[Jan. 9.

THE AURORA (BERGMAN).

Maritime law—Master's lien—Inland waters—R.S.C., cc. 74 to 75—Colonial Courts of Admiralty Act, 1890—The Admiralty Act, 1891—Construction.

The master of a vessel registered at the port of Winnipeg, and trading upon Lake Winnipeg, had in the years 1888, 1889, and 1890 no lien upon the vessel for wages earned by him as such master.

Even if such lien were held to exist, there was, in the years mentioned, no court in the Province of Manitoba in which it could have been enforced, and it could not now be enforced under The Colonial Courts of Admiralty Act, 1890 (53-54 Vict. (U.K.), c. 27), or The Admiralty Act, 1891 (54-55 Vict. (D.), c. 29), because to give those statutes a retroactive effect in such case as this would be an interference with the rights of the parties.

Wade and *Wheeler* for plaintiffs.

Mather for liquidators.

Darby for creditors.

BULMER v. THE QUEEN.

Crown domain—Disputed territory—License to cut timber—Implied warranty of title—Breach of contract—Damages.

By the 50th section of the Dominion Lands Act, 1883, it is provided that leases of timber berths shall be for a term of one year, and that the lessee shall not be held to have any claim whatsoever to a renewal of his lease unless such renewal is provided for in the order in council authorizing it, or embodied *in the conditions of sale or tender.* The orders in council in question in this case authorized the issue of leases, subject to the terms of the regulations of March 8th, 1883, by which it was provided that under certain conditions existing in this case the Minister of the Interior might renew such lease or license. From the orders in council and character of the several transactions, it appeared to be the intention of the parties that the license should be renewable.

Held, that such renewals were provided for within the meaning of the statute.

When the Crown agrees to issue a lease or license to cut timber on public lands, it agrees to grant a valid lease or license, and a contract for title to such lands is to be implied from such agreement. Not only the word "demise," but the word "let," or any equivalent words which constitute a lease, create, it appears, an implied covenant for quiet enjoyment. *Hart* v. *Windsor*, 12 M. & W. 85, and *Mostyn* v. *The West Mostyn Coal and Iron Company*, L.R. 1 C.P.D. 152, referred to.

But, *quære*, if the rule is applicable to a Crown lease?

Queen v. *Robertson*, 6 S.C.R. 52, referred to.

To the general rule as to the measure of damages for the breach of a contract, there is an exception as well established as the rule itself, namely, that upon a contract for the sale and purchase of real estate, if the vendor, without fraud, is incapable of making a good title, the purposing purchaser is not