) liable in expenses to the respondent George Walton since the date of the interlocutor appealed from, and remit," &c.

Counsel for the Pursuer and Appellant—Salvesen, K.C.—Younger. Agents—Boyd, Jameson, & Young, W.S.

Counsel for the Defenders and Respondents The Neptune Steam Fishing Company, Limited—Aitken. Agents—Alexander Morison & Co., W.S.

Counsel for the Defender and Respondent George Walton, the owner of the "Royalist"—M'Clure—D. Anderson. Agents—Macpherson & Mackay, S.S.C.

Tuesday, July 15.

FIRST DIVISION.

[Sheriff of the Lothians.

MIDLOTHIAN COUNTY COUNCIL *v.* PUMPHERSTON OIL COMPANY, LIMITED.

Process—Rivers Pollution Prevention Act 1876 (39 *and* 40 *Vict. c.* 75), *sec.* 11—*Removal of Sheriff Court Process to Court of Session—Property—River—Nuisance.*

Circumstances in which petitions, presented in different Sheriff Courts at the instance of the respective County Councils, and against various defenders, but all relating to the pollution of the same river, were removed into the Court of Session, under the provisions of section 11 of the Rivers Pollution Prevention Act 1876.

Procedure for removal into Court of such petitions.

The Rivers Pollution Prevention Act 1876 enacts (section 11)—"Any plaint entered in a County Court under this Act may be removed into the High Court of Justice by leave of any judge of the said High Court if it appears to such judge desirable in the interests of justice that such case should be tried in the first instance in the High Court of Justice and not in a County Court, and on such terms as to security for and payment of costs and such other terms (if any) as such judge may think fit."

By section 21 (5) it is provided that in Scotland the expression "the County Court" shall mean the Sheriff of the County, and shall include the Sheriff-Substitute, and that the expression 'plaint entered in a County Court,' shall mean petition or complaint presented in a Sheriff Court;" and sub-section (6) that the expression, 'the High Court of Justice,' shall mean the Court of Session, in either Division of the Inner House thereof."

The County Council of Midlothian presented a petition in the Sheriff Court of the

Lothians at Edinburgh, under the provisions of the Rivers Pollution Prevention Act 1876 against the Pumpherston Oil Company, Limited, praying that the said Company be ordained to abstain from polluting the river Almond, which flows partly through Midlothian.

Similar petitions were presented in the Sheriff Court at Linlithgow by the County Council of Linlithgow against the Pumpherston Oil Company; the Oakbank Oil Company, Limited; and the United Collieries Company, Limited, having reference to the portion of the river Almond which flows through the county of Linlithgow.

In all these petitions defences were lodged. The various defenders in these petitions presented notes to the Lord Justice General, under section 11 of the Act (quoted *supra*).

The prayer of the note at the instance of the Pumpherston Oil Company was in the following terms:—"May it therefore please your Lordship to move the Court to grant leave and order that the said petitions against the Pumpherston Oil Company, Limited, and the proceedings therein, be removed into the Court of Session, and to order that the processes be transmitted by the Sheriff-Clerks at Edinburgh and Linlithgow respectively to the Clerk of the First Division of the Court of Session, and that the cases be tried in the first instance in the Court of Session, and proceed henceforward as actions before the Court of Session."

In the Single Bills counsel for the County Council submitted that the prayer of the note should not be granted, in respect that different questions might be raised by the several companies in respect of their prescriptive rights.

This interlocutor was pronounced:—

"The Lord President having heard counsel for the parties on the note for the respondents, grants leave to the respondents in the petition against the Pumpherston Oil Company, Limited, specified in the said note, to remove the said petition into the Court of Session, and to have the same tried in the first instance in either Division of the Court of Session."

Similar interlocutors were pronounced in the notes at the instance of the Oakbank Oil Company and the United Collieries Company.

By subsequent interlocutors the Court ordered that the respective processes be transmitted by the Sheriff-Clerk to the Clerk of the First Division, and sent the case to the Summar Roll.

Counsel for the County Council—Macphail. Agent—J. A. B. Horn, S.S.C.

Counsel for the Companies — M'Lennan — Younger—Moncreiff. Agents — Cairns, M'Intosh, & Morton, W.S.

Wednesday, July 16.

SECOND DIVISION.

[Sheriff Court at Aberdeen.

STAR FIRE AND BURGLARY INSURANCE COMPANY *v.* C. DAVIDSON, & SONS.

Process—Caution for Expenses—Company—Appeal by Defender from Sheriff Court in Action by a Company—Intervening Liquidation of Company—Expenses—Companies Act 1862 (25 *and* 26 *Vict. c.* 89), *sec.* 69.

The Companies Act 1862, section 69, enacts as follows:—"Where a limited company is plaintiff or pursuer in any action, suit, or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence the assets of the company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given."

A limited company having been the successful pursuers of an action in the Sheriff Court, the defenders appealed to the Court of Session, and, the company having gone into liquidation, moved the Court to ordain the respondents in the appeal to find caution. The Court *refused* the motion on the ground that in the appeal the company was in the position of defending itself.

The Star Fire and Burglary Insurance Company, Limited, 248 West George Street, Glasgow, brought an action in the Sheriff Court at Aberdeen against C. Davidson & Sons, Limited, Mugiemoss, Bucksburn, Aberdeen.

The Sheriff-Substitute (ROBERTSON), and on appeal the Sheriff (CRAWFORD) granted decree as craved.

The defenders appealed to the Court of Session.

Shortly before the judgment appealed from was pronounced the pursuers had gone into liquidation, and the appellants lodged a note in the appeal craving the Court to ordain the respondents to find caution, under the 69th section of the Companies Act 1862 (25 and 26 Vict. cap. 89), which is quoted in the rubric.

Argued for the appellants—The respondents were pursuers of the action, and the fact that they had gone into liquidation was sufficient testimony that there was reason to believe that if the defenders were successful in the appeal the assets of the respondents would be insufficient to pay expenses. The appellants were therefore entitled to the protection of the 69th section of the Act—*Northampton Coal, Iron, and Waggon Company* v. *Midland Waggon Company*, 1878, 7 Ch. D. 500; *Pure Spirits Company* v. *Fowler*, 1890, 25 Q.B.D. 235.

Argued for the respondents—A bankrupt defender was not bound to find caution,