

Harry Steinbraker, plaintiff and appellant, on December 22, 1934, filed his bill of complaint in the circuit court for Charles county, wherein he alleged that, by deed of assignment dated December 3, 1934, from the Potomac Realty Company, Limited, a body corporate of the state of Delaware (amended by agreement at the hearing to read "State of California"), recorded in Charles county, he had acquired "all the right, title, and interest of the said the Potomac Realty Company, Ltd., in and to all lead, copper, brass and other metal of whatever nature owned by it, or to which it has title in and around the hundred and sixty-nine (169) vessels, which said vessels were formerly owned by the Western Marine & Salvage Company, the said vessels being located in Mallow's Bay, near Sandy Point, in Charles county, Maryland"; that "a certain Lorenzo D. Crouse (appellee), his agents, servants and employees, disregarding the interests of" the plaintiff "in and to the lead, copper, brass and other materials contained in said vessels, * * * have entered upon and seized said vessels and are at present engaged in shipping and selling such metals to parties unknown to" the plaintiff; and that as a result of "such depredations" the "value and interest" of the plaintiff's "holding in said vessels and metal is being permanently injured." The bill prayed an injunction and an order passed as prayed.

The defendant answered denying that "the said Harry Steinbraker ever acquired any right, title or interest in and to the lead, copper, brass and other materials" mentioned in the bill of complaint and admitted that "he, his agents, servants and employees, have heretofore entered upon the sunken hulls of certain vessels mentioned in the bill and engaged in the removal, shipment and sale of certain materials salvaged therefrom, but deny that in so doing they committed any trespass, or disregarded any right, title or interest of the plaintiff for the reason that the materials taken by them were a part of the abandoned wreckage of certain ships that had therefore been dismantled, sunk and abandoned by the Western Marine & Salvage Company." Although the appellee, Lorenzo D. Crouse, was the only person named as defendant, this suit is really directed against numerous residents of Charles county, variously estimated by witnesses at from fifty to seventy-five, who had been engaged in the same business, on the same wreckage as the defendant. Testimony was taken in open court and the case submitted on bill, answer, and evidence, and at the conclusion and after an opinion, of which this is virtually an adoption, a decree was passed dissolving the injunction and dismissing the bill, from which the plaintiff appeals.

(1) According to the evidence, the Western Marine & Salvage Company, a Delaware corporation, on June 30, 1923, bought from one George D. Perry, of the city of San Francisco, Cal., 232 vessels, according to name, which had been the property of the government of the United States, the purpose of the purchase being to salvage, dismantle, and remove all portions of the vessels which might be marketable and then destroy the remains. One hundred and sixty-nine of the vessels so bought were floated to the Potomac river and anchored in Mallow's Bay, an indenture of the Potomac river opposite and almost surrounded by a farm known as Sandy Point in Charles county, in navigable, public waters.

By deed dated April 21, 1924, one Henry Koester conveyed to the Western Marine & Salvage Company the Sandy Point farm containing 566¼ acres. The Western Marine & Salvage Company then began its salvage operations after installing on the Sandy Point farm such machinery and equipment as was necessary to the operation. The method and scope of the operation was to remove all machinery, boilers, pipes, and engines, and to strip the vessels of all metal easily removable; the vessels were then towed into Mallow's Bay, where they were burned to the water's edge and then pulled as near to the shore as possible and the salvaging of metal continued until the spring of 1931. The Western Marine & Salvage Company stated in a letter to its attorney, Mr. E. Cortlandt Parker, of Washington, who represented it in its negotiations with the Potomac Realty Company and Steinbraker, that it had ceased operations in salvaging in May, 1932, but the evidence is that it had ceased operations the year before and only had watchmen at Sandy Point until the machinery and equipment on the shore was removed by the purchaser, and there is evidence that the public and the residents in the neighborhood began the removal of metal from the burned and sunken hulls without interference while the watchmen were there.

After the hulls were burned, the company continued its salvaging operations until in March, 1931, when, to all appearances, it abandoned the project, leaving a watchman in charge of the personal property on the Sandy Point farm, and he remained there until the summer of 1932. The Western Marine & Salvage Company apparently was a temporary corporation, formed for the purpose of wrecking and