the estate without incurring the expenses of bankruptcy administration, and craved the Court to declare the sequestration at an end, and to declare the petitioner entitled to complete his title as heir-at-law to the heritable estate of his father, and to grant warrant for recording the deliverance so to be pronounced in the Register of Sequestrations and in the Register of Inhibitions.

The Court appointed a meeting of creditors for the election of a trustee on the estate, and thereafter, no creditor having attended the meeting, *granted* the prayer of the petition.

Anderson, March 13, 1864, 4 Macph. 577, *followed*.

On 7th March 1896 the estates of William Ballantyne were sequestrated by the Sheriff of Lanarkshire on a petition presented by himself with consent of James Ballantyne, his son, who was a creditor of the said William Ballantyne to the extent required by the statute. An abbreviate of the deliverance was recorded in the General Register of Inhibitions on 9th March 1896. The sequestration was not advertised in the *Gazette*, and no further procedure was taken in the sequestration.

William Ballantyne died intestate on 20th September 1897. His heir-at-law was his son James Ballantyne, and John Logan, a creditor, was decerned executor-dative *qua* creditor.

On June 6th 1900 a petition was presented by James Ballantyne, with the consent and concurrence of John Logan, in which the petitioner craved the Court to declare the sequestration of William Ballantyne at an end, and for all obstacles which it otherwise might have offered, to declare the petitioner entitled to complete his title as heir-at-law to the heritable estate of his father,

The petitioner, after narrating the facts set out above, averred—"That the petitioner James Ballantyne and the said John Logan are, so far as known, the only creditors of the said William Ballantyne, and have agreed as to the division of the deceased's estates without incurring the expense of bankruptcy administration. The said estates, so far as known to the petitioner and the said John Logan, consist of the deceased William Ballantyne's share or interest in certain leasehold subjects in Biggar, and certain funds which were paid to the petitioner James Ballantyne before his father's death."

The Court on June 7th 1900 pronounced an interlocutor whereby before answer as to the competency of the petition otherwise, they ordered intimation in common form, and appointed the deliverance pronounced by the Sheriff of Lanarkshire on March 7th 1896, and the present deliverance of the Court, to be advertised in the *Edinburgh* and *London Gazettes* of 12th June 1900, and appointed a meeting of the creditors of William Ballantyne to be held for the election of a trustee on his estates.

No creditor attended the meeting, and a certified minute to that effect under the hand of the petitioner's agent was lodged in process. The petitioner founded on the case of *Anderson*, March 13, 1864, 4 Macph. 577.

The Court pronounced this interlocutor:—

"The Lords having resumed consideration of the petition, with copies of the *Edinburgh* and *London Gazettes*, of date 12th June 1900, and the certified minute, and heard counsel for the petitioner, and in respect of the decision of the Court in the case of Peter Anderson, petitioner, 13th March 1866, reported in 4 Macph. p. 577: Declare the sequestration of the estates of the deceased William Ballantyne, mentioned in the petition, awarded by the Sheriff of Lanarkshire on 7th March 1896, at an end, and for all obstacles which it otherwise might have offered, declare the petitioner now entitled to complete his title as heir-at-law of the said deceased William Ballantyne *omni habili modo* to the heritable estate of the said deceased William Ballantyne, and grant warrant for recording this deliverance in the Register of Sequestrations and in the Register of Inhibitions, and decern."

Counsel for Petitioner—Guy. Agent—George A. Munro, S.S.C.

Thursday, June 21.

FIRST DIVISION.

[Court of Exchequer.

HARRIS *v.* CORPORATION OF IRVINE.

Revenue — Income-Tax — Profits on Corporation Water-works—Sums Paid for Water by other Burghs—Sinking Fund.

The Corporation of Irvine acquired certain waterworks under a local Act, whereby they obtained power to enter into arrangements with other local authorities for the supply of water to them. Under this power they supplied water to the burgh of Saltcoats and the parish of Stevenston, receiving from the local authorities of these places an annual sum, which was raised by them by compulsory assessment within their own areas. The arrangement provided that the sum payable each year should be arrived at by calculating the amount to be produced (less 10 per cent, for deduction and relief) by a rate on the whole assessable subjects within those areas at the same rate as that charged for water in Irvine in that year. For the financial year 1898-1899 the Irvine waterworks produced a surplus over expenditure, which was partly carried forward and partly applied to a sinking fund for the redemption of the debt on the waterworks. *Held* (1) that the portion of that surplus attributable to the payments made from Saltcoats and Stevenston was profit made by the

burgh of Irvine, and therefore chargeable with income-tax under Schedule D, and (2) that it made no difference that part of that surplus was applied to a sinking fund.

The Corporation of the Burgh of Irvine appealed to the Commissioners of Income Tax for the District of Cuninghame in the county of Ayr against an assessment under Schedule D on £4652 for the year ending 5th April 1900, in respect of profits of the Irvine Waterworks. The Commissioners sustained the appeal, and at the instance of Mr Harris, Surveyor of Taxes, stated a case for the opinion of the Court of Exchequer, in which the following facts were stated to be found or admitted—

"1. The undertaking called the Irvine Waterworks was made and constructed by the local authorities of the burgh of Irvine and of the parish of Dundonald, a part of which parish is within the boundaries of the burgh of Irvine, under the provisions of the Public Health (Scotland) Act 1867, Order Confirmation (Irvine and Dundonald) Act 1876, for supplying the town of Irvine with gravitation water. This undertaking was acquired by the Provost, Magistrates, and Town Councillors of the Royal Burgh of Irvine, being the corporation of the said burgh, and as such the local authority of the said burgh under the provisions of the Irvine Burgh Act of 1881. This Act conferred on the Corporation of Irvine power to enter into contracts or arrangements with the local authorities of neighbouring towns or places for supplying water to such towns or places under the jurisdiction of such local authorities.

"2. By virtue of this power the Corporation of the burgh of Irvine in March 1895 entered into two agreements, of which one was with the Parochial Board of the parish of Stevenston, and the other with the Parochial Board of the parish of Ardrossan. Copies of these agreements are docqueted by the Commissioners in reference hereto, and are made part of this case.

"3. The parishes of Stevenston and Ardrossan lie altogether outside of the area subject to the jurisdiction of the Corporation of the burgh of Irvine. In May 1885 the town of Saltcoats was made a police burgh under the provisions of the General Police and Improvement (Scotland) Act 1862 (25 and 26 Vict. cap. 101), and the Commissioners under that Act became the local authority for the burgh. The burgh of Saltcoats is to the extent of two-thirds of its area in the parish of Ardrossan, and to the extent of one-third in the parish of Stevenston. The local authority of the parish of Stevenston is now the committee for the Northern District of Ayrshire, except in regard to rating, borrowing, or acquiring or holding land, in which cases it is the County Council of Ayrshire. The agreements above referred to have formed and still form the contracts under which the Corporation of the burgh of Irvine have supplied the local authorities of the burgh of Saltcoats and the parish of Stevenston with water since 1st December 1885.

"The agreement between the Corporation of the burgh of Irvine and the Parochial Board of Stevenston provides that, in respect of the water supply given by the former, the latter shall pay to the former an annual sum in one payment at Candlemas in each year. The amount of this sum is to be ascertained as follows, viz.—'By taking the gross rental as appearing in the valuation roll or rolls from year to year of the whole assessable property within the Special Water Supply District within the parish of Stevenston, as the same has been recently defined, or as it may hereafter be defined from time to time, and to which a supply of water is given under these presents; and after making an allowance of ten per cent. from the same to cover all deductions, reliefs, &c., given or suffered by the said second parties hereto, and calculating the sum which will be yielded by a rate thereon which shall be fourpence per pound sterling in excess of the rate per pound sterling charged in the burgh of Irvine for the first five years after the date which water has been begun to be supplied to the said second party hereto, and on the expiry of the said five years, the sum to be paid by the said second party hereto to the said first party hereto in all time thereafter so long as this agreement and contract shall subsist, shall be the sum which shall be ascertained by calculating the sum which will be yielded by a rate on the gross rental as appearing in the valuation roll or rolls from year to year of the whole assessable property within the Special Water Supply District, less a deduction of ten per cent., as above mentioned, at the same rate of assessment as shall be imposed from time to time by the said first party hereto in the burgh of Irvine for water supply assessment.'

"The agreement between the said Corporation and the Parochial Board of Ardrossan contains provisions to the same effect in the same terms,

"In order to provide this sum a compulsory rate is levied within the areas of the burgh of Saltcoats and the parish of Stevenston by the respective local authorities, and the amount raised is by them paid over in one sum annually to the Corporation of the burgh of Irvine.

"4. The assessment of £4652 is founded on figures taken from the printed accounts of the burgh of Irvine for the year to Whitsunday 1899, both sides having agreed to accept the figures for this year as the basis of liability to income-tax for the year to the 5th of April 1900.

"The accounts show four sources of revenue, as under—

(1) Special rates. Supplies by meter - - - - -	£3524	0	0
(2) Assessment for compulsory water supply in the burgh of Irvine - - - -	1041	0	0
(3) Sums received from the local authorities of Saltcoats and Stevenston -	1648	0	0
(4) Miscellaneous receipts -	153	0	0
A total revenue of -	£6366	0	0

"After debiting revenue with the costs of management and the interest on loans, a surplus is left in the hands of the Corporation of Irvine of £2190, which is shown in the accounts thus—

Payment to sinking fund -	£1000	0	0
Balance - - - - -	1190	0	0
	£2190	0	0

(1) Meter Supplies	£3524
(2) Assessment for Water Supply in the Burgh of Irvine. . .	1041
(3) Receipts from the Local Authorities of Stevenston and Saltcoats	1648
4) Miscellaneous Receipts . . .	153

"5. It has been agreed to assume, and there is nothing in the accounts to show the contrary, that each of the four items of revenue, amounting in all to £6366, has contributed *pro rata* to the surplus of £2190, and to the two individual divisions into which the surplus has been divided in the accounts. Thus—

To Sinking Fund .	$\frac{3524}{6366}$	of	£1000 =	£554
" Balance . .	$\frac{3524}{6366}$	of	1190 =	659
" Sinking Fund .	$\frac{1041}{6366}$	of	£1000 =	£165
" Balance . .	$\frac{1041}{6366}$	of	1190 =	195
" Sinking Fund .	$\frac{1648}{6366}$	of	£1000 =	£258
" Balance . .	$\frac{1648}{6366}$	of	1190 =	308
" Sinking Fund .	$\frac{153}{6366}$	of	£1000 =	£24
" Balance . .	$\frac{153}{6366}$	of	1190 =	28

To Sinking Fund . . .	£6366	...	£1000
" Balance	6366	...	1190
Profit on . . .	£6366	...	£2190"

The Assessing Commissioners treating the surplus receipts from items (1), (3), and (4) as profits chargeable to income-tax, assessed the burgh of Irvine on £4652 to embrace profits of £1831, as shown above, with the addition of £2821 interest on loans paid by the burgh of Irvine, which addition was concurred in by the Irvine Corporation.

The Burgh of Irvine appealed to the Commissioners of Income-Tax, who sustained the appeal as regards the profits from item (3), and the proportion of the sinking fund included in the assessment. They accordingly reduced the assessment to £3508, and on the motion of the Surveyor stated this case.

It was agreed that if the surplus of the receipts from the local authorities of Stevenston and Saltcoats and the sums contributed to the sinking fund should be held as taxable, then the assessment of £4652 might be accepted as correct.

Argued for the appellant—There were two questions here—(1) Was the surplus from the funds paid by Saltcoats and Stevenston assessable? (2) If so, did the fact that Irvine allocated part of that sum to a sinking fund relieve that part from assessment? The first question should be answered in the affirmative. Saltcoats and Stevenston were merely customers of Irvine. Water was sold to them by Irvine at a profit, as it might have been by any private individual or company, and the fact that the money to pay for it was raised by assessment was immaterial—*Glasgow Corporation Water Commissioners* v. *Miller*, Jan. 22, 1886, 13 R. 489; *Allan* v. *Hamilton Waterworks Commissioners*, Feb. 22, 1887, 14 R. 485; *Mersey Docks and Harbour Board* v. *Lucas*, June 28, 1883, 8 App. Cas. 891; *Paddington Burial Board* v. *Commissioners of Inland Revenue*, March 4, 1884, 13 Q.B.D. 9; *Dublin Corporation* v. *M'Adam*, June 16, 1887, 20 L.R. Ir. 497. (2) The fact that part of the surplus was applied to a sinking fund made no difference; it was the same case as where an individual applied his income to paying his debts—*Edinburgh Southern Cemetery Co.* v. *Surveyor of Taxes*, Nov. 20, 1889, 17 R. 154; *Mersey Dock and Harbour Board* v. *Lucas*, *ut supra*.

Argued for the respondents — It was established by the first Glasgow case—*Glasgow Water Commissioners* v. *Inland Revenue*, May 26, 1875, 2 R. 708 — that where the authorities of a town supplied water to the citizens, and levied a rate in respect of it, the surplus of the rate over the expenditure was not assessable. The present case fell within that principle. The sum in question was raised by assessment, and by a rate which was the same as that charged in Irvine, and the only difference was that it was not imposed directly by the Corporation of Irvine, but indirectly through the other local authorities. That was in reality only a question of management, and did not affect the character of the revenue levied from the waterworks. In *Glasgow Corporation Waterworks Commissioners* v. *Miller*, Jan. 8, 1886, 13 R. 489, and in the other cases where it was held that income-tax was due, the revenue was derived from isolated sales at rates which bore or might lawfully bear no relation to the rates charged within the central area. That was the real distinction between a water rate which was not assessable, as being in reality taxation, and sums received from independent sales of water, which were the produce of a commerce carried on by the town, and were then, when they resulted in a surplus, assessable like other commercial profits.

At advising—

LORD PRESIDENT—Two questions have been raised in this case — (1) Whether income-tax is payable in respect of the surplus over annual expenditure of the sums received by the Corporation of the burgh of Irvine from the local

authorities of Stevenston and Saltcoats in respect of water supplied to them by Irvine, and (2), *separatim*, whether income-tax is payable in respect of the portions of that surplus which are appropriated to the sinking fund provided for the redemption of capital debt.

The Corporation of the burgh of Irvine is the local authority of that burgh, and it is as such the owner of the Irvine waterworks. It has statutory authority to enter into contracts or arrangements with the local authorities of neighbouring towns or places for supplying water to such towns and places, and in virtue of this power it, in March 1895, entered into two agreements, one with the Parochial Board of the parish of Stevenston, and the other with the Parochial Board of the parish of Ardrossan. The parish of Stevenston and the burgh of Saltcoats have since 1885 been, and they still are, receiving supplies of water from Irvine under these agreements.

By the agreement between the Corporation of the burgh of Irvine and the parish of Stevenston it is stipulated that in respect of the water supply given by the former, the latter shall pay to the former an annual sum in one payment at Candlemas in each year, the provision now in force being that the sum so payable by Stevenston shall be ascertained by calculating the sum which will be yielded by a rate on the gross rental as appearing in the valuation roll or rolls from year to year of the whole assessable property within the special water supply district, less a deduction of 10 per cent. (therein previously mentioned) at the same rate of assessment as shall be imposed from time to time by the Corporation of the burgh of Irvine in Irvine for water supply assessment there.

The agreement between the Corporation of the burgh of Irvine and the Parochial Board of Ardrossan contains similar provisions.

In order to provide these sums compulsory rates are levied within the areas of the parish of Stevenston and the burgh of Saltcoats respectively by the respective local authorities of these places, and the amounts so raised by them are paid over annually each in one sum to the Corporation of the burgh of Irvine.

The accounts of the Irvine waterworks show four sources of revenue, viz., (1) special rates, supplies by meter; (2) assessment for compulsory water supply in the burgh of Irvine; (3) sums received from the local authorities of Stevenston and Saltcoats ascertained as above mentioned; and (4) miscellaneous receipts.

After debiting revenue with the costs of management and the interest on loans, a surplus remains in the hands of the Corporation of Irvine of £2190, of which £1000 is paid to the sinking fund provided for the redemption of capital debt, and the balance of £1190 is carried forward.

It is admitted by the Crown that the proportion of the surplus derived from the produce of the compulsory assessment levied by the Corporation of Irvine within the burgh of Irvine, whether applied to the sinking fund or appearing as balance, is not chargeable with income-tax, the case of that part of the surplus being governed by the decision in the case of *The Glasgow Water Commissioners* v. *Inland Revenue*, 2 R. 708. The short ground on which that and other decisions proceeded is that the produce of a tax for a public purpose is not, in the hands of the local authority by which it is levied, to be by them administered for the benefit of the ratepayers within their administrative area, in the nature of "profits" at all.

It is, however, maintained by the Crown that the proportion of the surplus receipts arising from items 1, 3, and 4, above mentioned, viz., £1831—consisting to the extent of £846 of surplus applied to sinking fund, and to the extent of £995 of balance—is chargeable with income-tax, in respect that it is truly a profit derived by the Corporation of the burgh of Irvine from selling water to districts outside the area of that burgh, in accordance with the decision in the case of *The Glasgow Corporation Commissioners* v. *Inland Revenue*, 13 R. 439. It is, on the other hand, contended by the Corporation of the burgh of Irvine that under the agreements with Stevenston and Saltcoats the sums payable for the water supplied by Irvine to these districts are the produce of compulsory assessments on the whole assessable property within the districts respectively, and that the sums payable by them to Irvine in respect of water supplied are not fixed sums or prices, but are assessments the rates of which vary. It is further pointed out by the Corporation of the burgh of Irvine that the assessments in Stevenston and Saltcoats are required to be at the same rate as the rate levied in Irvine, and that these all vary from year to year according to the state of the waterworks account—that if the rate of assessment is lowered in Irvine, the ratepayers of the Stevenston and Saltcoats water supply districts get the same advantage as the ratepayers in Irvine, and that, on the other hand, if it is found necessary to increase the assessment in Irvine, the Stevenston and Saltcoats ratepayers must bear a similar increase of their assessments.

It appears to me that the contention of the Crown is well founded. Although it is true that the sums payable to Irvine are levied as rates within the areas of Stevenston and Saltcoats, they are not levied by the Corporation of the burgh of Irvine, but by the local authorities of these places, who each collect and pay over to Irvine annually the produce of the rate in one sum. The Corporation of the burgh of Irvine has no power to assess, and does not assess, the inhabitants of Stevenston and Saltcoats, and it is not entitled under the agreement to negotiate directly with individual inhabitants of these districts for special supplies of water by meter or otherwise, except where direct arrangements existed prior to the agreements of 1885. The persons who pay and receive the

money and the resulting benefit are not the same persons as they were in the first case of *The Glasgow Water Commissioners* v. *Inland Revenue*, 2 R. 708, and although the sums payable by Stevenston and Saltcoats respectively are measured by and levied as a rate by the local authorities of these districts, it seems to me that this is merely a mode of ascertaining and providing the contract price payable by them to the Corporation of the burgh of Irvine in respect of the supply of water which it furnishes to them. I am therefore of opinion that the surplus of the sums paid by Stevenston and Saltcoats to the Corporation of the burgh of Irvine is, in the hands of that Corporation, profits chargeable with income-tax.

If I am right in thinking that the surplus in question generally is profits chargeable with income-tax in the hands of the Corporation of the burgh of Irvine, the only remaining question is whether the portion contributed to the sinking fund is free from liability to income-tax, and I see no reason for holding that it should enjoy such an immunity. If the surplus is in the nature of profits in the hands of the Corporation of the burgh of Irvine, it cannot be deprived of that character by its being dedicated and applied to a particular purpose, viz., towards the sinking fund for the redemption of capital debt, any more than the fact of an individual or a company applying part of his or its profits towards a sinking fund provided for paying his or its debts would make that part not taxable. The term "profits" *prima facie* means all the net proceeds of a concern or adventure, after deducting the necessary outgoings without which these proceeds could not be earned, but when the profits have been so ascertained, income-tax is leviable on the full balance of them, to whatever purpose—whether to the payment of debt or any other purpose—they are applied after they have been earned.—*Mersey Docks and Harbour Board* v. *Lucas*, 1883, L.R., 8 App. Cases, 891.

I understand that the parties are agreed that, upon the views now expressed, the assessment of £4652 shall be accepted as correct.

LORD ADAM—I concur in your Lordship's opinion, which I have had the opportunity of considering.

LORD M'LAREN—I am of the same opinion. The liability of a municipal corporation to income-tax in respect of its transactions does not appear to me to present any peculiar difficulties if the transactions are tested by the same criteria that would be applied to the transactions of an individual. In the case of a municipal corporation, although it is customary to speak of the magistrates and council as the corporation, the corporation is really the community of citizens or ratepayers of the place, and the magistrates and council are the administrators of their funds and affairs.

Now, in this case the community of Irvine having occasion for a water supply, and this being a proper subject of municipal administration, their administrators, acting within their powers for the interests of the inhabitants, provided a water supply, entered into contracts, borrowed money, and incurred obligations for the community. To meet these charges they levied a sum by assessment sufficient, when taken along with other funds, to pay the interest of borrowed money and to keep the water account out of debt. In all this there seems to me to be an entire absence of all the elements that constitute a trade or a means of earning profit. The case is just the same as that of a private individual who being in want of water for his country house contracts to lay down a pipe, borrows money to meet the expenditure, and has to charge his housekeeping account with the interest on that money. The provider of the supply and the consumer of the water in the case supposed, and also in the case before us, are one and the same, and I have never yet heard that a man can make a profit by taking money out of one pocket and putting it into another. But the case of the supply to the adjoining parishes appears to me to be generically different. The case is that Irvine having brought in a larger supply of water than is necessary for its own wants is able to supply these adjoining parishes, and like any man of business who supplies goods to another, makes a suitable charge for it. In the first place, the money received from these parishes is not taxation. It is raised within the parishes by taxation, but the agreement is that they are to pay to Irvine—not the produce of the taxation, but a sum equal to the produce of the taxation, which for obvious reasons is a very convenient mode of settling accounts between adjacent local authorities. That the money so obtained is profit appears evident from this consideration, that supposing these parishes were to terminate their arrangement, and the payment were to cease, it would then be necessary to provide by taxation within Irvine a sum sufficient to make up the deficiency.

The case of the money applied to the sinking fund is very clear, because if any individual or corporation is in the receipt of money out of which it is gradually able to reduce its debt, I think that there can be no doubt that that is payment out of profit, but in so far as the money is applied to pay interest on debt it is just the same, because if Irvine did not have this fund coming in from the outlying districts, they would have to provide the interest on the money for themselves. All money obtained by the sale of water is, according to every test of political economy or common sense, money derived from trade, and is therefore money assessable for income-tax. We are not asked to determine the amount of the profit and the mode of ascertaining its amount.

I have therefore no difficulty in agreeing with your Lordship in the judgment proposed.

LORD KINNEAR—I also have had the advantage of reading and considering your

Lordship's opinion, and I have come to the same conclusion for the reasons therein expressed.

The Court reversed the determination of the Commissioners, and sustained the assessment of £4652.

Counsel for the Appellant — Solicitor-General (Dickson, Q.C.)—A. J. Young. Agent—P. J. Hamilton Grierson, Solicitor of Inland Revenue.

Counsel for the Respondents—W. Campbell, Q.C.—Chree. Agents—Morton, Smart, & Macdonald, W.S.

Tuesday, June 19.

SECOND DIVISION.

[Lord Kyllachy, Ordinary.

LIVERPOOL STEAM TUG COMPANY, LIMITED *v.* CORNFOOT AND OTHERS ("GANTOCK ROCK.")

Shipping Law — Salvage — Remuneration for Services—Measure of Award—Increase by Court of Amount Awarded by Judge of First Instance.

A sailing vessel of the value, with her cargo, of about £40,000 was rescued from a position of imminent danger near a rocky coast by two steam tugs. In an action for salvage it was proved that the services in question had been rendered without material risk to either tug-boat; that the larger tug-boat could have rescued the vessel without assistance, while it was doubtful if the smaller tug could have done so; the latter, however, had rendered useful service before the arrival of the larger tug. The Lord Ordinary assessed the value of the services rendered at £1000, awarding £650 to the owners of the larger, and £350 to the owners of the smaller tug. The Court, on a review of the circumstances, *increased* the amount awarded to the larger tug to the sum of £1200, but *refused* to interfere with the Lord Ordinary's decision as regards the sum to be awarded to the smaller tug.

Per Lord Trayner—"The Court will not interfere with the award made by the Judge of first instance unless that award is plainly and unreasonably inadequate or unreasonably extravagant. The award must be greatly in excess or notably inadequate before the Court of review will interfere with that award."

The sailing ship "Gantock Rock" of Glasgow, 1556 tons register, left Glasgow for Sydney on Friday 14th October 1898, with a general cargo, and a crew of twenty-five on board. During the night she found herself close to the Irish coast near Rathlin Island, and as an increasing gale was blowing inshore she anchored in Ballycastle Bay, off the coast of Antrim. The gale increased, and on the morning of the 15th her chain parted and her anchor was lost. The port bow anchor was then let go, and the vessel was brought up within eighty feet from a rocky shore. The stream anchor and spare bower anchor were also dropped. She remained in that position until the morning of Monday the 17th during an increasing gale, and in such a depth of water that at certain states of the tide she struck the bottom, when the steam tugs "Pathfinder" and "Samson," which had been sent in search of her the previous day, came to her assistance. The "Samson" arrived before daylight, some hours before the "Pathfinder," and had already made fast a line when the "Pathfinder" came up. The two tugs towed the vessel to a position of safety in Church Bay, Rathlin Island, where they stood by her till Wednesday the 19th, when they towed her to Greenock. The "Pathfinder" was a tug specially adapted for towage and salvage, her registered tonnage being 221, and her nominal horsepower 213, working up to 1200. She was also fitted with disconnecting engines. The "Samson's" registered tonnage was 33, and her horsepower 50, working up to 450.

The Liverpool Steam Tug Company, Limited, owners of the "Pathfinder," raised an action against James Cornfoot and others, owners of the "Gantock Rock," concluding for £10,000 for salvage services rendered by their vessel to the "Gantock Rock." John Steel and others, owners of the "Samson," raised a similar action, also concluding for £10,000. The defenders pleaded in both actions that the sum claimed was excessive. In the action at the instance of the owners of the "Samson," the master and crew were sisted as pursuers. The actions were thereafter conjoined, and proof was led before the Lord Ordinary sitting with a nautical assessor.

The import of the evidence sufficiently appears from the following summary of the replies given by the nautical assessor to certain questions put to him by the Lord Ordinary. These answers were to the effect that the "Gantock Rock" was in serious danger on the morning of Monday the 15th October, and that the danger was immediate; that she was not likely to have ridden out the Monday if left where she was, but in all probability would have gone ashore and become a total wreck; that the "Pathfinder" and "Samson" incurred risk beyond the risk of ordinary towage in rescuing the vessel, although neither incurred any great risk; that the extra risk to the "Samson" consisted in her proceeding in the darkness to assist a vessel anchored close to a dangerous rock-bound coast during a rising gale and a heavy sea; that the risk incurred by the "Pathfinder" was less than that incurred by the "Samson," in respect that she refrained from going to the vessel's assistance till daylight, and that though a larger boat she could manœuvre in less space than the "Samson" owing to her having disconnecting engines; that the "Samson" performed useful services, con-