

# Calendar No. 1176.

67TH CONGRESS, }  
4th Session. }

SENATE.

{ REPORT  
No. 1188.

## CANADIAN CAR & FOUNDRY CO. (LTD.).

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FEBRUARY 24, 1923.—Ordered to be printed.

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

### REPORT.

[To accompany S. 1176.]

The Committee on Finance, to whom was referred the bill (S. 1176) for the relief of Canadian Car & Foundry Co. (Ltd.), having considered the same, report favorably thereon without amendment and recommend that it do pass.

The bill authorizes and directs the Secretary of the Treasury to pay to the agency of Canadian Car & Foundry Co. (Ltd.) the sum of \$192,278.82 as a refund of import duties paid on certain material to be manufactured in the United States for shipment abroad, but which was 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.

In the opinion of your committee the money should be refunded as and evidence of international courtesy. While the Canadian Car & Foundry Co., a private corporation, was doing this work, manufacture of the ammunition was of prime importance and interest to England and Russia, and would have been of equal interest to the United States if at that time this country had taken any active part in the war, and there is good reason to believe that the destruction of

the property was due to the criminal act of an agent of the enemy. This is corroborated by Lieut. Col. B. W. Dunn, who at that time was in charge of the plant.

A bill (S. 413) was introduced in the Sixty-sixth Congress for the refund of these duties, and was passed by the Senate.

The following communication upon the subject was received by your committee from the Secretary of the Treasury, and is substantially the same as was given in reference to the bill S. 413, Sixty-sixth Congress:

TREASURY DEPARTMENT,  
Washington, April 17, 1922.

The CHAIRMAN COMMITTEE ON FINANCE,  
United States Senate.

SIR: The department refers to your communication of April 3, 1922, transmitting a copy of Senate bill No. 1176, 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, in 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	\$7,321.39
Shrapnel projectiles.....	11,062	8,296.45
High explosive projectiles.....	281,178	192,457.50
Total duty.....		208,075.05

As a result of a 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 found also 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 the 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
Shrapnel scrap.....	237.00
High-explosive scrap.....	6,401.50
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
	194,221.03
Less 1 per cent.....	1,942.21
Net.....	192,278.82

A similar bill (S. 413) was introduced during the first session of the Sixty-sixth Congress and reported by your committee on October 3, 1919, report No. 240. The committee included in this report an affidavit filed by the claimant in which the statement is made that the privilege of manufacturing the ammunition under bond had been refused. The department's investigation shows that no application was made in accordance with the regulations to bond this plant prior to the destruction of the material. The investigation shows that a representative of the claimant talked the matter over informally with the deputy collector of customs at Newark, N. J., who expressed the opinion that the bonding of the plant for the purpose of manufacturing ammunition might be considered a breach of neutrality. The claimant thereupon dropped the matter. While the department did not deny an application for the reason that none was formally received, the verbal request of the claimant made to the appropriate officer might properly be construed as an application.

An application was made after the destruction of this material to bond the factory *nunc 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 IV 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.

Numerous 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 a vessel which had not begun its foreign voyage.

There appears to be merit in the claim, but whether or not 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 the Congress.

Respectfully,

A. W. MELLON, *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 all 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*.

