

*Customs Act*

ample, there be a national distributor here. The insertion of the word "exceptional" would alter the meaning. When it came to administration the effect would be precisely the same.

Mr. CAHAN: I doubt that. In his amendment the minister has not covered the case of exceptional circumstances in the trade between a foreign country and this country. He deals now simply with the circumstances of the trade in one country or another, and if this is to have the effect suggested by the minister the circumstances should be exceptional.

Section agreed to.

On section 8 (now section 6)—Application to tariff board.

Mr. ILSLEY: Attention has been called to the fact that the draft amendment to section 43 does not precisely follow the terms of the note to the United States.

Mr. BENNETT: I was going to mention that.

Mr. ILSLEY: There is one eventuality not covered by the section, and that is possibly that before the expiration of three months the tariff board might decide that no fixed value was required. It was contemplated in such event that they would have the right so to declare and thereupon the fixed value would disappear. In the section as drafted it is quite possible there is only one way in which the fixed value may disappear, that is by lapse of time, and so I am proposing to alter the section to comply with the language of the note.

Mr. BENNETT: That is the Japanese note?

Mr. ILSLEY: No; this is the note to the United States.

Mr. BENNETT: That is paragraph (c)?

Mr. ILSLEY: Yes; and the words are "whether, to what extent, and for what period." Those words are not used in the proposed amendment.

Mr. BENNETT: I agree. There is one other point. The minister will observe that in line 21 the word "declaration" is used. It says, "issue its declaration." That is an incorrect term. "Its finding" is the term used in the note, and I think "finding" is the correct word. After all, the tariff board is a court and it gives a judgment or finding, not a declaration. It is not a declaratory judgment; it is a finding.

Mr. ROSS (Moose Jaw): Is the board made a court by this act?

[Mr. Ilesley.]

Mr. BENNETT: No, by the Tariff Board Act itself.

Mr. ILSLEY: The reason the word "declaration" is used is because it is the word used in section 54 of the Customs Act. Section 54 says:

The board of customs may declare the rate of duty payable on the class of goods in question,

And so forth.

Mr. BENNETT: That is another matter.

Mr. CAHAN: That is a declaration as to the rate of duty.

Mr. BENNETT: Yes, on appeal from the appraiser to the customs board.

Mr. ILSLEY: If it is proper for them to make a declaration as to the rate of duty, I should think it is equally proper for them to make a declaration as to whether a value is required.

Mr. CAHAN: One is a declaration of fact, the other is a finding of fact.

Mr. BENNETT: The declaration contemplated by section 54 is a declaration that the duty to apply is under 226 instead of 243, we will say. That is merely a declaratory judgment. But this is an appeal, and when you use the word "appeal" I think the word "finding" or "judgment" would be preferable. I want the minister to understand that I am not in any sense suggesting that any word I have in mind is better than another, but "declaration" I do not think is an appropriate term to apply to an appeal taken by an interested party to a court. That is the point I was endeavouring to make.

Mr. CAHAN: It is a finding which the board makes after investigation.

Mr. BENNETT: Exactly.

Mr. CAHAN: And in line 26 we say, "If a lower value is found by the tariff board."

Mr. ILSLEY: It is quite possible that would improve the wording, and I have no objection to using in line 21 the words "make its finding" instead of saying that the board shall "issue its declaration," and then at the beginning of line 30 the word "declaration" could be changed to "finding." I think that will cover it.

Mr. EULER: I move, Mr. Chairman, that the following subsection be inserted in lieu of subsection 3 of section 8:

(3) In the case of any value for duty established under the provisions of this section after the first day of January, 1936, any interested party may apply to the tariff board by way of appeal therefrom. The tariff board shall