Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Canada Sugar Refining Company, Limited v. *the Queen, from the Supreme Court of Canada; delivered 27th July 1898.*

Present:

LORD WATSON.
LORD HOBHOUSE.
LORD DAVEY.

[*Delivered by Lord Davey.*]

The action out of which this appeal arises was commenced by information of the Attorney-General of Canada against the Appellants in the Exchequer Court of Canada to recover a large sum for duties on raw sugar imported by the Appellants into Canada by the steamship *Cynthiana*. The decision of the Exchequer Court was in favour of the Appellants but their judgment was reversed by the Supreme Court Mr. Justice King and Mr. Justice Girouard dissenting. The appeal is by special leave from the judgment or order of the latter Court dated the 1st May 1897.

The principal question in the case is the date of the "importation" of the sugar and that question depends on the construction and effect to be given to the Custom Tariff Acts and certain sections of the Customs Acts.

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The Customs Tariff Act 1894 (57 & 58 Vict. c. 23) enacted as follows :—

"Sec. 4. Subject to the provisions of this Act and to the "requirements of the Customs Act ch. 32 of Revised Statutes "as amended there shall be levied collected and paid upon all "goods enumerated or referred to as not enumerated in "Schedule A. to this Act the several rates of duties of Customs "set forth and described in the said Schedule and set opposite "to each class respectively or charged thereon as not enumerated "when such goods are imported into Canada or taken out of "warehouse for consumption therein."

In accordance with Schedule A. referred to in this section raw sugar of the same description as those which formed the cargo of the *Cynthiana* could be imported free. But by the Tariff Act 1895 (58 & 59 Vict. c. 23) Schedule A. to the previous Act was amended and a duty of one-half per cent. per pound was imposed upon that description of sugar. By Section 4 of the Act of 1895 it was enacted that the Act should be held to have come into force on the 3rd May 1895.

Many sections of the Customs Act 1886 (49 Vict. c. 32) and the subsequent amending Acts were referred to in the course of the argument. The more important for the present purpose are Sections 25, 31, 34 and 150, which so far as material are as follows :—

"Section 25. The master of every vessel coming from any "port or place out of Canada, or coastwise, and entering any "port in Canada, whether laden or in ballast, shall go "without delay, when such vessel is anchored or moored, "to the custom house for the port or place of entry where he "arrives, and there make a report in writing to the collector, "or other proper officer, of the arrival and voyage of such "vessel, stating her name, country, and tonnage, the port of "registry, the name of the master, the country of the owners, "the number and names of the passengers, if any, the number "of the crew, and whether the vessel is laden or in ballast, "and if laden, the marks and numbers of every package and "parcel of goods on board, and where the same was laden, "and the particulars of any goods stowed loose, and where and "to whom consigned, and where any and what goods, if any, "have been laden or unladen, or bulk has been broken during "the voyage, what part of the cargo and the number and "names of the passengers which are intended to be landed at

" that port, and what and whom at any other port in Canada
" and what part of the cargo, if any, is intended to be
" exported in the same vessel, and what surplus stores remain
" on board—as far as any of such particulars are or can be
" known to him.

" Section 31. If any goods are brought in any decked
" vessel, from any place out of Canada to any port of entry
" therein, and not landed, but it is intended to convey such
" goods to some other port in Canada in the same vessel there
" to be landed, the duty shall not be paid or the entry
" completed at the first port, but at the port where the goods
" are to be landed, and to which they shall be conveyed
" accordingly under such regulations and with such security
" or precautions for compliance with the requirements of this
" Act as the Governor in Council from time to time directs.

" Section 34. Every importer of goods by sea or from any
" place out of Canada shall within three days after the arrival
" of the importing vessel make due entry inwards of such goods
" and land the same.

" Section 150 (as amended by 52 Vict., chap. 14, s. 12).
" Whenever, on the levying of any duty, or for any other
" purpose, it becomes necessary to determine the precise time
" of the importation or exportation of any goods, or of the
" arrival or departure of any vessel, such importation, if made
" by sea, coastwise or by inland navigation in any decked
" vessel, shall be deemed to have been completed from the
" time the vessel in which such goods were imported came
" within the limits of the port at which they ought to be
" reported, and if made by land or by inland navigation in any
" undecked vessel, then, from the time such goods were brought
" within the limits of Canada."

There is no dispute as to the facts of the case. The *Cynthiana* sailed from Antwerp with a general cargo including the sugar in question consigned to Montreal. On the 29th April 1895 the vessel put into the Port of North Sydney in Cape Breton Canada. It was stated that she put into that port in order to coal but there was no evidence on this point or whether she was bound to call there. On her arrival at North Sydney the master made his report inwards of his ship and cargo in compliance with Section 25 of the Customs Act and on the same day made his report outwards and obtained the Customs certificate of clearance for Montreal. The *Cynthiana* reached her wharf in the Port of Montreal between 5 and 6 p.m. on the 4th May 1895 and it is

agreed that she did not come within the limits of that port until after the 3rd May 1895.

It should be mentioned that on the 2nd May 1895 and therefore before the arrival of the vessel the Appellants who were the importers of the sugar made entry at the Montreal Customs House of the goods and a landing warrant was issued for the landing thereof as duty free. It was stated that this was done in accordance with a common practice at the Port of Montreal. However on the 14th May the Collector of Customs cancelled the free entry claiming that the goods were liable to duty and detained such portions of the sugar as then remained in the possession of the Appellants.

On these facts it was contended for the Appellants that the importation of the sugar was complete on the arrival of the vessel at North Sydney and as that event took place before the 3rd May the sugar was free from the duty imposed by the Tariff Act 1895. It was also contended in the alternative that the importation took place at the latest on the 2nd May when the Appellants made entry at Montreal and such entry was accepted by the Customs authorities. The latter point however was not seriously pressed by the learned Counsel for the Appellants and it is clear that the Crown was not estopped by the irregular act of the Customs officer from claiming the duty if it was payable.

On the other hand it was contended that the goods were not " imported " within the meaning of the Tariff Act until they were landed or at any rate arrived within the limits of the Port of Montreal and that having regard to the context and other sections of the Act the words " the " port at which they ought to be reported " in Section 150 of the Customs Act mean the port at which the effective report is to be made for the purpose of the importation.

The real question of course is whether the sugar was "imported" within the meaning of Section 4 of the Tariff Act 1894 before or after the 3rd May, because it is by that section as amended by the Act of 1895 that the duty is imposed. By the provisions of Section 4 the duties are to be "levied collected and paid" (which means nothing more than paid) upon the enumerated goods "when such goods are im- "ported into Canada or taken out of warehouse for "consumption therein." Their Lordships make the following observations upon this language (1) The imposition of the duties is contained only in the direction for their payment. There are no words which render the goods liable for the duty or make the duty (as it is said) attach at any date prior to the date of payment (2) the words "when such goods are imported into Canada" express the time at which the duties are to be paid. If therefore the goods are imported into Canada when the vessel enters a port of call on her way to her ultimate destination the duties would be payable at that date which is highly improbable and contrary to the express provisions of Section 31. (3) The duties are payable at one of two dates—either the date of importation or the date when they are taken out of warehouse. There is no real contrast between the date of arrival at a port of call and the date when the goods are taken out of warehouse because if the words mean in the first case that the duty attaches when the vessel arrives at a port of call it must equally do so whether on arrival at the port of discharge they are delivered to the importer or warehoused in bond. The true contrast is that which their Lordships have just indicated and the words appear to them to mean—when the goods are landed and delivered to the importer or to his order or when they are taken out of warehouse if instead of being delivered they

have been placed in bond. (4) The result is that in the opinion of their Lordships the words "imported into Canada" must in order to give any rational sense to the clause mean imported at the port of discharge and cannot be used in the sense attributed to the word "imported" by the Appellants in accordance with the construction placed by them on the definition in Section 150 of the Customs Act. (5) If the goods were "imported" within the meaning of the Tariff Act on or after the 3rd May (in other words) if the duty became payable after that date the Crown was entitled to it.

But their Lordships do not find it necessary to adopt the Appellants' construction of Section 150. Every clause of a statute should be construed with reference to the context and the other clauses of the Act so as so far as possible to make a consistent enactment of the whole Statute or series of Statutes relating to the subject-matter. Their Lordships think that the "report" spoken of in Section 150 may well mean the report to be made by the master under Section 25 completed by the entry to be made by the importer under Section 34. According to this construction the port spoken of in Section 150 would be the port at which the goods are to be landed mentioned in Section 31. And this construction appears to their Lordships to place a consistent rational and probable meaning on the whole of the sections referred to when read together. The report made by the master at the port of call or at any port which he enters for any purpose other than that of discharging his cargo is no doubt useful for the purpose of checking what may be called the effective report to be made on arrival at the port of discharge. The object of the definition in Section 150 is not to define the port of importation or the meaning of "imported" but the time when the goods are to

be deemed to be first imported. The words in question apply equally to importation coastwise or by inland navigation in any decked vessel. If made by land or by inland navigation in any undecked vessel then the time is when such goods are brought within the limits of Canada. This is probably because goods conveyed by land would not be and goods conveyed by small undecked vessels probably would not be discharged at a port of entry within the meaning of the Act. The distinction between goods brought in decked and undecked vessels or vessels of small size runs through the whole Act.

Their Lordships will therefore humbly advise Her Majesty that the appeal be dismissed. The Appellants must pay the costs of the appeal.