

Revenue (Mr. Ilesley), as a lawyer, realizes that it is completely proven. Here is an order in council outstanding that fixes the rate, and that rate has not been varied. The authority for the minister is the order in council.

Mr. DUNNING: Fixes a value, not a rate.

Mr. BENNETT: Well, the rate is based upon the value. In order that there may be no misunderstanding, I am talking about the increase added to the invoice. Section 43 authorizes that to be accomplished in one way and one way only, and that is by order in council. You cannot get away from that.

Mr. DUNNING: A ministerial order.

Mr. BENNETT: Read what it says.

Mr. DUNNING: "The governor in council on a report from the minister"—may do what? May authorize the minister to fix the value for duty. And that authority exists.

Mr. BENNETT: Exactly, but the rate is fixed by order in council.

Mr. DUNNING: No, no.

Mr. BENNETT: But the rate was in these cases. I do not know about them all, but I know the minister was authorized to fix a rate not exceeding or not less than a certain figure. Some were fixed absolutely. One of the difficulties we had—the hon. member for Parkdale (Mr. Spence) will recall it—was that the order in council empowered the minister to fix a valuation and define the valuation, and the minister fixed it in accordance with that authority which he received from council. Having done that it was of course found that it was too late, or in one case it was too early. That is the reason you find these orders in council for the entire year. My hon. friend I suppose has been told by the officers of the department the reason that was done was that it was found necessary to make it applicable to the whole year in order that no difficulty might arise in connection with, for instance onions—that is one item I remember; I do not recall others. But the position is that the government at the moment is utilizing an order in council which it roundly abused when it was passed. That order in council does confer upon the minister certain powers, but those orders in council in some cases are very restrictive, and define the rate which he must fix. That is the point I was trying to make. In such cases it is clear there is no power in the minister to change it. I gather from what the Min-

ister of National Revenue says that what has happened is that the collectors of customs have automatically applied it to eighty per cent of the lowest figure.

Mr. ILSLEY: As I understand the application of section 43 it is this: the governor in council first authorizes the Minister of National Revenue to fix the valuation for duty purposes on a certain class or kind of goods.

Mr. BENNETT: In certain conditions where Canadian interests are prejudicially affected.

Mr. ILSLEY: Yes, but it is not contemplated, nor is it necessary, that the governor in council should go further and fix the rate itself.

Mr. BENNETT: But it was done in some cases.

Mr. ILSLEY: I do not know whether the governor in council did that or not, but it was not contemplated by the section. It was contemplated that the minister should have discretion to fix the rate after being so authorized by the governor in council. Pursuant to that authority ministers have from time to time fixed rates on certain kinds of fruit and vegetables.

Mr. STIRLING: Fixed a value.

Mr. ILSLEY: Fixed a valuation for duty purposes on certain kinds of fruit and vegetables. Under our agreement with the United States, by these items in this schedule it is agreed that hereafter the minister, acting I assume under the same orders in council, shall not fix a valuation more than eighty per cent of the lowest valuations that have existed at any time in the last three years. I am at a loss to see where there is any impropriety in acting under the existing orders in council. There is no particular reason why action should be taken under existing orders in council if it is improper or illegal to do so, but it is not apparent to me that it is either improper or illegal.

I was not, I am afraid, able to understand the argument based on the provisos of page 28 of the customs tariff. That appears to be another branch of my right hon. friend's argument which I was not able to follow.

Mr. BENNETT: The point is, that no longer applies.

Mr. ILSLEY: I think that is correct.

Mr. BENNETT: Therefore we have reliance on a new departure, which must be authorized by order in council.

Mr. ILSLEY: Yes.