

H., for the first time, became aware that the goods had never been purchased or placed in warehouse, that no warehouse receipt had been assigned to the bank and did not until some months later know that the alteration had been made in the note. There was some evidence that H. had asked for time to make a settlement of the amount due to the bank upon the note after he had become aware of the fraud and the alteration so made.

Held, by IDINGTON, MACLENNAN and DUFF, JJ., that the instrument was a forgery and could not be ratified by an *ex post facto* assent. *The Merchants Bank v. Lucas*, 18 Can. S.C.R. 704; Cam. Cas. 275, and *Brook v. Hook*, L.R. 6 Ex. 89, followed.

Per IDINGTON, J.:—The circumstances of the case did not shew that there had been any assent to the alteration within the meaning of s. 145 of the "Bills of Exchange Act."

Per MACLENNAN, J.:—The assent required to bring an altered bill within the exception provided by section 145 of the "Bills of Exchange Act," R.S.C. (1905), c. 119, must be given by the party sought to be bound at the time of or before the making of the alteration.

Held, also, the Chief Justice and DAVIES, J., *contra*, that, in the special circumstances of the case, there was no partnership relation between the parties to the note for the purposes of the transaction in question and there could be no implied authorization for the making of the alteration in the note.

Per FITZPATRICK, C.J.:—The transaction in question was a joint venture or particular partnership for the enterprise in contemplation of the parties and, consequently, R. had a mandate to make whatever agreement was necessary with the bank to obtain the funds and to provide for the payment of interest on the advances required to carry out the business.

Appeal allowed with costs.

Bisaillon, K.C., and *A. Geoffrion*, K.C., for appellant. *Laurondeau*, K.C., for respondent.

Ex. C.]

[June 16.

BOW McLACHLAN & Co. v. THE "CAMOSUN."

Admiralty law—Jurisdiction of the Exchequer Court of Canada
—Claim under mortgage on ship—Action in rem—Pleading
—Abatement of contract price—Defects in construction—
Damages.

In an action in rem by the builders of a ship to enforce a mortgage thereon given to them on account of the contract price