

This was an action brought to recover an amount claimed for wages by the plaintiff as engineer of the tug, *W. J. Atkins*. The total original claim was \$149.33, reduced by an admitted cash payment of \$12.50, leaving the net balance sued for \$136.83.

The evidence was taken by the local judge at Collingwood on the 20th October, 1893, and after hearing all parties he adjusted the account as follows: Total original claim should be:

Three months' wages as engineer at \$40 per month.....	\$120
Some extra labour pumping in the tug in spring.....	10
Total.....	\$130

He also found that various payments prior to action had been made, amounting, in all, to \$100; leaving a balance due plaintiff of \$30.

Moberly for the plaintiff.

G. W. Bruce for the ship.

MCDUGALL, Local Judge: The principal question raised upon the whole case was that of jurisdiction. It was contended that the present action could not be brought in the Exchequer Court, as the amount claimed and found to be due was below the sum of \$200, and ss. 34 and 35 of the Inland Waters Seaman's Act, R.S.C., c. 75, were relied upon.

These sections are as follows:

Sec. 34. "No suit or proceedings for the recovery of wages under the sum of \$200 shall be instituted by or on behalf of any seaman or apprentice belonging to any ship subject to the provisions of this Act in any Court of Vice-Admiralty or in the Maritime Court of Ontario, or in any Superior Court, unless the owner of the ship is insolvent within the meaning of any Act respecting insolvency for the time being in force in Canada, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any judge, magistrate, or justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor the master is or resides within twenty miles of the place where the seaman is discharged or put ashore."

Sec. 35. "If any suit of the recovery of a seaman's wages is instituted against any ship or the master or owner thereof in any Court of Vice-Admiralty, or in the Maritime Court of Ontario, or in any Superior Court of Canada, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a judge, magistrate, or two Justices of the Peace under this Act, then the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff."

No doubt that prior to the passage of the Admiralty Act of 1891 these sections of the Inland Waters Seaman's Act governed, and no action for the recovery of an amount less than \$200 for seamen's wages could have been properly brought in the Maritime Court of Ontario unless the case came within some one of the exceptions named in section 34. Has the passage of the Admiralty Act of 1891 altered the law? Section 3 of the Admiralty Act declares that "In pursuance of the powers given by the Colonial Courts of Admiralty Act,