

*THE CROWN NOT RESPONSIBLE FOR GOODS
STOLEN FROM EXAMINING WAREHOUSE.*

The case of *Corse et al. v. The Queen*, decided by Mr. Justice Burbidge in the Exchequer Court of Canada, in the end of March, involves an important principle. The Court holds that where goods are stolen while in the custody of customs officers, the injured person has no action against the Crown, and no remedy except such as he may have against the officer through whose personal negligence or fault the loss happens. The authorities are carefully resumed in the opinion the text of which we give below.

BURBIDGE, J. :—

The plaintiffs seek to recover from the Crown the sum of \$465.74 and interest, for the value, including the duty paid, of a quantity of glazier's diamonds alleged to have been stolen from the box at the examining warehouse at the port of Montreal, in which they had been shipped at London. On Friday, the 21st of February, 1890, the box mentioned was, it appears, in bond at a warehouse for packages at Point St. Charles, Montreal, used by the Grand Trunk Railway Company. On that day the plaintiffs made an entry of the goods at the Custom House and paid the duty thereon (\$107.10). On Monday, the 24th, Owen Smith, the Customs' officer in charge of the warehouse at Point St. Charles, delivered the box to Daniel O'Neil, the foreman of the Custom house carters, who, in his turn, delivered it to John Mooney, one of the carters, who took it, with other parcels, and delivered it to Owen Ahearn, a checker at the Customs examining warehouse. The box was then put on a lift and sent up to the third floor of the building, where it remained one or two days. It was then brought down to the second floor and examined, when it was found that the diamonds had been stolen.

The bottom of the box, by removing which the theft had been effected, had not been skilfully replaced, and one of the nails used to fasten it on had come out at the side of the box. This nail was not, it appears, noticed by any of the persons who saw or handled the box until after it had been opened and the loss discovered.

O'Neil, Mooney and Ahearn think that they would have noticed the nail if it had been exposed when the box passed through