

The Salvage Convention 1919

Right to Reward (Art. 2)

United States

United States of America et Al. v. Ex. USS "Cabot/Dedalo", United States Court of Appeals for the Fifth Circuit 1 July 2002 (2002 AMC 1974)

In 1997 the m/v "Tours Future", when steaming down river along the Mississippi, allided with the former light aircraft carrier U.S.S. "Cabot", moored on the east bank of the Mississippi at the Press Street wharf in New Orleans. The "Cabot" after being decommissioned, had been sold to Spain and renamed Dedalo. In 1999 she had been purchased by the U.S.S. "Cabot" Dedalo Museum Foundation, Inc. and moved to New Orleans. After the allision the Coast Guard, that sometime before had ordered the Foundation to move the "Cabot" to a safer berth, issued another order under 33 U.S.C. Chapter 25, requesting the Foundation to hire a tug to stand by the "Cabot" and, within three days, to move her to a safe hurricane mooring site. Since the Foundation did not take any action, the Coast Guard notified the Foundation that it would do so in accordance with the relevant provisions of the Federal Water Pollution Control Act (FWPCA). The total cost involved was US\$ 500,868.94. Later that year the "Cabot" was sold and moved to Port Isabel, Texas where wharfage and security services were provided to her by Marine Salvage & Services, Inc. and, when she began to list, that company acted to prevent her from capsizing at a cost of US\$ 20,908.

The "Cabot" was arrested by various claimants and sold by the U.S. Marshal for US\$ 185,000, about half of which was paid to her custodian.

Following a trial to determine the priority and amounts of the liens, the Southern District Court of Texas held that Marine Salvage had a valid salvage lien of US\$ 20,908 with priority over a valid salvage lien of the U.S. Government which in turn was entitled to the balance of US\$ 70,342.68. Marine Salvage appealed, contending first that the Coast Guard could not make a salvage claim for the actions it took under the authority of the FWPCA.

Held, by the Court of Appeals – Fifth Circuit, that:

(1) The Coast Guard cannot seek a salvage reward for actions taken pursuant to mandatory provisions of the Federal Water Pollution Control Act.

Salvage Services Rederred against the Prohibition of the Owner (Art. 3)

United States

International Aircraft Recovery L.L.C. v. **The Unidentified, Wrecked and Abandoned Aircraft and United States of America** (U.S. Court of Appeals-11th Cir. 17 July 2000, 2000 AMC 2345)

In 1990 a group searching for Spanish galleons off the Florida coast located the wreck of a Navy Devastator TBD Torpedo Bomber that has crashed off the Florida coast in 1943. The discoverers sold the plans location to Winword Aviation, a corporation controlled by Douglas Champlin who, after a previous attempt, filed an in rem action through International Aircraft Recovery seeking an injunction barring any interference with the plaintiff's exclusive salvage rights. In its final order, the District Court granted IAR permission to proceed with salvage operations over the objection of the United States. The United States appealed arguing that it is the owner of the crashed TDB-1 and that as such, it can reject salvage efforts by third parties.

Held, by United States Court of Appeals for the 11th Circuit, that:

- (1) The owner of a vessel in marine peril may decline the assistance of others so long as only the owner's property interests are at stake*