

Vice Adm. Ct.]

RE TUG "ROYAL."

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The Merchant Shipping Act, 1854, by its two sections limits, except in certain cases, the Vice-Admiralty jurisdiction to master's and seamen's wages to cases over £50 sterling; and because it is said in the Vice-Admiralty Court Act, 1863, while enumerating the cases of jurisdiction, that the Vice-Admiralty Courts shall have jurisdiction in respect of claims for their wages, it repeals by inference or implications these 189th and 191st sections. As no mention of the first statute is made in the second, the latter would rather be confirmatory of it, the affirming of that which existed before. The former statute is not even referred to in the latter. "A later Act of Parliament has never been construed to repeal a prior Act, unless there be a contrariety or repugnancy in them, or at least some notice taken of the former Act, so as to indicate an intention in the law given to repeal it, and the law does not favour a repeal by implication unless the repugnance be quite plain, and a subsequent Act which can be reconciled with a former Act, shall not be a repeal of it: (Dw. on Stat., and cases cited p. 674). Of this supposed, implied, or inferential repeal, a recent writer has taken notice: (Machlachan on Shipping, p. 253. Adverting to the Admiralty Court Act, 1861, 2 S. V. A. R. App. 248; Boyd's Merchant Shipping Laws, pp. 161, 456), in which a like jurisdiction is conferred on the High Court of Admiralty over "any claim" for Masters' wages, provided that if in any such case the plaintiff do not recover £50, he shall not be entitled to costs, he has observed:—"It has been said that this section is repealed by the provision of the Admiralty Court Act, 1861, because the language of it is 'any claim': but whereas the one statute affirmatively gives jurisdiction, and the other negatively, within certain limits, debars the suitor from the Court, there seems to be no contradiction between them, such as would otherwise imply the repeal of the earlier statute." Additional jurisdiction in other matters was to be given by the new Act, and in a list of the whole claims for masters' wages were necessarily repeated, leaving them standing as before. Then there is the Imperial Statute; the Merchant Shipping Act, 1873, the second section of which has enacted, that it is to be construed as one with the Merchant Shipping Act, 1854, and the acts amending the same, which might be cited collectively as the Merchant Shipping Act, 1854 to 1873. The 33rd section repeals several

sections of the Merchant Shipping Act, 1854, but not the 189th or 191st sections, which is evidence that the Legislature did not intend to repeal these sections by the Vice-Admiralty Court Act, 1864, but advisedly left them in full force.

I have, therefore, not the slightest hesitation in deciding that the two sections of the Merchant Shipping Act, 1854, have not been repealed by implication or inference, and that I must give effect to them, except in so far as they have been modified by the Dominion Statute, the Seamen's Act, 1873, with respect to vessels registered in the Provinces referred to; and as the sums earned by the promoter and master's wages do not amount to \$200, I cannot assume jurisdiction so as to award them.

There remain to be disposed of the claims for disbursements. Their amounts have been already stated. The last for \$7 may be discarded, as the promoter does not appear at the time (March, 1872), to have been then employed as master; in fact, the navigation could not then have been open. As respects the remaining three accounts: the first is for firewood sold by one Edouard Alain, on the 29th June, at Batis-can, when the *Royal* was towing a raft, and required fuel; the promoter then gave an order on Burns for the price, \$40.50, payable to *Alain*, and the promoter endorsed it. Alain has testified "that in taking the signature of the promoter on the order, he intended to hold him responsible for the price, if he was not paid by Burns." The suit was brought on the 19th of July, 1882, and the draft was paid by Burns on the 22nd of the same month. The second account is for coal sold at Sorel, by one Ernest Rondeau, the day before the purchase of the firewood; the account was made out against the steamer *Royal* for \$50; at the foot the promoter wrote the word "correct," and signed his name to it. Rondeau at the same time asked the name of the owner, the promoter said Burns, the reply was, "I don't know him; I will give the coal to you, but you must be responsible;" and then the promoter said, "It is all right, if he does not pay you I will." Rondeau being in Quebec on the 15th September last, 1882, Burns paid him the amount. The third account is for work and materials furnished by one Decheneau, at Quebec, to whom the promoter said, "If Burns does not pay you I will." The account was made out on the 22nd July, 1882, and at the expiration of a fortnight Burns paid it.