

liable for damage: "Loss or damage arising from sweating, decay, stowage, or from any of the following perils, whether arising from the negligence, default or error in judgment of the pilot, master, mariners, engineers or other persons in the service of the ship, or for whose acts the ship owner is liable (or otherwise howsoever)." (Naming them.)

Held, per STRONG, TASCHEREAU and GWYNNE, JJ., that the words "whether arising from the negligence, default or error in judgment of the pilot," etc., applies as well to the exceptions which precede as to those which follow them, and would relieve the defendants from liability for damage by stowage arising. RITCHIE, C.J. and FOURNIER, J., contra.

The damage to the meat shipped was occasioned by its being taken on board during a heavy rain, stowed in uncovered hatchways, and the men stowing it trampled upon it with muddy boots and spit tobacco juice upon it.

Held, affirming the judgment of the Supreme Court of Prince Edward Island, RITCHIE, C.J. and FOURNIER, J., dissenting, that the loss arose from stowage arising from the negligence of persons for whose acts the ship owners were liable, and the defendants were relieved by the exceptions in the bill of lading.

Appeal dismissed with costs.

L. H. Davies, Q.C., and Morson, for appellant.

Fred. Peters, for respondents.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

[March 19.]

CLARKSON v. THE ATTORNEY-GENERAL OF CANADA.

Crown—Customs duties—Assignment for the benefit of creditors—Preference of Crown over subject—Writ of extent—R.S.O., c. 94.

On the 3rd February, 1887, B., a coal merchant, made an assignment to the plaintiff for the benefit of his creditors. At this time of

this assignment there was due by B. a large sum for duty on coal that had been previously imported by B. and sold. The Crown claimed payment from the plaintiff as assignee of B. of the amount due for duties in priority to the payment of the claims of the general creditors of the estate.

Held, affirming the judgment of ARMOUR, C.J., reported 15 O.R. 532, that the Crown was not entitled to payment in priority to the general creditors of the estate, but that having come in under the assignment the Crown was bound by the terms of the assignment, and could take only rateably and proportionately with the other creditors.

By an agreement entered into before action, the Crown was placed in the same position as if a writ of extent had been issued by the Crown against B. on the 19th day of February, 1887, for the recovery of the duty payable by B.

Held, in this also, affirming the judgment of ARMOUR, C.J., that a writ of extent so issued would have availed the Crown nothing as far as any property covered by the assignment was concerned.

Robinson, Q.C., for the appellant.

Lash, Q.C., for the respondent.

Re McDONAGH & JEPHSON.

An error crept into the note of *Re McDonagh & Jephson* in our last number. The proceeds of sale were directed to be divided among creditors (2), (3) and (4), and not among (2) and (3) only, as reported *ante*. p. 185.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

Divl Ct.]

ATKINSON v. GRAND TRUNK RAILWAY CO'Y.
Railways—Negligence—Accident—Proximate cause—Impact.

The plaintiffs, husband and wife, sued for damages for injuries sustained by the wife, charging the defendants with negligence in using their railway in shunting cars, etc., and in not notifying and protecting the public at crossings.

[Feb. 4.]