

Calendar No. 665.

68D CONGRESS, }
2d Session. }

SENATE.

} REPORT
No. 765.

REFUND OF CERTAIN DUTIES INCORRECTLY COLLECTED.

AUGUST 21, 1914.—Ordered to be printed.

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

REPORT.

[To accompany H. R. 1781.]

The Committee on Finance, to whom was referred the bill (H. R. 1781) providing for the refund of certain duties incorrectly collected on wild-celery seed, having considered the same, report thereon with a recommendation that it do pass.

The report of the House Committee on Claims is appended hereto and made a part hereof.

[House Report No 383, Sixty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (H. R. 1781) providing for the refund of certain duties incorrectly collected on wild-celery seed, having considered the same, report thereon with a recommendation that it do pass.

The facts in the case are fully set out in letters from the honorable Secretaries of the Treasury under date of January 18, 1912, and February 24, 1914, which is hereto attached and made a part of this report.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, January 18, 1912.

The CHAIRMAN OF THE COMMITTEE ON CLAIMS,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, inclosing a copy of the bill (H. R. 16335) authorizing the payment to William A. Avis, of New York, of \$434.30, collected on 4,343 pounds wild-celery seed, and requesting all papers, or copies of the same, on file relating to the claim, with an opinion as to its merits.

In reply I inclose herewith copies of letters from William A. Avis & Co. and the collector of customs at New York relative to the subject, with a copy of the department's decision of November 11, 1911, addressed to the collector of customs at New York in the matter.

It appears that the merchandise was imported through the port of New York by Van Loan, Maguire & Gaffney in November, 1909, and was entered for their account by William A. Avis & Co., as customs brokers, on entry 273740. The seed was entered free of duty under paragraph 559 of the tariff act of 1909, but was returned at 10 cents per pound under paragraph 226 of the said act as "seeds not specially provided for," and liquidation was made according to this return on December 27, 1909, and duties assessed amounting to \$434.30, which were paid on January 4, 1910. There is no record in the customs office of any protest having been filed against this assessment of duty, although the brokers claim that they duly filed a protest against the liquidation, claiming free entry for the merchandise as a crude drug under paragraph 668 of the tariff act, and presented to the department a copy of the protest from their files. (It appears that the paragraph number should have been 559.)

Two other importations of a similar character were afterwards entered by the same importers, and duty assessed. In these cases protests were filed, and refunds were made in accordance with the decision of the Board of United States General Appraisers in T. D. 31476.

The collector of customs states that it is practically impossible that a protest could have been filed in the customs office without having been recorded, as the filing of protests is carefully scrutinized, and it would appear that there was an oversight on the part of the brokers' representative in failing to protest in the case of entry 273740.

The brokers, under the circumstances, refunded the amount of the duties to the importers, and requested permission to file a protest as of a date within the 15 days required by subsection 14 of section 28 of the tariff act of 1909, but there was no provision of law under which the department could comply with the request, and it was unable to grant relief.

If Congress should, however, upon the facts presented, see fit to authorize a refund of the duties in question, the department will interpose no objection thereto.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, February 24, 1914.

The CHAIRMAN OF THE COMMITTEE ON CLAIMS,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant, inclosing a copy of the bill (H. R. 1781) authorizing the payment to William A. Avis, of New York, N. Y., of \$434.30, collected on 4,343 pounds of wild-celery seed, and requesting all papers, or copies of the same, on file relating to the claim, with an opinion as to its merits.

In reply I have to state that it appears that the merchandise was imported through the port of New York by Van Loan, Maguire & Gaffney in November, 1909, and was entered for their account by William A. Avis & Co., as customs brokers, on entry No. 273740. The seed was entered free of duty under paragraph 559 of the tariff act of 1909, but was returned at 10 cents per pound under paragraph 226 of the said act as "seeds not specially provided for," and liquidation was made according to this return on December 27, 1909, and duties assessed amounting to \$434.30, which were paid on January 4, 1910. There is no record in the customs office of any protest having been filed against this assessment of duty, although the brokers claim that they duly filed a protest against the liquidation, claiming free entry for the merchandise as a crude drug under paragraph 668 of the tariff act, and presented to the department a copy of the protest from their files. (It appears that the paragraph number should have been 559.)

Two other importations of a similar character were afterwards entered by the same importers and duty assessed. In these cases protests were filed and refunds were made in accordance with the decision of the Board of United States General Appraisers in T. D. 31476.

The collector of customs at New York stated in the matter that it is practically impossible that a protest could have been filed in the customs office without having been recorded, as the filing of protests is carefully scrutinized, and it would appear that there was an oversight on the part of the brokers representing the importers in failing to protest in the case, entry No. 73740.

The brokers, it appears, under the circumstances refunded the amount of the duties to the importers and requested permission to file a protest as of a date within the 15

days required by subsection 14, of section 28 of the tariff act of 1909, and there was no provision of law under which the department could comply with the request, and it was unable to grant relief.

If Congress should, however, upon the facts presented, see fit to authorize a refund of the duties in question, the department will interpose no objection thereto.

A report of the department in the matter, with reference to a similar bill on the same subject (H. R. 16335), was submitted to you in a communication under date of January 18, 1912, to which you are referred, and copies of other papers in the department's files relative to the claim were transmitted to you with the said communication.

Respectfully,

W. G. McADOO, *Secretary.*

