

Bill read the second time, and the House resolved itself into Committee.

(In the Committee.)

On section 2,

Mr. PATERSON (Brant). Is it competent—I am asking for information—for an importer who objects to a decision of the Customs Department to take a matter into court and have it adjudicated upon?

Mr. BOWELL. Yes.

Mr. PATERSON. Well, it must be under limitations and provisions in some way.

Mr. BOWELL. I think not; there are so many cases that arise that perhaps the hon. gentleman would give me more particular information.

Mr. PATERSON. That is not pleasant to do.

Mr. BOWELL. I do not mean to individualize any person; he can give me a hypothetical case if he likes.

Mr. PATERSON. I know of a case in which the importer was, I consider, very harshly dealt with. The representations he made to the Department received no attention, so far as he could judge; he was not made aware of the decision of the Department in time, so that when a communication reached him, if I remember aright, it was merely a statement that the matter having been finally closed could not be reopened. I am told further that he asked permission to enter the matter in court or sue the Government, in other words, but he could not get permission to do so, although he felt positive that if he could get the matter into the courts there was no jury in the world but what would declare that the action of the Customs Department was wrong and that he was right. He was debarred, however, from taking action, and it would be well for the information of the general public that the Minister should state clearly what is the general course adopted by the Department in such cases. He will have no objection, I am sure, to say what rights and remedies importers who have their goods seized have in the way of taking their cases into court. The seizure is made by the Customs officer, the matter is referred to the Customs Department, the importers are confident of their innocence and of their well meaning intentions, they are fortified by proofs from the parties from whom they purchased that the prices are right, and to make an affidavit other than the one they did make would be to make an affidavit not correct. When the matter is referred to the Department, they naturally conclude, their case being just, that the decision of the seizing officer will be reversed, but they do not hear of the decision of the Department—at least that was so in this case, if I am correctly informed—until perhaps some weeks have elapsed, and all the satisfaction they get from the Department is that they hear finally from it that the matter having been disposed of and finally closed, it cannot be reopened, and thus very great hardship and wrong is done to the individual. The impression is they are not at liberty to take the matter into court unless they get permission from the Government to do so. I would like to understand this matter clearly. I would like the hon. Minister to explain how it is that when some parties desired to bring an action into the courts, they were not able to get the sanction of the Department to that end.

Mr. BOWELL. No doubt what the hon. gentleman states is quite correct, as far as his information goes; but the Customs Law provides and has ever since there has been a law, so far as I am aware, that the importer whose goods are seized, has one month after the day of seizure, after notification of the seizure, upon which to put in a defence. If no defence is put in within that month, the decision of the Department is given, and in no case—there

Mr. BOWELL.

have been but one or two within my recollection, in which there was an acknowledgment of the commission of the offence, and a decision given at once—is a decision given until after the expiration of the thirty days. The importer has, under the law, thirty days on which to put in his defence; if he neglects doing so within that time, then the Commissioner makes his report and submits it to the Minister for approval.

Mr. PATERSON. That is the defence to the Department, not the defence to the court.

Mr. BOWELL. If he does not object or declare his intention to reject the decision of the Department, then it is considered final, and he is debarred from going into court. A case occurred in Montreal in which that was the defence of the Government. Notification having been given of the decision and the seizure, the importer was called upon for his defence; no defence was made or objection taken to the seizure, and after the expiration of the thirty days, the importer entered an action. The defence of the collector in Montreal was that a defence had not been put in in time, and of course the court ruled out the action.

Mr. PATERSON. As I understand the hon. Minister, there are thirty days allowed for putting in a defence to the Department. The person puts in his defence to the Department; in the case I have in mind, and I am speaking subject to correction, the defence was put into the Department all right enough within the time, and the person relied upon a decision in his favour. But the time expired before the decision of the Department was communicated to him.

Mr. BOWELL. No.

Mr. PATERSON. Suppose a case of that kind, in which the thirty days have elapsed before the decision of the Department which the importer anticipates will be in his favour, is communicated to him, and, when communicated, he finds it is adverse. Has he a remedy?

Mr. BOWELL. Certainly within the time specified by the law.

Mr. PATERSON. Thirty days after the decision of the Minister is given.

Mr. BOWELL. The decision of the Minister is not given until thirty days after the importer has been notified of the seizure, and he is asked to put in his defence, at the time of the notification; if he fails to put in any defence within that thirty days, he is debarred from going to the courts.

Mr. PATERSON. Thirty days after the decision of the Minister is communicated to him.

Mr. BOWELL. The seizure is made, the Department in Ottawa is notified of that seizure, the party whose goods have been seized is at once notified, a blank form is sent to him notifying him that he has thirty days in which to put in his defence or make any statement he pleases; if he fails to do that, he is debarred from going into court; if he puts in that defence he has a right to go into court.

Mr. WELDON. That must be within a certain time after seizure. He must take his action within three months.

Mr. BOWELL. That is another point.

Mr. WELDON. Suppose the decision of the Minister was not communicated until the three months had expired, suppose the party anticipating that the decision would be in his favour did not receive a communication from the Department until the three months had elapsed, he would then be debarred from going into court.

Mr. BOWELL. I am quite satisfied the Government would not, under those circumstances, deprive him of that right. In one or two instances where I thought the delay