

Hon. Mr. HUGHES: I should be glad if an honourable member would move adjournment of the debate until to-morrow, for the honourable senator from Prince (Hon. Mr. MacArthur), who is likely to be present then.

On motion of Hon. Mr. Calder, the debate was adjourned.

CUSTOMS BILL

SECOND READING

Hon. RAOUL DANDURAND moved the second reading of Bill 84, an Act to amend the Customs Act.

He said: Honourable senators, this Bill proposes a certain number of amendments to the Customs Act. I need not go through them in detail, for they will be dealt with separately in committee. I would now simply draw attention to clause 3, which provides that certain values for duty shall be deemed to have been lawfully fixed. The clause reads as follows:

3. The said Act is further amended by inserting the following section immediately after section forty-three thereof:

43A. (1) All values for duty heretofore fixed by, or on a basis or by a method prescribed by the Minister or the Commissioner of Customs or the Assistant Commissioner of Customs, acting or purporting to act pursuant to the provisions of section forty-seven A of the Customs Act, chapter forty-eight of the Revised Statutes of Canada, 1906, as enacted by section three of chapter eighteen of the statutes of 1922, or of section forty-three of the Customs Act, chapter forty-two of the Revised Statutes of Canada, 1927, or of section forty-three of the said Customs Act, as enacted by section four of chapter two of the statutes of 1930 (Second Session), or of subsection one of section forty-three of the said Customs Act, as enacted by section one of chapter seven of the statutes of 1932-33, shall, notwithstanding any alleged defect or omission or want of authority in respect thereof, be deemed to have been lawfully fixed pursuant to the aforesaid provisions and all things required by statute to be done to fix such values shall be deemed to have been done, and the said values for duty and the levy and collection of all duties or taxes based or purported to be based on such values are hereby confirmed and ratified.

(2) Without restricting the generality of the next preceding subsection, any act heretofore done by the Minister or the Commissioner of Customs or the Assistant Commissioner of Customs, directing that the value for duty in any case or class of cases should be considered as fixed in terms of the currency of the country of export, is hereby confirmed and ratified and any value for duty determined in accordance with such direction shall be deemed to have been duly fixed pursuant to section forty-three of this Act and the levy and collection of all duties or taxes based or purported to be based on such values shall be deemed to have been duly levied and collected.

Hon. Mr. SINCLAIR.

(3) Nothing in this section shall affect any legal proceedings by way of petition of right in respect of which a fiat of the Governor General had been granted on or before the first day of October, 1936.

I will present to the House, as a brief, a statement made by the Minister of National Revenue, Hon. Mr. Ilsley.

Shortly before Great Britain went off the gold standard our currency was at a discount as compared with United States currency, and certain values for duty purposes of fruits and vegetables were fixed under section 43. The Commissioner of Customs of that time interpreted the order of the Minister as fixing the values in United States rather than in Canadian currency, and gave directions accordingly to the collectors. The result was that more dumping duty was collected than would have been collected had the orders of the Minister been interpreted as referring to Canadian currency, and the amounts of duty that were calculated on that basis were taken in the period between November, 1931, and May or June, 1932. Those dumping duties are the basis of a petition of right which was filed in 1936. A fiat has been granted and the case is pending in the Exchequer Court at the present time. That is one irregularity which is complained of by a certain number of exporters. Certain other irregularities or alleged irregularities in the imposition of these dumping duties are complained of. They are these:

First, that values were fixed without authorization by the Governor in Council, the contention being that once a value has been fixed the authority is exhausted. The view of the department is that since the original Orders in Council authorizing the Minister to fix values were never cancelled, they were available each season as occasion arose. Honourable members will notice that this is a technical question bearing on procedure.

The second complaint is that the Orders in Council authorizing the fixation of values were not published in the Canada Gazette as required by statute. The department answers that all such Orders in Council were published in the Canada Gazette as required. This again is a technical point covering questions of procedure.

The third complaint is that the values fixed were not published in the Canada Gazette as required by statute. The department answers that all values fixed were published in the Canada Gazette, but were not in all cases published in the next following issue. Again this is a technical point.

The fourth complaint is that no authority existed for a ruling to the effect that values were fixed in terms of the currency of the