

Customs Tariff

of any order in council contemplated under this tariff item?

Mr. Turner (Ottawa-Carleton): Mr. Chairman, there are other examples of delegation in the Excise Act, the Excise Tax Act, the Customs Act and the Customs Tariff Act. I am a little hesitant in setting a precedent without looking at the whole field. I would do this if the Standing Committee on Regulations and other Statutory Instruments in its review as these instruments are published—and they have to be published—had felt there was an abuse of the delegatory process or of interpretation of definition. I would then be willing to consider the matter and move toward a wider range for either negative or affirmative resolution. However, I hesitate to do this on one particular item, particularly at this stage when we have further negotiations with the developing countries who want to export into Canada, and the Canadian Handicraft Association, as to what the ultimate definition will be. It is because of the difficulty of definition that I just cannot reduce it to statutory form.

Mr. Lambert (Edmonton West): Mr. Chairman, if there is difficulty in reducing it to statutory form, how can the minister reduce it to any form of writing under an order in council? If the problem is in reducing it to words, surely the statute presents no greater obstacle than an order in council.

Mr. Turner (Ottawa-Carleton): Mr. Chairman, it is because the definition is so difficult to attain that there is difficulty in reducing it to words. This is why I am suggesting to the committee that I need the flexibility of a schedule which can be changed from time to time by order in council.

Mr. Lambert (Edmonton West): I return to the Statutory Instruments Act. The minister was very persuasive, on a previous occasion, of its value. He said it was breaking new ground to have an order in council subject to the approval of the House. So much has been done in Westminster with regard to this matter; it is standard practice there. I am asking the minister to follow his fond hopes and his strong aspirations when he was minister of justice that this would become the practice of this House. But the first time we propose it, the minister balks. The Statutory Instruments Act and provisions whereby an order in council is made subject to the approval of the House is far better than negative approval, particularly on this matter of determining what is a handicraft. Honestly, I think the minister is making a pretty small case.

Mr. Turner (Ottawa-Carleton): Mr. Chairman, perhaps I am not as enamoured of the precedent of Westminster as the hon. gentleman is. If I were, I would recommend the guillotine in our proceedings here. I would be interested in his view on that. Let me say that when we brought forward the Statutory Instruments Act, the hon. gentleman and I, and the hon. member for Peace River, had hoped that the regulations and other statutory instruments committee would be a formidable arm of the House. If that committee, in its judgment, in reviewing the operation of this item and other items in the Excise Act and Customs Tariff Act, feel that amendments ought to be

[Mr. Stevens.]

made, then I will certainly abide by those recommendations.

Mr. Stevens: Mr. Chairman, unless the minister can give more satisfactory precedents where he feels there has been a similar type of delegation, I shall put an amendment before the committee concerning this matter because I believe we have not been satisfactorily advised by the minister as to what exactly is his province in this regard. We agree that there may be a question of definition as to what would be included in the item "handicrafts," but surely it is not impossible, after the definition has been arrived at, after the order in council has been made, to have a reference to this House, at which time, either by affirmative or negative resolution, the House can decide whether there has been a proper tariff.

This matter was dealt with by my hon. friend's colleagues in 1961. It is referred to in the *Senate Debates* of 1961, at page 848. Senator Hayden covered the point, I think quite well, as did some of his colleagues. I believe this is an important matter. It is a constitutional question. Before I propose an amendment, if the minister accepts our suggestion of having a reference with respect to this matter in future to the House of Commons, I would like him to give us a little more insight as to where the precedent is and the possible conflicts to which he refers.

Mr. Turner (Ottawa-Carleton): Mr. Chairman, the point which the hon. member said arose in the Senate related to using an order in council to fix rates of duty. It has no reference to the problems which are found throughout the statutes. The hon. gentleman was not in the committee when I replied to the hon. member for Edmonton West on the completely valid point he has brought out. I am just saying to him, and I echo the words of the member for Edmonton-Strathcona, that the purpose of flexibility is to ensure as far as possible duty free entry of handicrafts from developing nations. If the committee were to insist on a straitjacket of definition, I am afraid we would not get the flexibility which reflects the thrust of the general preferential tariff.

Mr. Stevens: Mr. Chairman, in that event I would move:

That schedule I, tariff item 87500-1 on page 6 be amended by inserting therein the words "subject to affirmative resolution of the House of Commons" next after the words "by order of the governor in council" in the first and second lines of the said tariff item and next after the word "regulations" in the last line of the said tariff item.

The Chairman: Is the committee ready for the question?

Some hon. Members: Question.

● (1620)

Amendment (Mr. Stevens) negatived: Nays 44; yeas, 18.

The Chairman: I declare the amendment defeated. The hon. member for Fraser Valley East.

Mr. Patterson: Mr. Chairman, I was in error in seeking the floor. I understood we were on schedule II, but apparently we are still on schedule I. What I have to say has reference to schedule II.

Mr. Cullen: Schedule II was passed.