

*Customs Act—Drawbacks*

Mr. ILSLEY: Yes, under the same order in council.

Mr. BENNETT: So that it affects not only the operation of the statute under the late administration but also the continued operation since under the same order in council.

Mr. ILSLEY: Yes. Some of the practices complained of were peculiar to the last administration—the one in regard to currency, for example. Some of them are not; they are going on at the present time.

Mr. LOCKHART: With regard to duties paid on shipments in the last two or three years, was any protest lodged with the department to any extent at the time they were paid?

Mr. ILSLEY: No, not to any extent.

Mr. LOCKHART: I was informed that they had been paid under protest.

Mr. ILSLEY: Not to any extent. The odd situation might have arisen which brought forth a protest, but as a general rule they have been paid without protest since I have been minister.

Mr. PLAXTON: I want to lodge a protest against this particular section and I cannot state it more succinctly than by reading a telegram I have received from the Toronto Wholesale Fruit and Produce Merchants' Association. With the indulgence of the committee I should like to put it on record:

All members this association comprising twenty-three firms importing annually over twelve thousand cars fresh fruits and vegetables respectfully protest type of legislation placed before house Thursday to retroactively amend section forty-three of Customs Act thus usurping functions of exchequer court where this matter is at present being handled on case of *McCart v. the King* and the case of *Ontario Produce Co. Ltd. v. the King*. We suggest this type of legislation dangerous unconstitutional and unnecessary which bars the rights of citizens to recover through the courts for moneys illegally collected and retained by Department National Revenue. Please advise.

Mr. ILSLEY: Do you mind telling me who the traffic manager is?

Mr. PLAXTON: I do not know the officers of the association.

Mr. BETTS: I protest against this legislation on the strength of the minister's own statement. He tells us there is an accumulation of claims, and frankly I do not see that he is in a position to prejudge them. He says that these claims, if recovered, will not inure to the benefit of the people who paid the tax. Even if that is true in regard to some

[Mr. Bennett.]

claims I do not see how he can make that general statement positively of all the claims. One thing is manifest: there is machinery whereby these claims can be adjudicated upon by the courts, and any further legislation that steps in and deprives the courts of their functions is extremely undesirable. We have seen in Ontario recently an example of the powers of the courts being usurped, with very unhappy results, and we should steer clear of that sort of thing in this forum. I wish to put on the record, in the form of a telegram, a protest which I have received:

As president of the Canadian Fruit and Vegetable Jobbers Association of Canada I humbly protest the type of legislation introduced by the hon. Minister of National Revenue in yesterday's bill wherein he proposes to bar all claims by act of parliament also to amend section 43 Customs Act and to have parliament retroactively validate and confirm all values for duty previously fixed. I question if this is constitutional and consider this a dangerous type of legislation. I beg you to vigorously oppose this bill which usurps the functions of the supreme court.

J. H. Langford.

Section agreed to.

Sections 4 to 7 inclusive agreed to.

On section 8—Regulations. Drawback on duty-paid goods exported.

Mr. BENNETT: Section 8 raises a very old question, about which many views are expressed from time to time. This is a new section, which gives to the governor in council authority, under regulations made by him, to—

(a) allow, on the exportation of goods which have been imported into Canada and on which a duty of customs has been paid, a drawback equal to the duty so paid. . . .

And the other subsection applies although the materials are manufactured into goods in Canada. Many discussions have taken place in this house on this whole question of drawbacks. It has been argued that we have gone too far. When an application is made for information as to what drawbacks have been paid we are told it is not desirable to let the business of those who receive the drawbacks become known. I confess that I have had grave doubts whether we have not carried that too far. I do know that successive ministers of finance have endeavoured to reduce this drawback item to a minimum. I think the limitation should be placed in the statute at the top of page 4, and not in the regulation. I know we are bound to have these drawbacks as long as we are an exporting country importing raw material on which duty is paid. But I do think—and not to-day for the first time have I suggested