

Customs Act

be. I want to ask whether it was considered and not thought possible to introduce apt legislation which would give effect to what I understand to be the wording of subsection 3 if it were uncontrolled by the previous subsections, and which procedure would come back to what I understand to have been the satisfactory practice before 1948.

I do not want to be too persistent. It may be that I have not fully understood what the minister said, but I have not yet been able to clear my mind on this subject. What is it in GATT which prevents us from taking that course, assuming that would be a sensible course to take in the circumstances?

Mr. St. Laurent: Our interpretation of our obligation under GATT is that we cannot resort to the cost of production price if there is another way of determining what is the fair market value. It is only when we are prevented from using other ways of determining the fair market value that we feel that under GATT we can resort to investigation of the cost of production.

Mr. Macdonnell: I am grateful to the Prime Minister, but could he not give us—after all, he is a lawyer—a brief, reasoned exposition of just what words there are in GATT which tie our hands?

Mr. St. Laurent: We undertook to allow the importation of goods at the tariff rates based upon fair market value, and this form of determining value was discussed in the negotiations and was discarded. It was urged that that was not fair market value and that the cost of production might have very little relation to the actual market value of the goods. We admitted that we were prepared to have our tariff rates apply to the fair market value in the country of export, but we do not admit that the fair market value is the selling price of end of season or end of line goods when that price is substantially below the price at which the major portion of that line of goods has been sold in the country of export.

Mr. Macdonnell: Could the Prime Minister carry his explanation one step further and explain why it is that we feel that this device of averaging over six months, which is contained in the measure now before us, comes within the four corners of GATT but the other related to cost of production does not? Did the words "cost of production" enter into the discussion and were they ruled out? I do not want to be too persistent.

Mr. St. Laurent: They were not ruled out, but what was complained of was the fact that there were tariff authorities who, instead of applying their tariffs to the market value in the country of export, attempted to

[Mr. Macdonnell.]

determine what a fair cost and proper profit would be in the market of export. That was objected to and it was agreed we would take the fair market value when there is a method of ascertaining what it is. We have done that, but with respect to certain countries we had refused to accept their prices even before this change because they would not satisfy us that it was the fair market value in the country of export.

This matter has been under serious discussion. Canadian producers would prefer the rule that the hon. gentleman refers to, the one in paragraph 3. They say that if we could apply the rule in paragraph 3 they would not have to worry about dumping. But we say that we have had to forgo the application of that rule when there is another method of arriving at fair market value and we are going to attempt this procedure because the United States government, which is the one with which we are perhaps more frequently concerned than others, recommended this kind of rule for fixing fair market values to congress a year or two ago.

Mr. Fleming: Which kind?

Mr. St. Laurent: An average price over a period.

Mr. Fleming: Such as we have in the bill?

Mr. St. Laurent: It did not go through congress. Congress did not accept it, but the United States government interpreted its obligation under GATT as being one that would be met by applying that kind of rule.

Mr. Macdonnell: What policy do the Americans follow?

Mr. St. Laurent: At the present time our trouble and the trouble of our exporters is that we can never be sure from day to day what is going to be applied by the customs officials, and that is why we have been urging with all possible force of our persuasiveness that they simplify their tariff practices. The hon. member will remember that that was the thing that I mentioned as being perhaps the most fruitful outcome of my visit to Washington last spring. The President stated that there was going to be a recommendation to congress to deal promptly with simplification of tariff procedures by a bill. It is difficult to say that they do comply with the spirit of GATT, but we felt that this kind of rule could not be disputed by the United States administration under present conditions because the administration itself had recommended its adoption to congress.

Mr. Macdonnell: I understood the Prime Minister to say in his remarks that there would be some qualification of our readiness to adopt this, that we had to have a plan