

Calendar No. 372.

65th CONGRESS, }
2d Session. }

SENATE.

{ REPORT
No. 413.

CANADIAN CAR & FOUNDRY CO. (LTD.).

APRIL 30, 1918. --Ordered to be printed.

Mr. THOMAS, from the Committee on Finance, submitted the following

REPORT.

[To accompany S. 2496.]

The Committee on Finance, to which was referred the bill (S. 2496) for the refund of duties paid on materials destroyed by fire, reports the same to the Senate favorably and recommends that it be passed with the following amendments:

In line 5, strike out "agency" and insert "Agency of."

In line 7, strike out "\$208,075.07" and insert in lieu thereof "\$192,278.82."

The bill authorizes and directs the Secretary of the Treasury to pay to the Agency of Canadian Car & Foundry Co. (Ltd.) the sum of \$208,075.07 as a refund of import duties paid on certain material to be manufactured in the United States for shipment abroad, but which were destroyed by fire.

The bill was referred to the Secretary of the Treasury for report. From that report and other evidence submitted the following facts appear:

The company had established a plant at Kingsland, N. J., in 1915 for production of shrapnel and shells under contract with a foreign Government. Materials were imported from Canada, shipped to and manufactured at Kingsland, and were to be exported to Russia. Much of the merchandise was exported, and the drawback due thereon was collected. Before all of it was exported, however, a fire occurred in January, 1917, destroying practically the entire plant and contents.

It appears that an application had been made by the company to have the factory made a bonded warehouse, but this request had been denied on the ground that it would constitute a breach of neutrality, and duties had been paid on the imports under the law and the regulations of the Treasury Department.

While the sum specified in the bill is \$208,075.07, as above, the report of the Secretary of the Treasury shows that by salvage and

other proper deductions this amount should be reduced to \$192,278.82, in accordance with your committee's amendment of the bill. This latter sum represents the amount which would have been repaid to the company had the material been exported; and under all the facts the company is equitably entitled to have this amount refunded.

The following communication upon the subject was received by your committee from the Secretary of the Treasury:

TREASURY DEPARTMENT,
Washington, March 20, 1918.

The CHAIRMAN COMMITTEE ON FINANCE,
United States Senate.

SIR: The department refers to your communication of June 25, 1917, transmitting a copy of Senate bill 2496, for the refund of duties paid on materials destroyed by fire, and requesting such suggestions as may be deemed proper touching the merits of the bill and the propriety of its passage.

The material covered by this bill consists of certain brass cartridge cases, shrapnel projectiles, and high-explosive projectiles imported by the Agency of the Canadian Car & Foundry Co. for manufacture into completed rounds of ammunition, on the exportation of which the department had authorized, in an unpublished decision dated May 13, 1916, a drawback of the duties paid. While this material was in the course of manufacture at the company's plant at Kingsland, N. J., a large portion thereof was destroyed by a fire, which occurred on January 11, 1917.

The quantities of imported duty-paid materials claimed to have been on hand at the time of the fire and partially or wholly destroyed, are as follows:

	Quantity on hand.	Duty paid.
Brass cartridge cases.....	20,337	\$7,321.30
Shrapnel projectiles.....	11,062	8,296.45
High explosive projectiles.....	281,178	192,456.30
Total duty.....		208,075.05

As a result of careful investigation by a special agent of the department, these amounts were found to be approximately correct, a small error having been made in computing the quantity claimed to have been on hand and the duty paid thereon. It was also found that certain materials were reclaimed from the fire. Had the merchandise been exported a reduction in the amount of drawback payable to the claimant would have been made for such salvaged material, on the basis of the quantities of imported material which the value of the reclaimed material, after deducting the cost of salvage, would replace, which reduction may be summarized as follows:

Errors in computation.....	\$3.40
Deduction due to salvage of brass cartridge cases.....	1,275.84
Deduction due to salvage of shrapnel scrap.....	237.84
Deduction due to salvage of high explosive scrap.....	6,401.50
Deduction due to salvage of shells reclaimed intact.....	5,936.28
Total.....	13,854.02

Had the merchandise been exported a further deduction of 1 per cent would have been made, as provided in Paragraph O of section IV of the tariff act of October 3, 1913, making the net amount which would have been allowed \$192,278.82, computed as follows:

Amount of claim.....	\$208,075.05
Deductions for salvage, etc.....	13,854.02
Total.....	194,221.03
Less 1 per cent.....	1,942.21
Net.....	192,278.82

An application was made after the destruction of this material to bond the factory *punc pro tunc*, but this was necessarily denied by the department as being without authority of law. Nor could drawback be allowed on the destroyed articles inasmuch as Paragraph O, of section 4, of the tariff act of October 3, 1913, authorizes the refund of duties as drawback only upon the exportation of the articles manufactured from imported materials.

A number of drawback claims have been denied by this department where the manufactured articles were destroyed prior to exportation, the destruction in some instances occurring during the transportation of the articles from the factory to a seaport, and in others while such articles were on the vessel which had not begun its foreign voyage.

Whether an exception to the law and practice shall be made in this particular case is of course a question of policy for the decision of Congress.

Respectfully,

W. G. McADOO, *Secretary.*

For the further information of the Senate, the following affidavit of Nathaniel Curry, president of the Agency of Canadian Car & Foundry Co. (Ltd.) is made a part of this report:

STATE OF NEW YORK,
County of New York, ss:

Nathaniel Curry, being duly sworn, deposes and says that he is the president of the Agency of Canadian Car & Foundry Co. (Ltd.), a corporation organized and existing under the laws of the State of New York. That said company established a plant at Kingsland, N. J., on or about July, 1915, for the production of a large quantity of shrapnel and explosive shells under contracts with a foreign Government.

That, being refused the privilege of manufacturing under bond, Agency of Canadian Car & Foundry Co. (Ltd.) conducted its operations in conformity with the sworn statement of the said company, addressed to the honorable the Secretary of the Treasury, January 25, 1916, and in accordance with the regulations promulgated by him on May 13, 1916, predicated thereon, for the purpose of claiming drawback of the duties paid on materials imported for use in the manufacture of the said shells.

Much of the merchandise was exported and the drawback due thereon collected.

The entire operation was carried on under the supervision of the officers of the said foreign Government, and on the 11th day of January, 1917, when the contracts were nearly completed and practically of the merchandise at the Kingsland plant had been turned over to and accepted by the said Government for exportation, a fire occurred which spread throughout the plant, causing the destruction of the said shrapnel and explosive shells.

N. CURRY.

Subscribed and sworn to before me, this 28th day of June, 1917.

[SEAL.]

ELIZABETH FITZSIMMONS,
Notary Public.

