

mission of the alleged offences was stated to be the 12th March, 1910.

The learned Judge found the defendant "not guilty" of either of the offences charged; but, at the request of counsel for the prosecution, stated a case under the provisions of the Criminal Code in that behalf, reserving two questions, viz.: "1st. Upon the evidence, was I right in holding that the use made by the defendant of the document which he presented to the examiner of masters and mates at Windsor was not an offence under the first count above set out? 2nd. Upon the evidence, was I right in law in holding that the defendant did not make such a false representation as to constitute an offence under the second count above set out?"

These charges were laid under sec. 123 of the Canada Shipping Act, the first charge having relation to sub-head (*d*) and the second to sub-head (*a*). The effect of these is to declare guilty of an indictable offence any person who—(*a*) makes, procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person any certificate of competency or of service; or—(*d*) fraudulently makes use of any such certificate which is forged, altered, cancelled, or suspended, or to which he is not justly entitled.

It would have been more convenient if the order in which the counts are set out in the charge-sheet had been reversed so as to correspond with the order of the sub-heads of sec. 123 under which they are framed. And, inasmuch as the second count charges a violation of the provisions of sub-head (*a*), it is convenient to consider it first and to deal with the first count last.

The defendant, a sailor on the inland waters of Canada and the holder of a certificate of competency to act as mate on a ship trading on the inland waters of Canada, made application to Mr. W. F. McGregor, the official examiner at Windsor for the Department of Marine and Fisheries, to be examined for a certificate of competency as master of a passenger steamer on inland waters. A printed form of application issued by the Department was furnished him by the examiner, who filled in some of the particulars. The defendant filled in the remainder, signed it, and returned it to the examiner on the 12th March, 1910.

Accompanying the application were three other documents:—

(*a*) A certificate of discharge for seamen according to form K in the schedule to the Act, signed by the master of the