

BRITISH COLUMBIA ADMIRALTY DISTRICT.

(IN CHAMBERS.)

1914
April 21.

MOMSEN, PLAINTIFF.

AGAINST

THE SHIP *AURORA* (No. 2)

*Shipping—Admiralty Practice—Marshal—Costs of executing warrant to arrest—
Travelling expenses.*

Upon a proper construction of Part V of the Table of Fees in Admiralty Proceedings no greater sum than ten cents per mile can, in any circumstances, be allowed for executing a warrant to arrest.

APPPLICATION in Chambers at Vancouver, before the Honourable Mr. Justice Martin, Local Judge of the British Columbia Admiralty District, to review the Registrar's taxation of the Marshal's Bill of Costs in respect of an item of \$440 for hire of a tug for eleven days for proceeding from Vancouver to Sea Otter Cove, at the northern end of Vancouver Island, to arrest the ship *Aurora*, and thence towing her to Vancouver under arrest. The Registrar allowed the sum of \$50 only, from Vancouver to Sea Otter Cove and returning, being at the rate of 10c. per mile, following the note to Part 5 of the Table of Fees in the Admiralty Rules of the Exchequer Court of Canada, as follows:—

“If the marshal or his officer is required to go any
“ distance in execution of his duties, a reasonable sum
“ may be allowed for travelling, boat-hire, or other
“ necessary expenses in addition to the preceding fees,
“ but not to exceed 10 cents per mile travelled.”

Tuesday, the 21st April, 1914.

1914
 MOMSEN
 v.
 THE SHIP
 AURORA.
 ———
 Reasons for
 Judgment.

E. A. Lucas for the plaintiff: This was a "payment necessary for the safe custody of the ship" and should be allowed under the proviso in that behalf in the third item of Part 5 of the Table of Fees. The note at the end of the said part as to 10 cents a mile refers to the Marshal's travelling expenses only and while it is conceded that he could have travelled by mail steamer via Victoria to Winter Harbour and hired a launch there to Sea Otter Cove, about twenty miles further on, yet to keep the ship in safe custody it was necessary to lay alongside her and tow her to Vancouver.

J. E. Sears for Nosler; a claimant on the funds in Court. It was not necessary to employ a tug from Vancouver. The Marshal's officer could have taken the regular steamer and hired a local launch, and it must be presumed that the *Aurora's* crew with the Marshal's officer aboard would have brought her to Vancouver in pursuance to the Marshal's orders.

J. M. Price for the bondsmen of the ship: The note to Part 5 of the Table of Fees expressly mentions travelling and boat hire and this is the only provision for such disbursements; parties providing the Marshal with more expensive means of travelling must bear the cost over and above 10 cents per mile.

MARTIN, L. J.:—The learned Registrar's ruling is the only one possible under the Table of Fees, and it is hereby confirmed. No greater sum than 10 cents per mile can in any circumstances be allowed in executing a warrant to arrest.

Motion dismissed.
