

1927
Feb. 3.

BRITISH COLUMBIA ADMIRALTY DISTRICT

THE PASCHENA PLAINTIFF;

AGAINST

THE GRIFF

Practice—Admiralty Rule 228—Costs—Taxation—English Tariff not applicable

Held, that Rule 228 of the Admiralty Rules of the Exchequer Court of Canada is not to be so interpreted as to allow a party taxing a bill in a proceeding or action on the Admiralty side of the Court to include

in his bill items taxable under the Admiralty Tariff of the High Court of Justice in England, but which are not found in the Admiralty Tariff of the Exchequer Court of Canada.

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 THE
 Paschena
 v.
 THE Griff.

APPEAL from the decision of the Deputy Registrar upon a taxation of Bill of costs.

The appeal was heard before the Honourable Mr. Justice Martin at Vancouver.

Ghent Davis for plaintiff;

E. C. Mayers for defendant.

The facts are stated in the reasons for judgment.

MARTIN L.J.A., on the same day (3rd of February, 1927), delivered judgment.

Review at the instance of both parties, of the taxation of defendant's bill of costs, pursuant to Rule 141. A point of importance was raised respecting the application of Rule 228 to the table of fees (authorized by rule 221) so as to warrant the allowance of items not to be found therein but which are in the English Tariff in Admiralty Proceedings in the High Court there.

After considering the matter carefully, I am of the opinion that the expression in the said Rule "In all cases not provided for" relate to "the practice" . . . and "Proceedings" and not to items in our Tariff, and that therefore the taxation under review has in that respect proceeded upon a proper basis, based upon our tariff alone—considering therefore the bill before me in that light, I have noted thereupon my ruling upon each of the many items in question. The costs of the review will be borne equally by the parties, both being successful to a nearly equal degree either upon principle or their application.

It is due to the learned Deputy-Registrar to add that he has well discharged his duty on the taxation of the bill which presents difficulties of an unusual nature.

Judgment accordingly.
