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Enhancement of Value as Element of Artisan's Lien

From the foregoing discussion, it is apparent that the *Mitchell* decision has strong support. The action of police officers in setting up a motor vehicle road block for the sole purpose of inspecting operators' licenses is a reasonable exercise of the police power of the state, and such procedure is therefore constitutional. The *Mitchell* case represents a strong argument in favor of the basic proposition that an individual can be coerced into a partial surrender of his individual rights in order to protect the interests of the general public. In upholding this proposition, the court in the *Mitchell* case said:

> "if stopping motorists indiscriminately by police officers for the good faith purpose of inspecting or asking for the exhibition of a driver's license were not permitted, the licensing law would break down and become a nullity, and the objective of promoting safety from irresponsible automobile drivers would be seriously impeded. There could be but few occasions where an officer could otherwise learn that the law was being violated."[36]

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ENHANCEMENT OF VALUE AS ELEMENT OF ARTISAN'S LIEN

The right of a person to possession of that which he owns runs deep in our legal system. However, this general rule has exceptions, where the rights of another may prevail over the rights of the owner. For example, an owner of personal property cannot reclaim his chattel from one whom he has requested to perform some service thereon, until this owner pays for the service rendered. The chattel is subjected to a common law possessory lien, commonly referred to as an artisan's lien.[1] "He who by labor, skill or materials adds value to the chattel of another whether under an express or implied agreement has a possessory lien thereon for the value of his services and may retain the chattel in his possession until the same be paid."[2]

The recent New Jersey case of *Beck v. Nutrodynamics, Inc.*,[3] provides an excellent example of the application of the artisan's lien by courts today. Nutrodynamics, Inc., a drug manufacturer, delivered drugs in loose pill form to the Ivers-Lee Co. for the purpose of having

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[36]355 S.W.2d at 688.

[1]Brown, Personal Property § 107, at 508 (2d ed. 1955).

[2]Id. at 511.

[3]77 N.J. Super. 448, 186 A.2d 715 (Essex County Ct. 1962).

them wrapped in foil, packaged and prepared in containers for shipment. The New Jersey Superior Court held that the labor performed by Ivers-Lee enhanced the value of the pills and awarded Ivers-Lee a possessory lien on the pills. Since there is no statutory artisan's lien in New Jersey, the court utilized the common law in determining the propriety of awarding an artisan's lien.

This raises the question as to what the courts have interpreted as "value." The early decisions seemed to adhere to the principle that adding value means increasing the market value of a chattel. Thus the work performed by Ivers-Lee clearly falls into the early concept of a laborer entitled to an artisan's lien. The old common law courts had no difficulty in awarding artisans' liens to those persons who did such things as repair buggies,[4] wagons[5] and farm equipment.[6] Such liens were based on the increase in market value of the repaired chattel. Although these early decisions were made in an agricultural society, the concept involved has been readily adapted to the more complex industrial society of today. It is obvious that the mechanic who repairs an automobile[7] has increased its market value as did the blacksmith who repaired a buggy. Similarly, the present day processor who fills cans with tomatoes[8] increases the marketability of those cans just as the cotton ginner increased the value of cotton[9] by his work. The company that in this age processes, oils and packages electronic parts[10] increases the marketability of that product as did the artisan of yesteryear who cleaned and oiled a harness.[11]

There are certain types of cases in which the work performed on the chattel clearly increases its market value and the courts have been consistent in awarding liens for this enhancement. These cases may be put into three classifications:

(1) processing agricultural and animal products;[12]

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[4]Drummond Carriage Co. v. Mills, 54 Neb. 417, 74 N.W. 966 (1898).

[5]Gardner v. First Nat'l Bank, 122 Ark. 464, 184 S.W. 51 (1916); White v. Smith 44 N.J.L. 105 (C.P. 1882); Gregory v. Stryker, 2 Denio 628 (N.Y. 1846).

[6]Crump & Rodgers Co. v. Southern Implement Co., 229 Ark. 285, 316 S.W.2d 121 (1958) (cotton picker).

[7]Mortgage Sec. Co. v. Pfaffman, 177 Cal. 109, 169 Pac. 1033 (1917); Meyers v. Neeley & Ensor Auto Co., 143 Md. 107, 121 Atl. 916 (1923).

[8]Bennett v. Brittingham, 33 Del. 519, 140 Atl. 154 (Super. Ct. 1927).

[9]Quiver Gin Co. v. Looney, 144 Miss. 709, 111 So. 107 (1927).

[10]In the Matter of Tele King Corp., 137 F. Supp. 633 (S.D.N.Y. 1955).

[11]Wilson v. Martin, 40 N.H. 88 (1860).

[12]In re Lindan, 183 Fed. 608 (1910) (working skins into garments); Kirkman Corp. v. Owens, 62 Cal. App. 2d 193, 144 P.2d 405 (1944) (care of seedling fruit trees); Holderman v. Mainer, 104 Ind. 118, 3 N.E. 811 (1885) (sawing timber into lumber); Hanna v. Phelps, 7 Ind. 21 (1855) (rendering and barreling lard); Nevan v. Roup, 8 Iowa 207 (1859) (threshing oats); Henwood & Nowak, Inc. v. Dietz,

(2) processing industrial products;[13]

(3) repairing chattels.[14]

Under the common law, certain parties were denied an artisan's lien even though they had performed services on a chattel of another because the courts could find no increase in market value of that chattel. Among those overlooked were liverymen[15] and agisters,[16] the courts having felt that stabling a horse or pasturing a cow did not increase the chattel's market value. More recent decisions have applied the same policy to garagemen who store vehicles,[17] feeling that the vehicle does not appreciate in value through the garageman's efforts.

The courts also follow the market value interpretation in denying an artisan's lien to private carriers on the theory that no increase in value occurs by the mere act of moving the chattel,[18] although at least one court has held that moving a chattel closer to its market does in fact increase its market value.[19] While common carriers are allowed common law possessory liens, the courts have awarded the

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246 Mass. 9, 139 N.E. 843 (1923) (tanning skins); Lee v. Seals, 215 Mo. App. 582, 256 S.W. 830 1(923) (threshing wheat); Sheinman & Salita, Inc. v. Paraskevas, 194 N.Y.S.2d 62 (Sup. Ct. 1959) (finishing and dressing beaver skins); Mathias v. Sellers, 86 Pa. 486 (1878) (making cigars from tobacco); Ruggles v. Walker, 34 Vt. 468 (1861) (making starch from potatoes); Avians v. Brickley, 65 Wis. 26, 26 N.W. 188 (1885) (sawing timber into lumber and shingles).

[13]Wm. H. Wise & Co. v. Rand McNally & Co., 195 F. Supp. 621 (S.D.N.Y. 1961) (printing and binding books); Blumenberg Press v. Mutual Mercantile Agency, 177 N.Y. 362, 69 N.E. 641 (1904) (printing a reference book); Wiles Laundry Co. v. Hahlo, 105 N.Y. 234, 11 N.E. 500 (1887) (processing collars and cuffs); Jeanette Doll Co. v. Cusmano, 120 Misc. 782, 199 N.Y.S. 751 (Sup. Ct. 1923) (manufacturing Kewpie dolls); Kutcher v. Oriental Silk Printing Co., 113 Misc. 331, 184 N.Y.S. 595 (Sup. Ct. 1920) (dyeing and printing silk); International Electronics Co. v. N.S.T. Metal Products Co., 370 Pa. 213, 88 A.2d 40 (1952) (assembling magnetic tape recorder-reproducer units); Kap-Tex, Inc. v. Romans, 136 W. Va. 489, 67 S.E.2d 847 (1951) (manufacturing apparel).

[14]Gardner v. First Nat'l Bank, 122 Ark. 464, 184 S.W. 51 (1916) (repairing wagon and shoeing horses); Mortgage Sec. Co. v. Pfaffmann, 177 Cal. 109, 169 Pac 1033 (1917) (repairing automobiles); Consumers Petroleum Co. v. Flagler, 310 Ill. App. 241, 33 N.E.2d 751 (1941) (repairing and installing tanks on trucks); Lord v. Jones, 24 Me. 439 (1844) (curing lame horse); Drummond Carriage Co. v. Mills, 54 Neb. 417, 74 N.W. 966 (1898) (repairing buggy); White v. Smith, 44 N.J.L. 105 (C.P. 1882) (repairing wagon).

[15]Brown, Personal Property § 108 at 514 (2d ed. 1955).

[16]Id. at 520; see 37 Mich L. Rev. 273 (1938) and 26 Mo. L. Rev. 105 (1961).

[17]O'Brien v. Isaacs, 17 Wis. 2d 261, 116 N.W.2d 246 (1962); West Allis Industrial Loan Co. v. Stark, 197 Wis. 363, 222 N.W. 310 (1928).

[18]Brown, Personal Property § 113 at 544 (2d ed. 1955).

[19]Farrington v. Meek, 30 Mo. 578, 582 (1860) (allowed lien to raftsmen for transporting lumber closer to its market). The court said that "the principal basis of specific liens may be now regarded as resting upon the principle that the value of the property has been enhanced by the labor of the bailee."

lien on the basis of the carriers' liability as insurers of the goods they carry rather than on an enhancement theory.[20]

There are numerous cases where artisans claimed liens on tools used to perform work on a chattel, where the tools as well as the chattel were supplied by the owner.[21] Here again the courts deny the liens sought on the grounds that since no work is directed toward the implements as such, there can be no increase in their market value.

Gradually, the courts are beginning to realize that an increase in market value as the sole criteria for granting an artisan's lien is not broad enough because it fails to protect artisans who have performed labors when those labors have not increased the market value of the chattel. The court, in the case of *Chicago Great W.R.R. Co. v. American McKenna Process Co.*,[22] in holding that enchancement does not necessarily mean an increase in market value, stated:

> "' [V]alue' does not always mean market value. If an owner of property employs a mechanic to change its character to satisfy some special use or even whim of the owner, the mechanic is not deprived of his right of lien because the article may have less market value after it is finished than it had before."[23]

Consequently, the court awarded a lien for inspecting and handling rails, functions which do not increase the market value of said rails.

A unique litigation involving an artisan's lien is the New York case of *In re Harriss' Estate*.[24] Deceased, while still alive, hired an artisan "to dismantle and preserve the architectural interior of a certain room known as 'the Shrine of Romeo and Juliet' located in the residence of the deceased." The artisan, as directed, dismantled, crated and removed the parts to his warehouse and was awarded a lien for services performed. Certainly an argument can be made that these objects of art are not as valuable in a dismantled and crated state as they are on display.

Most statutes regarding artisan's liens recognize, in accordance with the common law, that an increase in market value constitutes enhancement. However, most of these statutes have broadened the

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[20]Brown, Personal Property § 113 (2d ed. 1955). See also, Note, 18 Ky. L.J. 170 (1930).

[21]Independent Film Distribs. Ltd. v. Chesapeake Indus. Inc., 250 F.2d 951 (2d Cir. 1958) (negative film used to produce pictures); American Pine Apple Products Co. v. Chicago Job Press Co., 216 Ill. App. 362 (1920) (plates used to print can labels); Even-Heat Co. v. Wade Elec. Prods. Co., 336 Mich. 564, 5 N.W.2d 923 (1953) (dyes used in production of parts).

[22]200 Ill. App. 166 (1916).

[23]Id. at 172.

[24]174 Misc. 34, 18 N.Y.S.2d 842 (Surr. Ct. 1940).