

was, on February 10th, 1906, refused, the Chief Justice dissenting. He expressed himself as differing entirely from the conclusion that, where a ship is being towed, and has no steam propelling power within herself, she is propelled wholly or in part by steam within the meaning of the Act. The other Judges concurred with the judgment below.

An appeal was then taken to the Supreme Court of Canada, and heard before the Chief Justice and Davies, Idington, MacLennan and Duff, JJ. On the 26th of December, 1906, the judgment of the Court was given by Davies, J., dismissing the appeal on the ground that the vessels either were not vessels "which navigate" within sec. 58, as they had not practically the power of independent motion, or were "ships propelled by steam" within sec. 59. It is to be noticed that the view of the Court upon the first alternative was not that entertained in the Court of New Brunswick.

Before considering the language of the statute it may be desirable to refer to the case of the "*Grandee*," decided in 1902, and reported in 8 Exchequer Court Reports, at p. 54, and on appeal at p. 79. The "*Grandee*" was a coal barge of about 1,000 tons register, employed in carrying coal from Sydney, Nova Scotia, to Quebec. She had no motive power of her own, either by sails or steam, and was towed by a steam collier. She was held exempt from pilotage dues in the pilotage district of Quebec. There does not seem to be any substantial difference between that case and the present, for although, in that case, it seems to have been stated that the vessel had no motive power of her own, the vessels in the present case had, for practical purposes, no motive power of their own which would enable them to make their voyages in safety. The case was heard before Routhier, J., the local Admiralty Judge for Quebec, who gave three reasons for his opinion: First, that a pilot was practically useless on such a vessel. This reason is to be found in some of the judgments in the present case, but it would, if correct, seem to apply equally to any vessel, though fully rigged, which was under the necessity of being towed into port. Second, that the tug (which is exempt) and tow are one vessel. This, however, cannot be correct, though for some purposes, e.g., steering and sailing rules, they may to some extent be so regarded. Third, that the vessel was only an accessory or "chargement"—an object transported or dragged, as a carriage by a horse, and was not, properly speaking, a ship. This reason