

Mr. EULER: Three months.

Mr. BENNETT: —the entry must be amended or left as it was. That had the effect of giving some form of stability in the administration of the act. The second point is that there is in the law to-day, and always has been, a provision whereby if one is dissatisfied with the appraisal and the amount of duty levied he may bring an action in the courts for the purpose of getting back his overpayment. As a matter of fact I think the hon. gentleman will recall that this has been done in one or two cases within the last few years, one of the cases going to the privy council. That is a right established by statute, and as far as I know it has been part of the law of this country ever since we have had a customs act, or at all events for a great many years. That is the right of the man who pays under protest to recover from the crown the overpayment he has made.

This new provision, of which I shall speak in a few moments, departs from the general principles which heretofore have been observed, namely the granting of authority to another party to overrule the minister. It is quite clear that in all these cases what the minister said this afternoon and again this evening is quite true, that finally the act is the act of a minister, which is the act of a government. In other words there must be approval by the minister, antecedently or subsequently, before any action is taken in connection with these matters. Inquiries were made in some instances as to selling prices in 1932 and 1933, not only in this country but in other countries as well, and the minister of that time did approve the bulletin which the commissioner of customs sent out for the purpose of fixing values on importations not only from the United States but from other countries as well. That provision is based upon the assumption that the minister, which means the government, exercises the power.

Then there is the third point to which, I think, attention must be directed, because it is our duty at least to point out what the results are going to be. Originally this provision was made by reason of an exchange of letters between the governments of the United States and Canada. Now it applies to every country in the world. It is no longer limited to the United States; it is of general application, and what was originally a mere exchange of communications looking to a new procedure with respect to administration as between two countries has now in fact become part of the general law of the country, applying to importations from all countries, wherever there has been an application of the

[Mr. Bennett.]

principles of section 36. That, I think, is abundantly clear. That is why the right to go to the tariff board is no longer a right conferred only upon the United States of America or upon Great Britain, as it was by treaty; it is a right now that belongs to every country in the world that exports goods to Canada. By reason of this section, there being no limitation imposed upon it now although it was so intended originally, we have a condition under which the minister and the government are to be overruled by the tariff board and by effluxion of time. They are overruled by the provisions of the statute that is now before us. That is, if the period of three months expires, within which time no effective action has been taken by the tariff board, then under the statute as I read it the effect is that the original entry stands. That being so, the minister is thus overruled by the tariff board in one case, acting within the provisions of the statute and the Tariff Board Act, and in the other case by the mere effluxion of time. I did not have the statute before me, but the minister was good enough to read section 11 of the Tariff Board Act, and if I heard him aright it confirmed my memory of what we placed in that statute, a provision that in any act hereafter passed in which a duty was imposed upon the board, that should operate as the conferring of jurisdiction, or this might be done by order in council. That is right, is it not?

Mr. ILSLEY: That is correct.

Mr. BENNETT: Then my recollection is fairly clear. So it is obvious that the minister need not worry about the question of jurisdiction, because in this statute he has imposed a duty upon the board, and by virtue of section 11 of the Tariff Board Act the imposition of that duty confers jurisdiction just as effectively as it could be done by order in council. That is my understanding of the matter.

Section agreed to.

Section 6 (now section 4) agreed to.

On section 7 (now section 5)—Special cases of difficulty.

Mr. ILSLEY: I think this section requires a slight amendment in order to make it workable.

Mr. EULER: I move that there be inserted between the word "goods" and the word "are" in the first line of paragraph (e) the following words: "by reason of the fact that the circumstances of the trade render it necessary or desirable."