

1897
 June 14.

THE QUEEN ON THE INFORMATION OF
 THE ATTORNEY-GENERAL FOR THE
 DOMINION OF CANADA..... } PLAINTIFF;

AND

JOHN A. FINLAYSON, ALEX-
 ANDER GRANT AND JOHN
 ESDON..... } DEFENDANTS.

Customs export bonds—Penalties—Enforcement—Law of the Province of Quebec.

The provisions of section 8 of 8 and 9 Wm. III, c. 11, affecting actions upon bonds, do not apply to proceedings by the Crown for the enforcement of a penalty for breach of a Customs export bond.

Two Customs export bonds were entered into by warehousemen at the port of Montreal, P.Q. Upon breach of the conditions of the bonds the Crown took action to recover the amount of the penalties fixed by such bonds :

Held, that the case must be determined by the law of the Province of Quebec, and that under that law (Arts. 1036 and 1135) judgment should be entered for the full amount of each bond.

INFORMATION to recover the amount of the penalties of two Customs export bonds.

The facts of the case are stated in the reasons for judgment.

May 20th, 1897.

J. M. Ferguson (with whom was *F. H. Gisborne*) for the plaintiff, contended that the defendants were liable for the full amount of the bonds under Art. 1135 C. C. L. C.

W. D. Hogg, Q.C. for the defendants, contended that by the provisions of 8 & 9 Wm. III. c. 11, the defendants were only liable for the amount of the duty mentioned in the bonds.

THE JUDGE OF THE EXCHEQUER COURT now (June 14th, 1897), delivered judgment.

The information is exhibited in this case to recover the sum of \$6,480.00, being the amount of two bonds given by the defendants to Her Majesty, conditioned for the exportation of a certain quantity of spirits, and to enter the same for consumption or for warehouse at the port of St. Pierre, Miquelon, and to make proof of such exportation and entry in accordance with the requirements of the warehousing regulations in that behalf within thirty days from the date of the bonds, to the satisfaction of the Collector of Inland Revenue for the division of Montreal, or to account for such goods to the satisfaction of such collector. The sum for which the bond was in each case taken amounted to double the Customs duties upon the goods proposed to be exported. There is no question that the conditions of the bonds have been broken; but the defendants seek to obtain the benefit of the provisions of 8 and 9 Wm. III, chap. 11, sec. 8. That, I think, is not possible, for two reasons: First, that the statute invoked does not apply to the Crown (1); and, secondly, the bonds were made at Montreal in the Province of Quebec, and the question is to be disposed of in conformity to the laws of that province, under which the judgment should be entered for the full amount of each bond. (C. C. L. C. Arts. 1076 and 1135.)

There will be judgment for the Crown for the sum of six thousand four hundred and eighty dollars (\$6,480.00) and costs.

Judgment accordingly.

Solicitor for plaintiff: *J. M. Ferguson.*

Solicitor for defendants: *W. D. Hogg.*

1897
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 THE  
 QUEEN  
 v.  
 FINLAYSON.  
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 Reasons  
 for  
 Judgment.  
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(1) *Rex v. Peto*, 1 Y. & J. 171.