

## British Columbia Admiralty District

1950  
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 June 12  
 June 24  
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BETWEEN :

SHERMAN ET AL, (PLAINTIFF) . . . . . (RESPONDENT);

AND

THE SHIP *GOOD HOPE II*,  
 DEFENDANT . . . . . } (APPELLANT).

*Shipping—Collision—Appeal from assessment of damages—Claim for salvage disallowed.*

*Held:* That a claim for salvage not supported by evidence that such was a reasonable disbursement must be disallowed.

APPEAL from assessment of damages.

The appeal was heard before the Honourable Mr. Justice Sidney Smith, District Judge in Admiralty for the British Columbia Admiralty District, at Vancouver.

*John I. Bird* for plaintiff-respondent.

*Roy Ginn* for defendant-appellant.

The facts and questions of law raised are stated in the reasons for judgment.

SIDNEY SMITH, D.J.A. now (June 24, 1950) delivered the following judgment:

This is an appeal from the learned Deputy Registrar's assessment of damages sustained by the plaintiffs on account of the sinking of their vessel *Paul D* following collision with the *Good Hope II*.

The first point made is that the valuation of *Paul D* was excessive. I am inclined to think the Vancouver witnesses' figures were "out of line", as expressed by one of the defendant's experts, and were too high. But the figures were sworn to, the Registrar accepted them on ample evidence, and I am not prepared to say that he was wrong.

The second point raises different considerations. The plaintiff testified that Dale & Co. (the insurers of the *Paul D*) sent a tug out to try and salvage the vessel.

Nothing came of it. A bill for \$1,000 from the tug-owners was presented for the effort, and this item was allowed by the Registrar. There is no evidence that this was a reasonable disbursement; no foundation was laid for the claim; for all that appears on the record the whole thing may have been a wild-goose chase from the start. Moreover, as defendant's counsel put it, it may have been merely a speculation of the insurers for their own benefit; and so not recoverable. Cf. *The M.S. Tex* (1).

The appeal will therefore be allowed on this head. The assessment should be reduced by \$1,000; otherwise it will stand. The appellant is entitled to his costs.

*Judgment accordingly.*

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