

*Proceedings on Adjournment Motion*

**BUSINESS OF THE HOUSE**

**Mr. Fulton:** Business of the house?

**Mr. MacEachen:** Same thing tomorrow.

**PROCEEDINGS ON ADJOURNMENT MOTION**

A motion to adjourn the house under provisional standing order 39A deemed to have been moved.

**FINANCE—EFFECT OF U.S. TAX ON INVENTORIES OF CANADIAN PRODUCTS**

**Mr. H. W. Herridge (Kootenay West):** Mr. Speaker, I must inform this rather inspiring audience—

**Mr. Knowles:** Thank you.

**Mr. Herridge:**—that a very unusual situation was brought to my attention as the result of reading an article in the *Financial Post* of November 26 last. It seemed so serious to me that yesterday I asked the Minister of Finance (Mr. Sharp) the following question:

Mr. Speaker, I should like to ask a question of the Minister of Finance. May I preface my question by saying I am not an expert on taxation. Has the minister been informed of a decision by the United States Supreme Court upholding the right of the city of Los Angeles to impose taxes on the value of inventories of imported raw materials, and that the right to impose these taxes by local United States authorities could affect commodities such as Canadian nickel, lead, zinc, lumber or any other raw material? Could the minister inform the house what action he proposes to take in order to deal with this unprecedented situation?

At that point Mr. Speaker rose and proposed that the question should be placed on the order paper. However, I think it is a matter of considerable importance and in order that the minister will be informed of the circumstances I am going to read from the article in the *Financial Post* of November 26. It is headed, "U.S. Ruling May Hurt Some Canadian Exports—Supreme Court Refusal To Deny Los Angeles Right To Tax Inventories Of Imported Raw Materials Eliminates Big Advantage For Us." The article is dated-lined Washington and reads as follows:

Decision by the U.S. Supreme Court upholding Los Angeles' right to local taxes on the value of inventories of imported raw materials held by U.S. firms could have profound effects on Canadian and other foreign exporters to the U.S.

It could lead local U.S. authorities to tax such things as Canadian iron ore imports by U.S. steel companies, or Canadian nickel, lead, zinc, lumber or any other raw material.

If the interpretation of the court ruling were extended to cover manufactured goods, as some local tax authorities believe, every Canadian

[Mr. Brand.]

businessman exporting to the U.S. would be affected—even though the tax would be paid by the U.S. customer.

In the past, raw material and manufactured goods from Canada and other countries have been largely free of local taxation. U.S. raw materials and U.S. manufactured goods have not. Thus, imported goods have had some advantage over competitive U.S. production. This advantage has now been eliminated, at least for raw materials.

The court's decision is bound to set off a lengthy governmental and legal review of U.S. laws relating to taxes and duties on imports.

The battle over the right of local communities to tax foreign imports has been in the courts for at least seven years. The court cases have involved Canadian products as well as imports from other nations.

Arguments on the matter stem from a section of the U.S. Constitution which says: "No state shall, with or without the consent of Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws . . ."

This was considered a complete ban on local taxation of foreign imports for a long time. About seven years ago, however, the issue came before several courts, including the Supreme Court.

In the course of the litigation the doctrine was established that the local taxes could apply to that portion of the inventory of imports which is needed by firms for "current operational needs."

In a case involving Canadian newsprint, Denver Publishing Company resisted Colorado's right to tax imported newsprint from Canada. The eventual ruling was that because the company needed six days to replenish its supply of newsprint from Canada and used 60 tons of newsprint a day, the amount necessary for "current operational needs"—and which was therefore taxable—was 360 tons. Any amount the company held in inventory above the 360 tons was not taxable.

Under the new court ruling, however, it would seem that all the newsprint in the inventory would be taxable.

The Los Angeles case began when the county taxed three firms on their total in March, 1960, of imported raw materials. The companies were Virtue Bros., which imported plywood from Finland; Clayton Manufacturing Co., which imported steel tubing from Britain; Anchor Post Products Inc., which imported wire from Australia.

The trial court in Los Angeles found a five-day supply of the imported goods to be the "current operational needs" of the three firms, broadly following the principles established in the Denver case involving Canadian newsprint.

The appeal court, however, found that all imported material in the hands of the importing manufacturer was required for "current operational needs" regardless of when in the future it was going to be used.

The California Supreme Court denied a hearing on the case requested by the three companies and now the U.S. Supreme Court has denied a hearing. Thus the appeal court decision stands that merchandise imported for use in manufacturing loses its constitutional immunity from local taxes upon completing its journey at the manufacturer's warehouse.

The companies argued that this ruling is in direct conflict with the Denver case, but the Supreme Court disagreed in refusing a hearing on the case.