

interest to do so, he can neither recover the amount paid against the owner who takes the benefit of it, nor claim any lien upon the policy for the money paid."

The cases cited here are a good deal more in point than any cited by counsel. I must dismiss the plaintiff's action. Costs will follow the event.

DOMINION OF CANADA.

EXCHEQUER COURT.

APRIL 14TH, 1911.

MOSES L. MORRIS v. HIS MAJESTY THE KING.

Customs Act—Payment of Duty—Confusion of one Bale of Goods with another—Alleged Loss of Bale—Delivery to Carter for Consignee—Affidavit—Admissibility.

CASSELS, J.:—This was a matter referred to the Exchequer Court by the Minister of Customs under the provisions of section 182 of ch. 14, 51 Victoria. The Minister had found Morris guilty of a contravention of the customs laws, and held that the sum of \$123.42 deposited as security be forfeited to the Crown as a mitigated penalty, and dealt with accordingly.

It appears that an information had been filed on behalf of His Majesty, the fact that the reference had been made under the statute referred to being overlooked. On the opening of the case, counsel for the Crown moved to consolidate the two cases, and asked that the pleadings in the case of His Majesty against Morris be made the pleadings in the case referred by the Minister. No objection was made to this application, provided that no more costs should be allowed than if only the one case were being proceeded with. The motion was granted, and the matter was proceeded with before me in Montreal upon the papers and evidence before the Minister, and also on further additional evidence produced before me. At the trial I formed a strong opinion in favour of upholding the decision of the Minister. Since the trial I have gone carefully over the evidence and the various exhibits and still remains of the same opinion.