

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the London Steamship Company v. the Owners of the Steamship A. Strong and others from the High Court of Admiralty; delivered 23rd July 1873.*

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Present :

SIR J. W. COLVILLE.

SIR BARNES PEACOCK.

SIR M. E. SMITH.

THEIR Lordships are of opinion that this Appeal cannot be sustained.

The general rule on which this Committee acts in dealing with questions of salvage is, not to interfere with the discretion exercised by the Judge of the Admiralty Court, unless they can see that the sum awarded for salvage is plainly and greatly inadequate to the services performed.

In this case their Lordships are unable to come to the conclusion that the sum awarded is so inadequate to those services, they ought to interfere with the discretion of the Judge who has determined the case in the first instance.

The facts are very simple, and there is no difficulty in apprehending the nature of the services performed and the benefit conferred. The vessel in respect of which the services were performed is the "A. Strong." She was on her homeward voyage with a cargo which was not very valuable. The value of the ship, cargo, and freight appears to have been 16,857*l.*, the ship alone being of the value of 14,000*l.* It seems

that a few miles from the coast off Cape Finisterre one of her condensers burst, and she was, undoubtedly, lying off that coast a disabled vessel. The first ship which came to her assistance was a schooner of the name of "Janie Banfield," and it appears that she gave assistance by getting a rope thrown to her, taking the disabled ship by the head, and so keeping her away from the shore; and if no other vessel had come up she would have gone on with those services; but the "Camilla" came in sight, and being hailed by the "A. Strong," went to her assistance; and at the request of the master of the "A. Strong" (who informed the master of the "Camilla" of the state in which she was) the "Camilla" agreed to take the "A. Strong" in tow, and tow her to Lisbon. The "Camilla" was also on her homeward voyage. It appears that there were nearer ports to which she might have been towed, one of them being Vigo, but the master of the "A. Strong" told the master of the "Camilla" that he should not be able to repair the ship there, and desired to be towed to Lisbon. It is not therefore competent for the owners of the "A. Strong" to complain of the "Camilla" for taking their vessel to Lisbon instead of to Vigo; but still it is a circumstance to be considered in estimating the nature of the services performed. Undoubtedly the vessel would have been placed in a position free from all danger if she had been taken to Vigo.

It seems that the "Camilla" took the "A. Strong" in tow about two o'clock in the morning of the 15th October, and the two ships arrived off the Tagus on the 16th. They could not enter the Tagus on the 16th, and were obliged to lie off the river during the night, and it seems there was during the night some heavy weather, but not weather at all dangerous to either of the ships. On the following day the

"Camilla" towed the "A. Strong" into the harbour.

These are the services which were performed,—services undoubtedly of considerable benefit to the "A. Strong," but rendered without any danger being encountered or being likely to be encountered by the "Camilla," and at no greater sacrifice on the part of the "Camilla" than a loss of time, and a deviation from her voyage. It appears that in order to take this vessel to Lisbon, she had to go back on her voyage 260 miles, and of course to retrace that distance before she got to the point at which she was when she first rendered assistance.

Now, in estimating the amount of salvage to be awarded, the nature of the services rendered is of course a most important element; and here the services were in their nature principally towing services;—undoubtedly towing services under such circumstances as would amount to salvage services, but unaccompanied by any danger or risk to the "Camilla." The sacrifice she made was, as already stated, the loss of time and the deviation from her voyage; and the benefit she conferred upon the other vessel was to rescue her, not from a condition of imminent danger, but from a state where, without assistance and in the disabled state in which she was, she was liable to danger.

The value of the "Camilla" and her cargo is considerable,—I think 37,250*l.*; and it is that circumstance, and the risk which the owners are supposed to have run by deviation, which formed the principal foundation of the argument of Mr. Butt and Mr. Clarkson against the award which has been given.

Their Lordships, however, think that the amount awarded is not so inadequate to the services rendered and the benefit conferred, that they ought to interfere with it. The question is

not what their Lordships would have given if they had heard the case originally. The question for them to decide is;—the Court of First Instance being the competent and proper court to exercise its discretion;—whether that discretion has been so plainly exercised in a wrong direction that they ought to substitute their own for it. They cannot come to that conclusion in this case, and therefore they are unable to sustain this Appeal.

Mr. Butt endeavoured to analyse the amount, so as to show that a small sum—about 300*l.* only—would, after payment of expenses and the claims of the master and crew, be left for the owners of the ship. Their Lordships are not at all prepared to say that that residuum was satisfactorily drawn from the analysis. It rather appears that a sum of 400*l.* to 500*l.* might come to their hands.

Their Lordships, for the reasons already given, cannot say that the whole sum, which would leave such a residuum to the owners, is so inadequate as to call for their interference with the judgment.

They will, therefore, humbly advise Her Majesty to affirm it, and to dismiss this Appeal, with costs.