

days prescribed by statute, gives him notice in writing that his decision will not be accepted, the Court has no jurisdiction over the matter unless it be referred to the Court by the Minister or Controller. With that contention I cannot agree. The 15th section of the Exchequer Court Act provides that the Court shall have exclusive original jurisdiction in all cases in which demand is made or relief sought in respect of any matter which might in England be the subject of a suit or action against the Crown; and, for greater certainty, but not so as to restrict the generality of the foregoing terms, it shall have exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown. And by the 23rd section it is provided that any claim against the Crown may be prosecuted by petition of right, or may be referred to the Court by the head of the department in connection with the administration of which the claim arises, and if any such claim is so referred no fiat shall be given on any petition of right in respect thereof. If in the present case the Controller had made a reference then there could not have been a petition of right, but in the absence of such a reference there cannot be any doubt that a petition will lie. In this case a fiat has been granted, the petition has been filed, and upon the evidence taken it has appeared that no offence had been committed whereby the property in the vessel in question had passed from the suppliant to the Crown. It is therefore a case in which the property of the subject is in the possession of the Crown, and I entertain no doubt of the jurisdiction of the Court in such a case.

With reference to the other question which arises upon the motion made by the suppliant for damages, I am of the opinion that the suppliant cannot succeed. It is well settled law that no petition will lie against the Crown for damages for the wrongful act of an officer of the Crown, except in cases where the liability exists by virtue of some statute. There is, so far as I know, no statute which makes the Crown liable for the wrongful act of a Customs officer in seizing a vessel for a supposed infraction of the Customs laws. In such cases, except so far as the officer is protected by law, he is himself personally liable for his act, and in an action against him the suppliant may no doubt recover his damages; but I know of no authority for his recovering damages against the Crown in such a case as this. As I have before pointed out, if property wrongfully seized is in the possession of the Crown, the owner may have his petition to recover the same, and so far in this case the suppliant's action has been maintained; but there is no authority for allowing him as against the Crown damages for the wrongful act of its officer.

I think both motions should be dismissed, and under the circumstances, without costs to either party.