

per registered ton on all ships or vessels not iron kneed." By an Order-in-Council of November 15th, 1883, an addition was made to the rates stated "of ten cents per net registered ton on such vessels when built and registered subsequent to July 1st, 1883." The first of these Orders-in-Council was passed prior to the amendment of 1881 referred to, and the latter thereafter. The regulation embodied therein was again approved of by His Excellency in Council on July 25th, 1888, and appears in c. 11 Consol. Orders-in-Council of Canada, s. 10 of which is in the following terms:—"A draw-back may be granted and paid by the Minister of Customs on materials used in the construction of ships or vessels built and registered in Canada, and built and exported from Canada under Governor's pass, for sale and registry in any other country, at the rate of 85 cents per registered ton on iron kneed ships or vessels classed for 9 years; at the rate of 75 cents per registered ton on iron kneed ships or vessels classed for seven years, and at the rate of 65 cents per registered ton on all ships or vessels not iron kneed. O.C. May 15th, 1880; Nov. 15th, 1883."

Held, that a petition of right will not lie against the Crown for a refusal by the Comptroller of Customs to grant a draw-back in a particular case.

Semble, that the provisions in such regulations that the draw-back "may be granted" should not be construed as an imperative direction; it not being a case in which the authority given by the use of the word "may" is coupled with a legal duty to exercise such authority.

Angers, Q.C., for suppliant.

Solicitor-General and *Newcombe*, Q.C. (D.M.J.) for respondent.

Province of Ontario.

COURT OF APPEAL.

MACLENNAN, J.A.]

[Oct. 15.]

BOYD v. DOMINION COLD STORAGE CO.

Security for costs—Court of Appeal—Special order—Judicature Act, 1895, s. 77—Foreign domicil—Company—Winding up—Property in jurisdiction.

Where the appellants were both domiciled out of Ontario, and one of them, an incorporated company, was in process of winding up under R.S.C. c. 129:

Held, having regard to ss. 17, 39, and 66 of that Act, that the property of the company in Ontario was beyond reach of the process of the Court; and the circumstances were such that a special order for security for costs of the appeal should be made under Rule 1487 (803) of the 1st January, 1896, taken from s. 77 of the Judicature Act, 1895.

Grant v. Banque Franco Egyptienne, 2 C.P.D. 430, and *Whittaker v. Kershaw*, 44 Ch. D. 296, followed.

A. J. Boyd, for the plaintiff.

George Bell, for the defendants.