

44 Phil. 908

[ G. R. No. L-18107. August 17, 1922 ]

**VIUDA E. HIJOS DE F. ESCAÑO, PLAINTIFF AND APPELLEE, VS. JOAQUIN NATIVIDAD, COLLECTOR OF CUSTOMS OF CEBU, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**ROMUALDEZ, J.:**

The only question raised in this case is whether or not the phrase "steam vessel" used in subsection (e) of section 1203 of the Administrative Code includes vessels propelled by gasoline. If this question is decided in the affirmative, then the judgment of the lower court enjoining the defendant, his employees, subordinates, and agents, at the instance of the plaintiff corporation, from requiring the plaintiff to provide one patron in each of its four vessels Butuan, Villa de Soncillo, Luisa, and Ormoc must be reversed, all of said vessels being of less than 100 gross tons; from which judgment the defendant now appeals maintaining that said vessels which are propelled by machinery that operates by the internal combustion of crude petroleum (according to stipulation of facts), are included in the aforesaid subsection (e) of article 1203 of the Administration Code which reads: "Every steam vessel of less than one hundred gross tons shall have the following officers: One patron in the minor coastwise trade, who shall have charge of the vessel as master; but when such vessel navigates for more than twenty-four hours from the point of departure until its return thereto, it shall carry a mate who shall be at least a patron in the minor coastwise trade."

We find that the prayer of the appellant for the reversal of the judgment appealed from is well grounded, for we are of the opinion that the phrase "steam vessel" includes any vessel propelled by machinery.

"The words 'steam vessel' shall include any vessel propelled by machinery." (U. S. Comp. St., 1901.)

“Every vessel propelled by machinery is considered a ‘steam vessel,’ within the meaning of the navigation rules.” (The Nimrod, 173 Fed. Rep., 520.)

It is but just that the judgment appealed from be, as is hereby, reversed, and the complaint whereby this proceeding was initiated dismissed and the defendant absolved therefrom without special finding as to costs. So ordered.

*Araullo, C. J., Johnson, Street, Malcolm, Avaceña, Villamor, Ostrand, and Johns, JJ., concur.*

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