

particulars were forwarded to the Department of Public Works at Ottawa, and no objection was taken thereto at the time by any one in that department. The commissioner, whose duty it was to administer the government of the territory under instructions from the Governor-in-Council or the Minister of the Interior, stated that he had directions from the latter that in addition to payment for the services of the officers employed in the administration of public affairs "all the public employees were to be sheltered and fed," and that it was in pursuance of these instructions that he made the arrangements and provisions mentioned on behalf of the defendants. Furthermore, a letter was produced in evidence written by the Deputy Minister of Justice to the Deputy Minister of Public Works by which it appeared that at that time the Minister of Justice considered it desirable and necessary that residences should be provided for the judges of the territory.

*Held*, 1. The defendant was an "appointee of the Dominion" on the staff for the administration of the Yukon Territory within the meaning of the order-in-council of 5th September, 1899, and so entitled to the quarters and a "living allowance" provided thereunder.

2. The circumstances disclosed approval and ratification by the Minister of the Interior and the Minister of Public Works of the action of the commissioner in making the expenditures in question for the benefit of the defendant.

*D. J. McDougal*, and *A. Greene*, for Crown. *Belcourt*, K.C., for defendant.

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Burbidge, J.]

SPENCER v. THE KING.

[Jan 9.

*Customs—Infringement by importation of cattle without payment of duty.—Intention to infringe—Exercise of ownership in Canada.*

Where cattle are liable to the payment of duty upon importation into Canada, the bringing of such cattle to a point within two or three miles south of the boundary line between Canada and the United States constitutes an element in the offence of smuggling.

2. That where cattle are brought to Canada for pasturage, or to a point from which they themselves may drift into Canada for pasturage, if the owner in Canada exercises any control