

NOVA SCOTIA ADMIRALTY DISTRICT.

1895
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 Aug. 14.  
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HER MAJESTY THE QUEEN ..... PLAINTIFF;

AND

ANNIE ALLEN.....DEFENDANT.

*Revenue law—R. S. C. c. 34, s. 334—Infringement—Penalty—Jurisdiction of Exchequer Court—The Colonial Courts of Admiralty Act, 1890, (Imp.)*

The jurisdiction conferred upon the Vice-Admiralty Courts in Canada by sec. 113 of *The Inland Revenue Act* (R. S. C. c. 34) in respect of actions for penalties prescribed by such Act, is not disturbed by *The Colonial Courts of Admiralty Act, 1890, (Imp.)* The latter Act (s. 2, s.s. 3) vests the jurisdiction of the Vice-Admiralty Courts in any colonial court of Admiralty, and by *The Admiralty Act, 1891*, the Parliament of Canada made the Exchequer Court the Court of Admiralty for the Dominion, and by sec. 9 thereof confers upon the Local Judges in Admiralty all the powers of the Judge of the Exchequer Court with respect to the Admiralty jurisdiction thereof.

THIS was an action for penalties under *The Inland Revenue Act*, R. S. C. c. 34. The proceedings were taken in the Registry of the Nova Scotia Admiralty District.

The defendant, not being a manufacturer of tobacco, was charged with the offence of having packages of cigarettes in her possession without the proper revenue stamps thereon. At the trial on the 14th August, 1895, the offence charged was clearly established, but exception was taken to the Local Judge in Admiralty to hear the case.

*F. J. Tremaine*, Q.C., for the defendant:

While it is possible that the Exchequer Court may take cognizance of the matter in the exercise of its Exchequer jurisdiction, a Local Judge in Admiralty has no jurisdiction. The Vice-Admiralty courts had not.

*J. A. Chisholm*: By sec. 113 of *The Inland Revenue Act* the penalty sued for herein may be recovered in a

Vice-Admiralty Court. This court is mentioned by name therein. *The Colonial Courts of Admiralty Act*, 1890, s.s. 3 of s. 2, does not take away this jurisdiction, but on the contrary confirms it. The last mentioned Act merely empowers colonial legislatures to establish Courts of Admiralty for themselves, and *The Admiralty Act*, 1891, (Canada), makes the Exchequer Court a Court of Admiralty for the Dominion. Furthermore, by section 9 of the last enactment all the powers of the Judge of the Exchequer Court, in respect to the Admiralty jurisdiction of the court, are conferred upon the Local Judges in Admiralty within their respective districts.

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 Judgment.

MCDONALD, (C. J.) L. J.—This is a proceeding to recover penalties for violation of s. 334 of R. S. C. c. 34. The offence charged was established, but on the hearing a doubt was suggested as to the jurisdiction of the court. The question was whether the jurisdiction given to the Vice-Admiralty Courts in Canada by s. 113 of R. S. C., c. 34, is confirmed in the District Admiralty Courts by the legislation relating to Admiralty Courts in 1890. It was contended by the learned counsel for the Crown that by s.s. 3 of s. 2 of the Imperial Act 53 and 54 V. c. 27, the jurisdiction conferred upon the Vice-Admiralty Court by s. 113 of *The Inland Revenue Act* is continued in the present District Admiralty Court, or, in the words of the section, that the words "Colonial Court of Admiralty" must be read into s. 113 instead of "Court of Vice-Admiralty." This appears to be the reasonable construction to be given to the Acts, and I therefore decide in favour of the jurisdiction.

*Judgment accordingly.*

Solicitor for the plaintiff: *J. A. Chisholm.*

Solicitor for defendant: *F. J. Tremaine.*