

exonerated the latter from the charge of fraudulently or knowingly making any false representations; and, upon the whole evidence, he was justified in coming to that conclusion. There is no doubt that in one sense the statement in the certificate of discharge as to the capacity in which the defendant served on the "Iroquois" is not strictly correct. It represents the defendant as serving as first mate during the whole season of 1908, whereas during the greater portion of the time he was serving in the capacity of second mate. But, at the time the discharge was given and for some time before, he was the first mate of the "Iroquois." According to a literal construction of the Shipping Act, only one officer known as a mate is recognised on inland vessels. But, as the evidence shews and the learned Judge found, in actual practice there are officers serving under and next to mates who are called second mates, or probably in the passenger steamers second officers, as distinguished from mates or first officers. These persons not infrequently perform the duties or some of the duties of the mate or first officer. This appears to have been recognised by the examiner, who testified that, if the certificate had shewn the period of service on the "Iroquois" to be partly as first mate and partly as second mate, but covering the period stated, he would have accepted it. It is to be borne in mind, also, that, before shipping on the "Iroquois" for the season of 1908, the defendant had obtained and was the holder of a certificate of competence as mate, so that during that season he was actually qualified to perform, and to a considerable extent throughout the season did perform, the duties of a mate. The defendant, who seems to have given his testimony in a fair and straightforward manner, swore that the certificate of discharge was drawn up, signed, and handed to him by the master of the "Iroquois" without any request or suggestion as to its contents; that, when he read it, he saw it was incorrect, because he was not first mate all the time, but he did not know that there was only one person recognised under the law in Canada on the inland waters as mate—in other words, none but first mate—and that he considered that second mate's service under a certificate of competency as mate counted. In this view he appears to be supported by the examiner.

Upon all the facts, the learned Judge found that the defendant was not guilty of falsely intending to misrepresent the facts, and that there was no intent on his part to make use of the certificate of discharge as a false representation.

It is, of course, a matter of public importance and concern that there should be no evasion of the provisions of the