

against collectors or other officers who may allow payment duties to be avoided or deferred, and that the action of the department in penalizing the collector for its own failure to collect the 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.

Section 670 is one of the sections in Part XIII of the Canada Shipping Act and, as already stated, specifically provides that a coasting licence may be issued to a foreign-built British ship only if the duty has been paid. Section 673 in Part XIII gives the Governor in Council the following power:

The Governor in Council may, from time to time, by order in council declare that the foregoing provisions of this Part shall not, for the period specified in such order in council, apply, either throughout Canada or in any specified waters of Canada, to the ships or vessels, or to any specified, ascertained or ascertainable class or number of the ships or vessels, of any foreign country.

It was noted that the Order in Council referred to above also exempted the vessel in question from the provisions of Part XIII of the Act. Since the power of the Governor in Council in section 673 is restricted to ships of "any foreign country", it seems to us that the exemption could not apply to the vessel in question which is a foreign-built British ship. In reply to our inquiry concerning this, departmental officers stated they were treating the ship as though she were a foreign ship because the duties were being deferred and not paid at the time the coasting licence was granted.

The CHAIRMAN: Page 33, No. 69, I believe, is the next one.

Mr. HENDERSON: That is right, paragraph 64 went to 1965 and paragraph 65 and 66. Paragraph 67, Unemployment Assistance and paragraph 68, have been put forward to 1965. Paragraph 69 details the action taken by the Department of National Revenue having to do with the licensing and taxing of a coastal vessel and it indicates the three steps taken which, in my opinion, were irregular. This is purely a 1964 note. If you have had a chance to look at this note, perhaps I could just summarize the three steps that I have mentioned. The first one is, the department instructed its collector at port of entry on August 6, 1963, to issue the license. Because the owner could not pay the duty, which amounted to \$10,078, in full, as provided by law, the department accepted a down payment of \$3,000 on August 12, 1963, and postdated cheques payable monthly to cover the balance. No interest was charged. Such action is contrary to section 22 of the Customs Tariff, which I quote here, and which is quite specific in requiring that all such duties must be paid in full. I also quote section 79 of the act.

The second step was caused by the fact that the action of the department immediately rendered its own collector at the port of entry liable to a penalty equal to the full value of the goods. This penalty is provided, as I say, in section 235(1) of the Customs Act. The amount of the penalty was \$50,391. However,