

could have been maintained (see R.S.O. c. 129, s. 11); but the claim as made was one for unliquidated damages, and not the less so because the claimant sought to establish that the measure of his damages was the price paid.

REPORTS AND NOTES OF CASES

Dominion of Canada.

IN THE EXCHEQUER COURT OF CANADA.

(On Appeal from the Nova Scotia Admiralty District.)

Burbridge, J.]

[Jan. 16.

THE INCHMAREE STEAMSHIP CO., LTD., v. THE STEAMSHIP "ASTRID."

Maritime law—Collision—Extraordinary manoeuvre—Burden of proof respecting.

Where a collision has occurred, and where a manoeuvre at the time of the collision is attributed by the plaintiff to the defendant of so extraordinary a character that it can only be accounted for by supposing that some mistake had been made in giving an order, or in understanding the purport of a given order, the burden of proof as to such manoeuvre is upon the plaintiff.

R. C. Weldon, for appellants. A. Drysdale, Q.C., for respondent.

Burbridge, J.]

[Jan. 17.

THE QUEEN v. ARCHIBALD STEWART AND OTHERS.

Expropriation—Filing new plan—Information—Amendment—Crown's right to discontinue—Costs.

Where issue has been joined and the trial fixed in an expropriation proceeding, the Crown may obtain an order to discontinue upon payment of defendants' costs; but the court will not require the Crown to give an undertaking for a fiat to issue upon any petition of right which the defendant may subsequently present.

S. H. Blake, Q.C., and W. H. Lawlor for motion. B. B. Oster, Q.C., and M. O'Gara, Q.C., contra.