

the sum of £800, to tow the steamship Lake Champlain into Gaspé harbor.

"WM. STEWART, master S.S. Lake Champlain."

And the ratification referred to in the judgment was as follows:—

"S.S. Lake Champlain.

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

"WM. STEWART, master S.S. Lake Champlain.
"20th July, 1879."

MACKAY, J., in giving judgment, said that this was an action for £800 stg., on an agreement resembling a promissory note, but without the name of a payee, by which defendant agreed to pay the sum of £800 for having his vessel, the steamship Lake Champlain, towed into Gaspé. The vessel was stranded about fifty miles from Gaspé, and had a valuable cargo—sometimes the cargo carried was worth as much as £100,000. There were also passengers on board. If bad weather had come on, the vessel would probably have become a total wreck. Stewart applied to Brewis, master of the S.S. Nettlesworth, for assistance, and gave this writing, and next day, when he was safe in Gaspé harbour, he gave Brewis another writing, to the effect that he had performed all that he had undertaken to do. Now Brewis sued Stewart on the agreement, and the latter said, I was in distress, and in order to be rescued, I agreed to exorbitant terms, and under such circumstances I should be held to have contracted under duress, and the bond being exorbitant, it should be reduced to a reasonable amount, viz., £400 sterling, which sum was tendered by the plea. Pothier cited the case of a man who contracts to be saved from imminent destruction, and the amount, if exorbitant, may be cut down. But this was a different case. After the defendant had arrived at Gaspé, and when he was perfectly safe, he gave Brewis a certificate that he had performed his engagement. Was not that a ratification of the original contract? His Honor was of opinion that it was, and therefore, although £400 would have been a handsome remuneration under the circumstances, the weather having proved fine for the voyage to Gaspé, the Court was estopped, as it were, by the ratification, and judgment must go for the amount of the bond. The agreement was for £800, which would usually mean pounds currency, but here the defendant himself had admitted that it was pounds sterling

that both parties intended by it. Therefore, judgment for plaintiff for £800 sterling, *capias* and attachment maintained.

The judgment is as follows:—

"The Court, etc.

"Considering plaintiff's allegations material proved; and that he is entitled to the execution of the contract alleged;

"Considering that even if defendant could be seen to have been under any unlawful *contrainte* or duress, on the 19th July 1879, when he contracted and gave the written promise declared upon, to wit, the promise to pay as per agreement to plaintiff, the sum of £800 sterling to tow the steamship "Lake Champlain" into Gaspé harbour, he can be seen to have ratified the said written promise afterwards, when free, to wit, in Gaspé, 20th July 1879, and so ought not now to be allowed to maintain his plea that the written promise aforesaid should be set aside, or even reduced;

"Considering the offers of defendant £400 sterling as a *quantum meruit* for plaintiff insufficient, and not to be allowed;

"Doth adjudge and condemn the said defendant to pay and satisfy to said plaintiff the said sum of £800 sterling money of Great Britain, with interest."

Capias and *saisie-arrest* maintained.

Trenholme, Maclaren & Taylor for plaintiff.

Davidson, Monk & Cross for defendant.

SUPERIOR COURT.

MONTREAL, February 12, 1880.

DESMARTEAU & Co., insolvents, BAILLIE et al., assignees, and Dame M. L. V. PERRAULT, claimant contesting collocation.

Wife judiciairement séparée de biens—Matters of simple administration—Right to sue for rent without authorization.

The contestant, Dame M. L. V. Perrault, contested the collocation made by the dividend sheet, and prayed that it be set aside, and that she be collocated by privilege for the sum of \$104 due her for rent.

The joint assignees Baillie et al. pleaded an exception in law, that the claimant was described in the contestation as "*épouse judiciairement séparée quant aux biens de S. A. Tessier*"; that by law the claimant could not