Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of The Algoma Central Railway Company v. *The King from the Supreme Court of Canada, delivered the* 16*th July* 1903.

Present:

THE LORD CHANCELLOR.
LORD MACNAGHTEN.
LORD SHAND.
LORD DAVEY.
LORD ROBERTSON.
LORD LINDLEY.
SIR ARTHUR WILSON.

[*Delivered by Lord Macnaghten.*]

In this case their Lordships think it is sufficient to express their concurrence in the Judgments of the learned Judges of the Supreme Court of Canada to which, in their opinion, it is not possible usefully to add anything.

A foreign-built ship was bought by the Appellant Company in the United States, and brought to Canada. An application was made for registration. When that application was made, duty was claimed on the ship as coming under the head of "goods" imported into Canada. It is difficult to see on what ground that claim could be resisted. By Section 4 of "The Customs Tariff, 1897," duties are imposed on the goods enumerated in Schedule A. Schedule A. is headed :—"Goods subject to duties"; and Item 409 in the Schedule is in these words :—"Ships and other vessels built "in any foreign country, whether steam or sailing "vessels, on application for Canadian register, "on the fair market value of the hull, rigging "machinery, and all appurtenances."

e (22)27701. [54.] 100.—8'03. Wt. 5936. E. & S.

Several difficulties have been suggested. In the first place, it is said that ships are not "goods." It is not necessary to refer to or discuss the language of the Canadian Customs Act, because "The Customs Tariff, 1897," itself places "ships in the Schedule or list of 'goods' subject "to duty." Secondly, it was argued that ships could not be "imported" into a country. It is not easy to understand that argument; this ship was brought into Canada. Nothing more can be required to satisfy the word "imported." In the next place, a difficulty was suggested with regard to the words "application for Canadian "register" in Item 409, the contention being that there had been no such application. Their Lordships agree with the Supreme Court in thinking that, as there was no such thing as an independent Canadian register in existence, the words must necessarily mean application for British register in Canada.

Lastly, it was urged that the enactment in question is repugnant to the provisions of the Imperial Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60). Their Lordships are unable to see any repugnancy. The duty is a duty imposed on goods imported, and it is to be collected at the time when the application for registration is made; but payment of the duty is not made a condition of registration.

Their Lordships will therefore humbly advise His Majesty that the Appeal ought to be dismissed. The Appellant must pay the costs of it.

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Their Lordships will therefore humbly advise His Majesty that the Appeal ought to be dismissed. The Appellant must pay the costs of it.