

and manned for sealing, not only failed to fulfil the onus cast upon her of proving that she was not used or employed in killing or attempting to kill any seals within the seas specified in the Order in Council, but the evidence was sufficient to prove that she was guilty of an infraction of the statute and Order in Council.

Judgment of the court below affirmed.

Appeal dismissed with costs.

Belyea for the appellant.

Hogg, Q.C., for the respondent.

British Columbia.]

[May 21.

MYLIUS *v.* JACKSON.

Pleadings—Sufficient traverse of allegation by plaintiff—Objection first taken on appeal.

The plaintiff, by his statement of claim, alleged a partnership between two defendants, one being married, whose name, on a rearrangement of the partnership, was substituted for that of her husband without her knowledge or authority.

Held, reversing the judgment of the court below, that denial by the married woman that "on the date alleged or at any other time she entered into partnership with the other defendant" was a sufficient traverse of plaintiff's allegation to put the party to proof of that fact.

Held, also, that an objection to the insufficiency of the traverse would not be entertained when taken for the first time on appeal, the issue having been tried on the assumption that the traverse was sufficient.

Appeal allowed with costs.

Belyea for the appellant.

Chrysler, Q.C., for the respondent.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

From BOYD, C.]

[Nov. 11.

IN RE THE ONTARIO EXPRESS AND TRANSPORTATION CO.

Company—Shares—Discount—Illegal increase of capital—Validating Act—Winding-up.

An Act of Parliament reciting that a company had been "duly organized," had ceased its operations, and had been "reorganized," and declaring that the charter is in force, and the company "as now organized" capable of doing business, does not give legislative sanction to an illegal increase of the capital stock so as to make holders of shares of the illegally-issued stock liable as contributories in winding-up proceedings.

Judgment of BOYD, C., 24 O.R. 216, reversed.

W. D. McPherson and *J. M. Clark* for the appellants.

Hoyle, Q.C., for the respondent.