

BURBIDGE, J.]

DOMINION BAG CO. v. THE QUEEN.

[Dec. 6, 1894.]

*Revenue laws—R.S.C., c. 33, items 261 and 673—57-58 Vict., c. 38, item 621—Construction—Interpretation of jute cloth.*

In construing a clause of a Tariff Act which governs the imposition of duty upon an article which has acquired a special and technical signification in a certain trade reference must be had to the language, understanding, and usage of such trade.

By item 673 of R.S.C., c. 33, "Jute cloth as taken from the loom neither pressed, mangled, calendered, nor in any way finished, and not less than forty inches wide, when imported by manufacturers of jute bags for use in their own factories," was made free of duty.

By item 261 of such Act it was provided that manufacturers of jute cloth not elsewhere specified should be subject to a duty of 20 per cent. *ad valorem*. The claimants, who were manufacturers of jute bags, had for a number of years imported into Canada jute cloth, cropped after it was taken from the loom. It was, amongst others, a reasonable construction of item 673 that the jute cloth so cropped should be entered free of duty, and in this construction the importers and the officers of customs had concurred during such period of importation.

*Held*, that notwithstanding the provisions of the interpretation clause (R.S.C., c. 32, s. 2*m*), inasmuch as the cloth in question had been, in good faith, entered as free of duty and manufactured into jute bags and sold, and it would happen that if another construction than that so adopted by the importers and customs officers was now put upon the statute the whole burden of the duty would fall upon the importers, the doubt as to such construction should be resolved in their favour.

*Quere*, whether the words used in section 183 of The Customs Act (as amended by 51 Vict., c. 14, s. 34), "the court . . . shall decide according to the right of the matter," were intended by the legislature in any way or case to free the court from following the strict letter of the law, and to give it a discretion to depart therefrom if the enforcement, in a particular case, of the letter of the law would, in the opinion of the court, work injustice?

*D. MacMaster*, Q.C., and *T. S. MacLellan* for the claimants.

*W. D. Hogg*, Q.C., for the Crown.

HON. C. P. DAVIDSON, JUDGE *pro hac vice*.]

[Dec. 20, 1894.]

THE QUEEN v. THE MISSISSIPPI AND DOMINION STEAMSHIP COMPANY.

*Navigation—Obstruction of—37 Vict., c. 29—43 Vict., c. 30—Pleading—Allegation of negligence—Demurrer.*

(1) Where a ship had become a wreck, and, owing to her position, constituted an obstruction to navigation, the court held that it was not necessary, in an information against the owners for the recovery of moneys paid out by the Crown under the provisions of 37 Vict., c. 29, and 43 Vict., c. 30, for removing the obstruction, to allege negligence or wrongdoing against the owners in relation to the existence of such obstruction.