

BRITISH COLUMBIA ADMIRALTY DISTRICT.

GRAND TRUNK PACIFIC COAST S.S. CO., LTD,
PLAINTIFF;1914
March 25.

AGAINST

THE GASOLENE LAUNCH *B.B.*,

DEFENDANTS.

Admiralty Law—Shipping—Salvage or towage—Appreciable risk in service rendered—Excessive claim—Costs.

The *B.B.*, a gasolene launch of some 60 feet in length, became disabled, owing to lack of gasolene, when approaching in the day time the entrance of the First Narrows in Burrard Inlet. There was a fresh breeze and a somewhat rough sea prevailing at the time, but these conditions were not sufficient to make the position of the launch perilous, although the passengers on board (numbering some 15 or 16) were calling for help. The master of the *Prince George*, a passenger steamship, of 3379 gross tonnage and 320 feet in length, belonging to plaintiff company, heard the calls for help and went to the launch's assistance, taking her in tow and bringing her safely to port. The *Prince George* was not delayed more than half an hour by rendering this service, but there was an element of appreciable risk incurred by her master, in that his ship was carried by the tide close to the shore during her manœuvres in taking the launch in tow.

Held, that the service was a salvage service and not one of towage merely, and that an award of \$500 should be made.

2. Inasmuch as the plaintiff's claim was excessive, bail having to be furnished by the defendant in the sum of \$2,000, the costs of furnishing the same were given to the defendant, although in other respects the costs were ordered to follow the event. *Vermont S.S. Company v. The Abbey Palmer* (1904) 8 Ex. C. R. 463 referred to.

ACTION to recover the sum of \$2,000 for alleged salvage services.

The facts of the case are stated in the reasons for judgment.

March 2nd and 3rd, 1914.

The case was heard before the Honourable Mr. Justice Martin, Local Judge of the British Columbia Admiralty District at Vancouver.

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A. Alexander, for plaintiff; *J. E. Bird*, for the defendant ship.

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MARTIN, L. J., now (March 25th, 1914), delivered judgment.

Reasons for
 Judgment.

This is an action brought by the owners of the S.S. *Prince George* to recover \$2,000 for alleged salvage services rendered to the gasolene launch *B.B.* about 6.15 p.m. on the 29th of November last, off Prospect Bluff when approaching the entrance to the First Narrows in Burrard Inlet. The *Prince George* is a twin screw, high powered passenger vessel of 3,379 tons gross, 320 feet long with a speed of about 18½ knots, and valued at half a million dollars. The *B.B.* is a small launch, 60 feet in length, valued at \$3,000, carrying passengers and freight between Vancouver and Howe Sound, and at the time in question, it is admitted in the defence, that she had 15 or 16 passengers on board, and a crew of two, the master and the engineer. She had become disabled because the gasolene was exhausted and was drifting about in the track of vessels approaching the Narrows, about two miles west of Prospect Bluff. I note here that the one boat on the *B.B.* could only hold ten persons. The night was dark but clear; the wind from the west, was, I find, a fresh breeze, strong enough to raise a fairly rough sea against the strong ebb tide, though not sufficiently so to make it dangerous to the *B.B.*, but the situation was doubtless alarming to the passengers whose calls for help attracted the attention of the master of the *Prince George*, who was on the bridge and went to their assistance, and finally (after breaking one line in towing her for about a mile) made fast with another and towed her into Vancouver harbour. This service delayed the *Prince George* not more than half an hour,

and the question is whether it is to be considered as a salvage or a towage service. The defence submits that there was no element of danger in it and that it should be deemed to be merely a towage service, to satisfy which, the sum of \$100 is brought into court. A good deal of evidence was given as to the state and direction of the tide at the point where the launch was picked up, and the evidence is conflicting in this respect and as to the varying positions of both vessels. I am, however, of the opinion that, whatever may be said about danger to the launch, no valid reason has been shown why credence should not be given to the Master and First Officer of the *Prince George* as to the different positions that she was forced into, and then there is no escape from the fact that there was an element of appreciable risk to her in the position close to the land where she was carried by the tide during her manœuvres, which I am satisfied, were expeditiously and skilfully carried out. The case must therefore be dealt with on a salvage basis, and I award the sum of \$500 as an adequate compensation.

Objection was taken to the fact that the *B.B.* was arrested to answer an extravagant claim of \$2,000, two thirds of her value, and the case of *Vermont S.S. v. The Abbey Palmer* (1), was cited in support of an application to reduce the costs for that reason, as bail had to be furnished for \$2,000. I am of opinion that the claim, in all the circumstances, upon which each case must depend, was so excessive as to be within the rule there laid down as to oppression, and therefore it is ordered that the costs of furnishing bail be costs to the defendant: in other respects they will follow the event.

Judgment accordingly.

(1) (1904), 8 Ex. C. R., 462.

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