

the full amount of this penalty was then remitted by Order in Council under authority of section 22 of the Financial Administration Act. In my opinion, this action by the department, in penalizing the collector for its own failure to collect the duties in full, as provided by law, and then causing the penalties to be remitted, is irregular and undesirable.

The third step, the vessel, which was a foreign built British ship, was exempted from the provisions of Part VIII of the Canada Shipping Act. This exemption is limited only to ships of any foreign country, as is explained here. The department told us they treated this ship as if she were a foreign ship because the duties were being deferred, and not paid at the time the coasting license was granted. In agreeing to the correctness of all of the facts contained in this note, the department justified their action principally on the hardship of the circumstances in which the purchaser of the vessel had found himself when he became aware that it was, in fact, subject to customs charges.

I can only say to the Committee that, in my view, the three steps taken by the department are contrary at each step to the applicable legislation. I feel a serious view should be taken of the department's actions in this case. As I say here in my note, with regard to the second step, the action of the department in penalizing its collector for its own failure to collect duty in full, and then causing the penalty to be remitted, is irregular and undesirable. If it is not, then it would appear that any section of any act with respect to which there is a penalty within the meaning of section 22 of the Financial Administration Act could be circumvented simply by using the device of having a public officer deliberately contravene any such section and then remitting the penalty incurred by his unlawful act.

I do not know, Mr. Chairman, whether it would be your disposition to wish to discuss this with witnesses from the Department of National Revenue. There are a number of other paragraphs coming up relating to that department but possibly the Committee would like to ask some questions concerning this one?

The CHAIRMAN: Mr. Henderson, I think there will be a few questions or a little groundwork at this time before proceeding with your suggestion.

Mr. TARDIF: Who is responsible for making recommendations that this amount be remitted?

Mr. HENDERSON: The department.

Mr. TARDIF: Who is the department?

Mr. HENDERSON: The Department of National Revenue would make their recommendation for the remission to the Governor in Council and—

Mr. TARDIF: A committee, or an individual?

Mr. HENDERSON: It would be the Deputy Minister who would brief the Minister and the Minister would make the recommendation to the Governor in Council.

Mr. TARDIF: It seems like a lot of power in the hands of one man.

Mr. NOBLE: Mr. Chairman, I would like to ask the Auditor General who the owner of the ship was? Is it a British ship. Was it a Canadian owner?

Mr. HENDERSON: I believe it was a Canadian owner.