

REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT.

N.B.] THE QUEEN v. S.S. TROOP CO. [Oct. 3.
*Appeal--Certiorari--Merchants Shipping Act, 1854--Distressed seaman--
 Recovery of expenses--"Owner for time being"--Proof of ownership
 and payment.*

Appeal lies to the Supreme Court of Canada from the judgment of a provincial court making absolute a rule nisi for a certiorari to bring up proceedings before the police magistrate, under the Merchants Shipping Act with a view to having the judgment thereon quashed.

Merchants Shipping Act, 1854, s. 213, makes the expenses of a seaman left in a foreign port and relieved from distress under the Act a charge upon the ship, and empowers the Board of Trade, in Her Majesty's name, to sue for and recover the same from the master of the ship or "owner thereof for the time being"

Held, affirming the judgment of the Supreme Court of New Brunswick, that the latter words mean the owner at the time of action brought.

Held, further, that a certificate of the assistant secretary of the Board of Trade that such expenses were incurred and paid is sufficient proof of payment under the Act, though the above section does not provide for a mode of proof by certificate.

Notwithstanding the provision in the Imperial Interpretation Act of 1889, that the repeal of an act shall not affect any suit, proceeding or remedy under the repealed act, in proceedings under the Merchants Shipping Act of 1854, proof of ownership of a ship may be made according to the mode provided in the Merchants Shipping Act, 1894, by which the former Act is repealed.

Under the Act of 1894 the copy of the registry of a ship registered in Liverpool certified by the Registrar-General of Shipping at London is sufficient proof of ownership.

Quere. Where the Merchants Shipping Act of 1854 provides that every order of two justices in an action for seaman's wages shall be final, will certiorari lie to remove the proceedings into a Superior Court.

Newcombe, Q.C., for appellant. *A. L. Palmer*, Q.C., for respondent.