

Shipping Act in regard to any of its particulars, and especially so in regard to the competency and skill of those to whom the safety of lives and property are intrusted; and that, where wilful fraud and misrepresentation are proved to have been practised, punishment should follow.

But where, as here, even the examiner, to whose judgment the question of proper service was committed by the Department, was unable to see any infraction of the law in what was done in this case, it could hardly be expected that the learned Judge should decide otherwise than he did.

The second question should, therefore, be answered in the affirmative.

The first question is readily answered. The first count charges the defendant with fraudulently making use of a certificate of service to which he was not justly entitled, and is laid under sub-head (d) of sec. 123. The certificate there referred to is plainly either the certificate of competency or of service referred to in sub-head (a).

The certificate of discharge under sec. 176, form K, is an entirely different document from the certificate of service referred to in sub-head (a) of sec. 123.

The certificate of competency there spoken of is plainly the document provided for by secs. 82-84, inclusive; and the connection renders it equally plain that the certificate of service spoken of is the document provided for by secs 85-91, inclusive.

It is against the fraudulent use of "such certificate" that sub-head (d) is directed. The production to the examiner of the certificate of discharge was, therefore, no offence against this provision of the Shipping Act; and there was no proof of the first count in the charge-sheet.

The first question should also be answered in the affirmative.

GARROW and MACLAREN, JJ.A., concurred.

MEREDITH, J.A., for reasons stated in writing, agreed in the result. He said that the defendant obtained a master's certificate to which he was not entitled, and obtained it upon untrue statements in writing given by him for the purpose of obtaining such a certificate. But, by reason of the finding of fact exculpating him from a guilty knowledge of the wrong which he perpetrated, he must go free of the criminal law, however he might fare elsewhere.

MAGEE, J.A., wrote an opinion in which he stated that he fully agreed that the questions should both be answered in the