

terms of settlement of the action with the defendant; but the judgment asked for in confirmation of the settlement should be for a sum which will vindicate the law and will conserve the public interest. *Regina v. Fitzgibbon, Regina v. Thoutret*, 20 C. L. T. 276, 6 Ex. C. R. 283.

Customs duties — *Foreign-built ship* — *Statutes*.—A foreign-built ship bought in the United States and brought to Canada is liable to the duty imposed by the Canadian Customs Tariff Act, 1867, s. 4, sched. A., item 409. Judgment in 22 C. L. T. 249, 32 S. C. R. 277, affirmed. *Algonia Central R. Co. v. The King*, [1893] A. C. 478.

Customs duties — *Importation of steel rails* — *Return of duties paid under protest* — *Interest* — *Quebec law*.—The suppliants had imported, at different times during the years 1892 and 1893, large quantities of steel rails into the port of Montreal, to be used by them as contractors for the construction of the Montreal Street Railway. The customs authorities contended that the rails were subject to duty, and refused to allow them to be taken out of bond until duties, amounting in the aggregate to the sum of \$53,213.54, were paid. The suppliants paid the same under protest. After the decision by the Judicial Committee of the Privy Council in *Toronto R. Co. v. The Queen*, [1896] A. C. 551, and some time in the year 1897, the customs authorities returned the amount of the duties to the suppliants. The suppliants claimed interest on the money during the time it was in the hands of the Crown, and they filed their petition of right therefor. — *Held*, that, as the duties were paid at the port of Montreal, the case had to be determined by the law of the Province of Quebec. 2. That on the question at issue the law of the Province of Quebec was the same as the laws of the other provinces of the Dominion. 3. That, as the moneys wrongfully collected for duties were repaid to the suppliants before the action was brought, there was no debt on which to allow interest from the commencement of the suit. If at the time of the commencement of the action the Crown was not liable for the interest claimed it could not be made liable by the institution or commencement of action. *Laine v. The Queen*, 5 Ex. C. R. 128, and *Henderson v. The Queen*, 6 Ex. C. R. 47, distinguished. *Ross v. The King*, 22 C. L. T. 86, 7 Ex. C. R. 287.

Customs duties — *Lex fori* — *Lex loci* — *Interest on duties improperly levied* — *Mistake of law* — *Repetition* — *Presumption as to good faith*.—The Crown is not liable, under the provisions of Arts. 1047 and 1049 C. C. to pay interest on the amount of duties illegally exacted under a mistaken construction placed by the customs officers upon the Customs Tariff Act. *Wilson v. Montreal*, 24 L. C. Jur. 222, approved. *Per Strong, C.J. (dubitante)*. The error of law mentioned in Arts. 1047 and 1049, C. C. is the error of the party paying and not that of the party receiving. Money paid under compulsion is not money paid under error within the terms of those articles. *Toronto Railway Co. v. The Queen*, 4 Ex. C. R. 262, 25 S. C. R. 24, [1896] A. C. 551, discussed. *Algonia Railway Co. v. The King*, 7 Ex. C.

R. 239, referred to. Judgment appealed from, 7 Ex. C. R. 287, 22 C. L. T. 86, affirmed. *Ross v. The King*, 23 C. L. T. 33, 32 S. C. R. 532.

Customs officer — *Illegal seizure* — *Notice of action*.—A seizure for confiscation is irregular and illegal when it is made in a house or other building by a customs officer who has not previously made a declaration on oath before a justice of the peace and who is not legally fortified with a writ of assistance pursuant to the Customs Act.—In such a case he exceeds the limits of his duty and acts outside his office, and therefore has not the right to the one month's notice of action prescribed by Art. 145 of the Customs Act. *Chagnon v. Queued*, 2 Qu. P. R. 509.

Deduction of debts — *Compromise of claim*.—*Held*, that, for the purpose of arriving at the aggregate value of the property of a deceased person under s. 3, s.s. 3, of the Succession Duty Act, R. S. O. c. 21, debts are to be deducted. The duty to be paid by the person who takes is on the value of the estate which he takes at the time of taking; and the estate on which the duty is to be paid is the surplus estate after payment of debts.—*Held*, also, that a certain sum *bona fide* paid by executors for the purpose of settling a claim against them as such, must be considered a debt for the purpose of administration and of ascertaining the amount of succession duty. *Ross v. The Queen*, 20 C. L. T. 332, 32 O. R. 143.

An appeal by the Crown from above judgment was dismissed with costs, the Court agreeing with the reasoning of the judgment appealed from. *Ross v. The King*, 21 C. L. T. 227, 1 O. L. R. 487.

Deposits in banks — *Foreigner*.—Payment of duty under the Succession Duty Act is based upon administration, and duty is payable upon any property which can properly be administered only in Ontario. Payment of non-negotiable deposit receipts, payable after notice at branches in Ontario of Canadian banks, held by a foreigner at the time of his death in the foreign country, cannot be enforced except by his personal representative in Ontario, and succession duty is payable there in respect of the amount covered by them. Judgment in 31 O. R. 249, 20 C. L. T. 70, affirmed. *Attorney-General for Ontario v. Newman*, 21 C. L. T. 225, 1 O. L. R. 511.

Double duty — *Power of appointment* — *Statutes*.—The testator died in England on the 25th February, 1901, possessed of and entitled to lands in Ontario. He left a will and four codicils, by which his sister was named as sole executrix and trustee, and was bequeathed the income of his whole estate for life and given a general power of appointment by will in respect of the whole estate. The sister died on the 2nd March, 1901, without having proved the will and codicils and without having taken upon herself any of the burdens thereof. By her will, made in 1873, she gave all her estate to the defendant, who obtained from the High Court of Justice in England letters of administration to the estate of the testator and his sister with the wills annexed. He then