

value whatever that invoice value might be; and it is now contended that that is not a compliance with the section in that it is not authorized by the section.

6. That no authority exists for the inclusion of the weight of the container in computing values fixed under section 43 of the Customs Act.

The order related only to the weight of the goods; the weight of the container could not be included.

7. That no authority exists for computing fixed values on railway billing weights.

The department took the railway billing weights instead of weighing the packages themselves.

Mr. BENNETT: And that, of course, included the packages?

Mr. ILSLEY: Yes.

8. That certain valuations which were stated to be applicable "all year" should have been interpreted to mean until the end of the calendar year, rather than all year around as interpreted by the department.

There is a difference of opinion as to the meaning of the language. The department used the term "all year" as distinguished from a certain number of months only. It regarded the words "all year" as meaning the whole year and every year.

Mr. BENNETT: As warranting a continuing operation of the statute.

Mr. ILSLEY: Yes. Then:

9. That certain bulletins setting forth fixed valuations failed to exempt shipments purchased and in transit to Canada at the time the bulletins were issued, which practice had been followed on other occasions.

That is alleged in one of the petitions of right but manifestly it is not a ground for the return of any duties. It is a mere allegation of discrimination, an allegation that certain importers were treated differently from others.

These are the grounds that are set out and many of them are quite technical. The point I wish to bring to the attention of the committee is this. The importers knew at a very early stage what view the department took of the meaning of these orders in council and of the orders the minister made under the orders in council, and governed themselves accordingly. Knowing the practice of the department and the view it took of what the proper practice was, nevertheless the importers placed their orders for a period of years—it has been five or six years—and paid the dumping duties required by the department.

Mr. BENNETT: And passed them on to the consumer.

Mr. ILSLEY: Yes. Recently certain enterprising persons have been promoting the filing of claims with the Department of National Revenue. Claims amounting to over \$600,000 have already been filed, and I am advised by my officers that the likelihood is that with respect to fruits and vegetables alone the claims against the department will run to \$2,000,000 or more.

The ground for these claims, as stated by the hon. member who has spoken, is that when a man pays duties illegally he is entitled to a return of them—on grounds of equity and fairness. Such is not the case here because the persons who have actually paid the duties will not get them back; the people who will benefit are the promoters of claims and others who are having a large number of claims filed with the department—we have a stack of them already. It means that the treasury will lose two or three million dollars, and the persons who paid enhanced prices for goods as a result of the dumping duty will get no benefit whatever.

On this account I submit that parliament should ratify the imposition of these duties. In my opinion that is the fair thing to do in all the circumstances. I do not agree that this is confiscatory legislation or legislation of that type. It is more in the class of legislation which in Nova Scotia is passed every year for the ratification of assessments. I understand also that in Ontario years ago, though perhaps not now, legislation was passed every year ratifying tax sales.

The administration of these sections is a difficult matter at best. The Department of Justice was consulted from time to time, as were the departmental solicitors. It may be that when the sections and the numerous bulletins are examined with a microscope some legal ground may be found for the return of these duties; I do not know. Two petitions of right have already been filed and they are exempted because we do not think we should issue a fiat to enable petitioners to go into court and then legislate them out of court. But for those who have not filed a petition of right I submit that the action of the department should be ratified.

Mr. BENNETT. Am I right in assuming that the practice that prevailed up to 1935 has been continued, namely, that the prices of vegetables and fruit and that sort of thing, as fixed under section 43, have been continued until this day under the authority of some order in council?