"SS. Lake Champlain.

"This is to certify that the SS. Nettlesworth has completed his agreement by towing the SS. Lake Champlain into Gaspé.

WM. STEWART,
Master of SS. Lake Champlain."

The action was brought by the respondent to recover the £800 sterling for the services mentioned in both documents.

The appellant by a special plea set out that the Lake Champlain sailed from Liverpool to Montreal on the 3rd July, 1879; at ten o'clock in the forenoon of the 13th, her screw broke down. She was then about eight miles off the southern point of the Island of Anticosti. At two o'clock of the same afternoon, the mate was put on board a passing ship, to be landed at Father Point, whence he might telegraph for steam tugs. About 3 p.m. on the 19th, six days after, the Nettlesworth hove to and offered assistance. The appellant found his provisions and water running short, and the passengers, 37 in number, implored him to accept assistance. He offered first £300 or £400, but these offers were refused, and finally the agreement above cited was entered into. The plea went on to state that this agreement was extorted from him, and that £800 was a grossly exorbitant charge. That before midnight of the same day the vessel was at anchor in Gaspé Basin, and the towage was performed during perfectly calm weather, and was of the ordinary kind.

DORION, C. J., said it was admitted at the argument that if the services were to be charged as salvage, the sum of £800 would not be excessive. Courts will not interfere in such cases unless the agreement is extorted by pressure of extreme necessity, and the amount be exorbitant. Here the vessel had a number of passengers on board; she had lost her propeller; she was on a dangerous coast, and if a storm had arisen her position would have been perilous. The appellant, by entering into an agreement to pay £800, could not be in a better position than if he had simply agreed to pay what was reasonable under the circumstances. In the latter case the respondent would be entitled to salvage, which, by the appellant's own admission, would have amounted to at least £800. It was further to be remarked in this case that after the steamship was in safety in Gaspé basin, the captain did not protest that the contract was made under duress, but gave a certificate that the respondent had performed the agreement. This did not bind the owners, but it was evidence that the captain did not at that time think that he had been imposed upon. Under all the circumstances the Court did not think that the judgment should be disturbed.

RAMSAY, J. I concur in the judgment dismissing this appeal with some hesitation, and solely on the ground that there is a conflict of evidence rendering the decision doubtful. In such cases this court does not interfere with the decision of the court below. The certificate given by the captain that the services were rendered does not appear to me to affect the case. It does not purport to be a ratification, and the captain had no authority to ratify. To avoid misunderstanding I think it is right to say a few words on the principles which I think govern in cases like the present. In the first place, it appears to me to be clear that the services rendered were in the nature of salvage services. The steaming power of the "Lake Champlain" was useless. It does not appear very clearly whether the derangement of the screw had interfered with the working of the rudder or not; but it is quite certain that she was drifting helplessly and that she could do nothing to extricate her from the position in which she was, and without help the only chance of safety was the rather unlikely accident of drifting into port. The Jubilee, 42 L. T., N. S. p. 594. But it is because the service was in the nature of salvage that I think a court might have interfered with the contract. It never has been denied that an agreement to pay so much for salvage might be set aside if it were exorbitant. The doctrine is that it will not be readily set aside, if clearly proved, solely because it is a hard bargain. It must be wholly inequitable, that is exorbitant.

The Helen & George, 368 Swabey; The Firefly, 240 Swabey; The James Armstrong, 33 L. T., N. S., p. 390; The Medina, 1 L. R. Adm. Div. 272; Confirmed in appeal, 2 L. R. Adm. Div. 5; The Silesia, 43 L. T., N. S. 319; The cargo ex Woosung, 1 L. R. Adm. Div. 206; The America, 2 V. Ad. cases, Stuart p. 214, where there is an able statement of the whole case.

Under our law there could be no interference with a contract except in case of fear, violence, fraud or error, and it is precisely because the element of fear of danger is necessarily present