

of vessels engaged in the coasting trade in dangerous waters where conditions of wind, tide, and weather must be carefully considered beforehand and duly provided for by the master, so as to insure, as far as possible, the safety of the vessel and those on board.

3. It is the duty of an able-bodied seaman in service on a ship to obey the master of the ship, and he cannot refuse to work at cargo on Sundays simply to vindicate a principle against Sunday work.

4. Where the substituted holiday provided for by the Lord's Day Act, is being claimed, it is the duty of the employee to do the work and then demand the substituted holiday during the next six days.

McCrossan, for plaintiff, applicant. *Harold Robertson*, for defendant, respondent.

Province of Alberta.

SUPREME COURT.

Harvey, C.J., Scott and Simmons, JJ.] [Dec. 18, 1912.]

CHADWICK v. STUCKEY (No. 2).

Specific performance—Rescission of contract—Failure to pay purchase instalment, effect of—Subsequent tender.

Where, under an executory contract for the sale of land providing for the payment of the purchase price in instalments, the vendee made default in the payment of an instalment when due, though it was expressly agreed that time should be of the essence of the contract, and notice was terminated pursuant to the terms of the contract, yet a forfeiture will not be allowed by the court where it appears that a substantial amount, both absolutely and relatively to the whole purchase price, has been paid and the default had continued for only two months after the notice was given, at which time the vendee tendered the amount in which he was in default, and the vendee may notwithstanding be declared entitled to specific performance of the contract.

Chadwick v. Stuckey, (No. 1), 6 D.L.R. 250, reversed; *Labelle v. O'Connor*, 15 O.L.R. 519, distinguished; *B.C. Orchard Land*