

Full Court.]

[Nov. 9, 1903.]

MORGAN v. BRITISH YUKON NAVIGATION CO.

*Merchants Shipping Act—Medical attendance—Duty of ship owner to provide.*

Appeal from an order of WALKEM, J. This was an action by a seaman for damages while in the discharge of his duties on the defendant's steamer, the Yukoner. After the statements of claim and defence had been delivered the plaintiff applied for leave to amend his statement of claim by adding an allegation that "under the provisions of the Merchants Shipping Act, 1894, s. 207, and s. 209 of the Criminal Code 1902, and otherwise at law the company were under a legal duty, without undue delay, to provide necessary surgical and medical advice and attendance and medicine and to maintain the defendant until cured, and to defray the expense of all necessary medical and surgical advice, attendance and appliances," and a claim thereunder for additional damages. On the hearing of the summons WALKEM, J., refused leave to make the proposed amendment.

*Held*, by the Full Court dismissing the appeal that a ship owner is under no duty either at common law or under s. 207 of the Merchants Shipping Act, 1894, to provide surgical or medical attendance for the ship's company.

*A. D. Taylor*, for appellant. *R. Cassidy*, K.C., and *C. McL. O'Brian*, for respondent.

Hunter, C. J.]

[Nov. 24, 1903.]

CENTRE STAR MINING CO. v. ROSSLAND AND GREAT WESTERN MINES.

*Practice—Proceedings outside Victoria, Vancouver or New Westminster—Chamber summons returnable at one of these places—Must be issued at place returnable.*

The action was commenced in the Rossland Registry and the defendants issued a summons out of that Registry, but returnable in Vancouver, asking that the writ be set aside. S. 32 of the Supreme Court Act as amended in 1901 (c. 14, s. 13) provides that in proceedings commenced in any Registry other than Victoria, Vancouver or New Westminster, any application may be made in Victoria, Vancouver or New Westminster.

*Held*, that a summons under this section must be issued out of the Registry at which it is returnable. Summons set aside with costs.

*Davis*, K.C., for summons. *Tupper*, K.C., contra.