

"I, Colin William George Gibson, K.C., of the City of Ottawa, Minister of National Revenue for the Dominion of Canada, under authority granted by section 134A of the Customs Act, hereby designate Sub-Inspector Donald Anthony McKinnon, a member of the Royal Canadian Mounted Police, to conduct any enquiry or investigation in matters relating to the Customs, and fully authorize the said official to conduct any such enquiry or investigation as provided by Section 134A of the Customs Act.

"Dated at Ottawa, Ontario, this 30th day of September, A.D., 1941.

(Sgd) Colin Gibson,
Minister of National Revenue."

The inspector then gave the testimony of the facts which I have already summarized. Service of the inspector's summons on the defendant was proved as was his non-attendance at the appointed place and time.

The first objection raised by Mr. Bissett is as to the status of the inspector. There is no ground for challenging his appointment by the Minister. That Mr. Gibson was Minister when authority was given to the inspector is a matter of which judicial notice can be taken as his appointment as Minister appears in the *Canada Gazette*. The inspector received it in the usual way. I am satisfied that the appointment was made by the then Minister. The cases calling for investigation are frequent and, to my mind, it would be extremely unreasonable to expect the Minister to issue a special authority to the preventive officer for every case which the latter might deem it is his duty to investigate. The appointment was issued in 1941. I do not understand that it loses its efficacy by reason of the mere efflux of time; and I regard it as effectual until revoked by the authority that issued it, or by the appointee ceasing from some other cause to be a preventive officer.

Nor can it be successfully contended that the inspector does not come within the class of persons designated in s. 134A of the Customs Act. The contention is that the Minister cannot designate a "member of the Royal Canadian Mounted Police" under s. 134A, but only an officer or non-commissioned officer employed in the preventive service of Canada. The Royal

Canadian Mounted Police Act, c. 160, R.S.C. (1927) s. 2 (c) enacts that,

"'Member of the Force' includes the Commissioner or any other officer, non-commissioned officer and man of the Force".

And s. 17 of the same Act states that the duty of members of the Force has relation to offences against the laws of Canada. I therefore find that the inspector had ample authority to conduct an investigation upon which he embarked.

The next objection is as to the scope of the authority given by the Minister. It is contended that the Minister had no right to issue a "blanket authority"; that authority can be given only as directed to a specific case. On that point only has this case anything in common with the *Hicks* case; and with deference I disagree with the opinions expressed by the learned justices who decided that case. To enforce effectively the requirements of the Customs Act, very wide powers must be given to preventive officers; otherwise the revenues of the country would be seriously hampered.

And now as to the defendant's failure to appear before the inspector. The Customs Act, s. 134A, s.s.4 (a), provides that:

"Every person who being required to attend in the manner in this section provided, fails, without valid excuse, to attend accordingly . . . shall, on summary conviction before any police or stipendiary magistrate, or judge of a superior or country court . . . be liable to a penalty, etc."

The reason why the defendant did not attend was because he was not assured in advance that the inspector would not ask incriminating questions. He raised his objection prematurely. He must raise the objection after he appears on the witness stand and is sworn. He must be asked a question, and if he believes the answer may incriminate him, he must pledge his oath that he so believes. The law on the subject is well summarized in *Phipson's Manual of Evidence* (5th ed.) 95-96 as follows:

"Oath Necessary, but not conclusive—The oath of the witness that he believes the answer will, or may, tend to incriminate him is necessary, but not conclusive; for the court must be satisfied from the circumstances of the case, and the nature of the evidence the witness is called to