I would also refer to the cases of *Mary Ann*, L.R. 1 A. & E. 8, *The Feronia*, L.R. 2 A. & E. 65, as showing that a seaman's claim for wages will rank in priority to the claim of the mortgagee, and therefore I find that the plaintiff's claim in this case is not superseded by the claim of the Third National Bank under their mortgage, even if before the commencement of the action they had taken possession of the ship under their mortgage, and they cannot be treated as having by the act of taking possession become subsequent purchasers. The ninety-day limit, therefore, imposed by section 14, subsection 5, of The Maritime Court Act does not prevent the plaintiff bringing his action to recover against the ship the amount of his wages in this case.

I direct that judgment be entered for the plaintiff against the said ship for the sum of two hundred and thirty-five dollars ($235), and costs of suit, and that an order for the sale of the said vessel will be made unless the said amount and costs are paid within twenty days from this date.

Notes of Canadian Cases.

EXCHEQUER COURT OF CANADA.

BURBIDGE, J.] [Oct. 29, 1894.

RAY ET AL. *v* LANDRY.

Appeal from local judge in admiralty—The Admiralty Act, 1891 (54 & 55 Vict., c. 29)—Interference with finding of fact.

On appeal from a judgment of a local judge in Admiralty, under s. 14 of The Admiralty Act, 1891 (54 & 55 Vict., c. 29), the court will not interfere with a finding of fact by the local judge unless it is satisfied beyond a reasonable doubt that the evidence does not warrant such finding.

Attorney-General of Quebec, and *Belleau*, Q.C., for the appellants.

Pentland, Q.C., for the respondent.

BURBIDGE, J.] [Nov. 29, 1894.

SINCLAIR *v.* THE QUEEN.

Customs duties—R.S.C., c. 32, s. 13—50-51 Vict., c. 39, items 88 and 173—Steel rails imported for temporary use during construction of railway—Rate of duty.

(1) Steel rails, weighing twenty-five pounds per lineal yard, to be temporarily used for construction purposes on a railway and not intended to form any part of the permanent track, cannot be imported free of duty under item 173 of The Tariff Act of 1887.

(2) In virtue of clause 13 of The Customs Act (R.S.C., c. 32) the court held that such rails should pay duty at the same rate as tramway rails (under 50-51 Vict., c. 39, item 88), to which of all the enumerated articles in the tariff they bore the strongest similitude or resemblance.

A. F. May for the suppliants.

W. D. Hogg, Q.C., for the Crown.