It is said in *Dickinson* v. *Kitchen*, 8 El. & Bl. 789, that the true meaning and intention of the earlier part of this section is to protect a mortgagee in doing acts necessary to make the ship available as a security for his debt. To so make the ship available he may take possession of her and collect the freight, and yet by the earlier part of the section he is protected from liabilities such as the debts of the ship, which might otherwise be urged against him as the legal owner in possession, receiving a beneficial interest. Coleridge, J., in the same case, says that even a defective registration of a mortgage does not prevent the ordinary incident of a mortgage, that thereby the mortgagee is become the owner of the ship. Crompton, J., in the same case, says, speaking of the position of the mortgagee of a ship: "By the ordinary incident of the conveyance to him by way of mortgage, he would be the owner. The question, therefore, is whether the conveyance by way of mortgage under s. 66 of the statute (Merchants' Shipping Act) is an ordinary mortgage. If it is, the mortgagee is thereby, by reason of such mortgage, become the owner of the ship as against a subsequent execution at the suit of a creditor. I am of the opinion that the mortgage under the statute is an ordinary mortgage with ordinary incidents. It seems to me that none of these ordinary incidents are taken away by s. 70. That section was intended to protect the mortgagee taking possession of a mortgaged ship in order to make it available as a security from certain liabilities which frequently attach upon an owner of a ship in possession." The question in this case (*Dickinson* v. *Kitchen*) was as to the rights of the mortgagee of a ship against an ordinary execution creditor of the owner of the ship, and the case determined that the mortgagee's rights as owner and right to possession of the ship prevailed against an execution creditor of the registered owner, though such owner, and not the mortgagee, was in possession of the ship at the time of the seizure under the writ of execution.

I refer also to the case of *Dean* v. *McGhie*, 4 Bing. 45. An earlier case under the statute of 6 Geo. IV., cap. 110, where it was held that a mortgagee who had taken possession of the ship under his mortgage was liable to pay seamen's wages, and very similar words in the statute of 6 Geo. IV., cap. 110, s. 45, namely, that the mortgagee by virtue of his mortgage should not be deemed to be the owner of the ship, were held to not prevent such mortgagee from being considered the legal owner of the ship. The effect of these cases would appear to be that the execution and registration of the mortgage constitutes the mortgagee the legal owner of the ship from the date of his mortgage, and that transferees of such mortgage will occupy the same position from the date of their respective transfers. Section 70 of The Merchants' Shipping Act does not limit his common law rights or vary its incidents, but simply protects him from certain claims only which he might otherwise be liable for if treated as an owner in possession. His taking possession of the ship under his mortgage does not vary or alter his title as legal owner: it only puts him in the position to make a sale for the purpose of realizing upon his security. He can in no sense be treated or considered, in my opinion, as becoming by the act of taking possession, a "subsequent purchaser" within the meaning of subsection 5, section 14, of The Maritime Court Act.