

connection with any of the matters specifically referred to Parliament, such as navigation and shipping.¹²

From the above, therefore, it may be contended that the Parliament of Canada has jurisdiction in respect to a contract for the carriage of goods by sea from a Canadian port to a port without Canada, in so far as (respecting British ships) its enactments are not repugnant to the provisions of The Merchants Shipping Act, or any other Act of the Imperial Parliament.

From careful reading of sections 502 to 509 inclusive of The Merchants Shipping Act, it will not appear that there is anything in the new Act repugnant to these sections. The effect of section 502 will have further consideration in conjunction with section 7 of the new Act.

5. *Recognition of the Act by courts without Canada.*—Upon the principle that a contract is governed by the law of the place where it is made, provided the intention of the parties thereto to the contrary does not appear, and particularly if the provisions of such law are incorporated in the contract, the English courts would, in suits taken in England, apply the provisions of the Act to bills of lading issued under the Act.¹³

Upon these principles the exceptions and limitations of the Harter Act have been applied by the English courts.¹⁴ There is no reason to doubt that this jurisprudence would be followed in respect to the Canadian Act.

Section 4 will be considered with sections 6 and 7.

6. *Section 5 considered.*—This section enacts that:—

5. Every bill of lading, or similar document of title to goods, relating to the carriage of goods from any place in Canada to any place outside of Canada shall contain a clause to the effect that the shipment is subject to all the terms and provisions of, and all the exemptions from liability contained

12. *Parson's Case* (1881) 7 App. Cas. 796, 51 L.J.C. 11; *Tennant v. Union Bank of Canada*, L.R. (1894) A.C. 31.

13. *Carver, Carriage by Sea*, s. 201 et seq.

14. *McFadden v. Blue Star Line*, 74 L.J.K.B. 423; (1905) 1 K.B. 697; *The Glenochil* (1895) 65 L.J., p. 1 (1896) Prob. 10; *The Rodney* (1900) P. 112, 69 L.J., p. 29.