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BURRARD DRY DOCK COMPANY LIMITED

v.

CORPORATION OF THE CITY OF NORTH VANCOUVER

Supreme Court of British Columbia (No. 1950/55)

Before: MR. JUSTICE A.E. LORD

Vancouver, October 31, 1955

W. Owen, Q.C. and W.D. Tuck for the Appellant
D. Donaghy, Q.C. for the Respondent
Kemp Edmonds, for the Attorney-General for British Columbia

Reasons for Judgment

This matter comes before me by way of stated case from the Assessment Appeal Board, constituted under the *Assessment Equalization Act*, chapter 32 of the Statutes of British Columbia, 1953. The opinion of the Court is requested on four questions of law, the last three of which are dependent on an affirmative answer to the first.

Inasmuch as I am finding a negative answer to the first question, it is not necessary to deal with the other three.

The following facts appear in the stated case:

The Burrard Dry Dock Company Limited is the owner of three floating dry-docks used in connection with its ship-repairing operation in the City of North Vancouver. Their function is to provide a means of removing ships from the water for the purpose of effecting repairs. Dry-dock No. 1 has a rated capacity of 15,000 tons and has an over-all length of 556 feet 6 inches. Dry-dock No. 2 is slightly smaller. Dry-dock No. 3's rated capacity is 2,000 tons and is 250 feet long. They are afloat at all times and rise and fall with the tide, and can be submerged to a depth sufficient for the reception of vessels being docked for repairs. Nos. 1 and 2 consist substantially of a pontoon-supported platform, upon which are erected hollow steel wing walls to a height of 37 feet above the deck. No. 3 is a converted landing-ship with wing walls 24 feet high erected on a single steel pontoon.

The dry-docks were assessed for taxation by the City of North Vancouver. An appeal from such assessment was dismissed by the Court of Revision and by the Assessment Appeal Board.

The first question referred to in the stated case is as follows:

" 1. Should the definitions of 'improvements' in subsection (d) of section 2 of the *Assessment Equalization Act* and section 2 of the *Municipal Act*, as amended, be interpreted to include the appellant's three floating dry-docks as being 'rafts, floats, and other such devices.'"

It is unnecessary to set out the whole definition as contained in the said Statutes because the subject-matter for interpretation is contained in the question itself.

The Board found that each of the dry-docks was "essentially a floating platform for ships" and came within the definition. With respect, I cannot agree, and I refer to definitions in the new English Dictionary:

raft: a flat structure of logs, inflated skins, or other materials, for the conveyance or support of persons or things on water.

float: (1) a raft or raft-like construction; (2) a flat-bottomed boat; (3) a floating appliance for supporting something in the water.

under which heading it cites such things as

(a) the cork or quill used to support a baited line;

(b) a cork or other like substance used to support a fishing-net.

I fail to see how dry-docks of the kind described can come within the above definitions.

A dry-dock, on the other hand, is defined in the new English Dictionary as "a dock from which the water is or may be let out, for the repairing (or building) of a ship." It is an entirely different thing from a raft or float or floating platform. One thinks of a platform as being flat, not a structure with high wing walls.

In interpreting a taxing Statute, the Courts should not stretch the language used therein to bring within its scope those objects sought to be taxed. This principle is set out in many cases. I need only refer to two. In *O'Brien v. Cogswell* (1889) 17 S.C.R. 420, Strong, J., said at page 424:

The general principles applicable to the construction of statutes imposing and regulating the enforcement of taxes for general and municipal purposes are well settled. Enactments of this class are to be construed strictly, and in an cases of ambiguity which may arise that construction is to be adopted which is most favourable to the subject.

See also *Re Orr's Assessment* (1955) 16 W.W.R. (N.S.) 25 at page 40, where my brother Wilson, J., deals with the intention of the Legislature in enacting taxation Statutes.

I cannot find from the language used that the Legislature had the intention of including dry-docks as "improvements."

The first question must therefore be answered "no."

Costs to the appellant.