

*Canada-U.S. Trade Agreement*

but these items deal with the general tariff. The minute these items are shifted from the general to the intermediate tariff there is no power, unless you pass a new order in council. I do not doubt for a moment that the Minister of Justice, if he were here, would agree with me. The Minister of National Revenue is an eminent lawyer, and I am sure he will admit that. As it stands now on page 28 of the office consolidation of the tariff, it reads:

Vegetables, fresh, in their natural state, the weight of the packages to be included in the weight for duty: (a) asparagus, free; 27½ per cent; 30 per cent.

We have now cut the duty to 15 per cent, with this proviso:

Provided that when imported under the general tariff rate, from April 15 to May 31, inclusive, the duty shall be not less than 3 cents per pound.

That has to do with section 43; there is an absolutely statutory provision with respect to it in this tariff. Now we take it out of the general tariff altogether and put it into the intermediate tariff, but under the intermediate tariff the provision inserted here is:

Provided that in respect of the goods dutiable under tariff item 87 no value for duty shall be established under the authority of section 43 of the Customs Act except in the case of the sub-items indicated thus—

That is, there is an absolute prohibition against the establishment of it at all. It is a little different from anything we have had heretofore. Then it goes on:

—and in no case shall any value so established exceed the invoice value by more than 80 per centum of the lowest advance imposed on like goods under the authority of said section during the calendar years 1933 to 1935, inclusive.

That surely contemplates action being taken by this government, not the action taken by some other government. That surely contemplates, if language can be used for any purpose, that there must be an absolutely new departure. I know how anxious the Minister of National Revenue is that the difficulties which have arisen in the past should be avoided in the future, but one of them is contained right in this paragraph. There can be no exercise of power under that old order in council, none whatever. I think the minister will see that, but here you have been calmly and quietly going along and using an order in council which you abused when it was passed, for the purpose of receiving three-fifths of a cent instead of one cent, 4 cents instead of 5 cents, and so on. You have been going along blithely, imposing that obligation, when there is no authority in the world for it; you have been standing behind

[Mr Bennett.]

an order in council which this very agreement says shall not be regarded.

That is the point I am trying to make. This agreement contemplates a new order in council by this government, without relying on what was done by another government. This authority is determined by one factor, namely the lowest level in 1933, 1934 and 1935, and when you reach that the only power you have is to impose 80 per cent of that level. But you cannot apply 80 per cent to what was done some other time by somebody else, when the order in council which was passed by somebody else was for an altogether different rate. You can pass an order in council saying it should be 80 per cent of that rate, but you cannot shelter yourselves behind that order in council for the purpose of carrying into effect the provisions of this agreement.

Mr. DUNNING: If I had section 43 before me I would have no difficulty in answering my right hon. friend, for the reason that the power there given authorizes the government to enable the minister to set values for duty purposes. It is a general enabling authority under a well understood section of the tariff. No one has raised that question in an administrative sense since the end of the year, but if there should be any question about it there would be no difficulty in taking such steps as might be necessary. Here we have section 43:

If at any time it appears to the satisfaction of the governor in council on a report from the minister that goods of any kind are being imported into Canada, either on sale or on consignment, under such conditions as prejudicially or injuriously to affect the interests of Canadian producers or manufacturers, the governor in council may authorize the minister to fix the value for duty of any class or kind of such goods, and notwithstanding any other provision of this act, the value so fixed shall be deemed to be the fair market value of such goods.

That has relation not to the general tariff or the intermediate tariff, but to goods coming in under any tariff excepting the British preferential or any lower tariff.

Every order of the governor in council authorizing the minister to fix the value for duty of any class or kind of such goods, and the value thereof so fixed by the minister by virtue of such authority, shall be published in the next following issue of the Canada Gazette.

There has been no change and no necessity for a change with respect to that enabling authority.

Mr. BENNETT: But the mere reading of section 43 conclusively proves what I have said. It does not require any further discussion. I think the Minister of National