

customary at the port of discharge, which custom probably has hitherto been complied with.

VIII. OFFENCES.—SEC. 12.

This section reads as follows:—

12. Every one who, being the owner, charterer, master or agent of a ship,—

(a) inserts in any bill of lading or similar document of title to goods any clause, covenant or agreement declared by this Act to be illegal; or makes, signs, or executes any bill of lading or similar document of title to goods containing any clause, covenant or agreement declared by this Act to be illegal;

without incorporating verbatim, in conspicuous type, in the same bill of lading or similar document of title to goods, section 4 of this Act; or,

(b) refuses to issue to a shipper of goods a bill of lading as provided by this Act; or,

(c) refuses or neglects to give the notice of arrival of the ship required by this Act;

is liable to a fine not exceeding one thousand dollars, with cost of prosecution; and the ship may be libelled therefor in any Admiralty District in Canada within which the ship is found.

2. Such proportion of any penalty imposed under this section as the court deems proper, together with full costs, shall be paid to the person injured, and the balance shall belong to His Majesty for the public uses of Canada.

Paragraphs (a) and (c) are not found in the Harter Act, which also imposes a penalty of \$2000. The penalty clause otherwise is practically the same.

A question might arise as to how far a prosecution would lie in Canada, under paragraph (c), for an offence which must, in its nature, occur without Canada, in respect to all carriage, other than the Canadian coasting trade.

There has apparently been only one prosecution for penalties under the Harter Act, and that was unsuccessful.⁵⁴

54. *U.S. v. Cobb* (1906) 163 Fed. 791.