

Customs Act

reference to the Minister of National Revenue in this context might allow the validation of some action which is not contemplated by Parliament at the time we are passing this Bill. If we are to protect the rights, powers and prerogatives of Parliament, we should be very careful to confine the scope of the Bill to keep it as narrow as possible.

As I said, it poses no particular problems for me if my colleague wants to make reference to the Minister of National Revenue. However, the effect of doing that would be to substantially broaden the scope of the Bill and presumably to cover all sorts of areas which were not anticipated at the time we had the discussion between Parties. They would be areas in which the court has expressed no difficulty at all. The concern expressed by the court was strictly with regard to powers which are specifically assigned to the Deputy Minister and which were delegated by him to subordinates.

If, on reflection, my hon. colleague feels, as I do, that it should be confined to validating those actions of the Deputy Minister, I certainly think he would find consent on this side of the House to withdraw the amendment because it would ensure that Parliament knew what it was voting on at the time.

Mr. Chairman, since some bootlegging has already gone on, perhaps the House would allow me to bootleg a response to the rhetorical question. I will give a rhetorical answer to the question asked by my colleague. The effect of this Act would be to retroactively validate decisions that were made in delegating authority. The understanding of both importers and the Department head was that the actions of the Deputy Minister in delegating his authority, which was a practical necessity, were both necessary and proper. On a technicality the courts found that he did not have the authority, under the statute, to delegate his powers as Deputy Minister. This would regularize that procedure for the future and retroactively validate decisions made on that basis in the past. This poses no problem, to the best of my knowledge, to the private sector or others. It simply assures us that practices which have been followed for years, and were accepted to be appropriate, are brought into conformity with the law.

Mr. Baker: Mr. Chairman, I rise on a point of order.

The Deputy Chairman: I would like to rule. Do you have another question?

Mr. Baker: Mr. Chairman, I would like you to rule as to the admissibility of the word "Minister", keeping in mind that we certainly do not want to extend any more powers to the Minister of this particular Department.

The Deputy Chairman: It goes beyond the scope of the clause. Unless you have any further arguments in regard to this, I must rule. First, there is a difficulty with regard to the way in which the Member proposed this particular motion. Second, it goes beyond the scope of the clause. It is not acceptable and it is redundant. Therefore, I must rule it out of order.

Mr. Nickerson: I would like to follow up on the question of the Hon. Member for Thunder Bay-Atikokan and the response given by the Minister of National Revenue. We were given the assurance that nothing untoward would happen as a result of the passage of this Act. The specific question as to whether there is any legislation pending right now that would be affected by the passage of this Act was not answered. Could we have an answer to that direct and specific question? Is there any legislation pending which would be influenced by the passage of this legislation?

Mr. Beatty: Mr. Chairman, if I correctly understand the question, the answer would be no. There is no legislation that I am aware of which is before the House at the present time that would be affected by this—

Mr. Nickerson: I am sorry. Maybe I should have said "litigation pending or in process".

Mr. Beatty: Mr. Chairman, off the top of my head, the answer would be that I am not aware of any. The difficulty is that if the Bill did not pass we would have a complete gridlock in terms of the ability of the Department to make these determinations. Over 5,700 a year would have to be personally made by the Deputy Minister of National Revenue. We are essentially amending the law to ensure that the procedures which have been followed on a routine basis in the past are allowed to continue.

Mr. Nickerson: I would like to thank the Minister for that partial assurance. I will give an example of the reason I ask this question. Some months ago, when the previous Government was in office, a Bill was introduced to make minor changes to the Yukon Quartz Mining Act. We were told that it was a simple administrative matter and that it was necessary that this be done. It certainly appeared that way on the face of it. The House passed that Bill very quickly and afterwards we found out that one of the reasons for the introduction of the Bill was that there was a court case pending. Through the passage of that legislation we cut the ground out from beneath the litigant. We did a disservice to someone who had a legitimate case before the courts.

I want the assurance that we will not be doing that to any other person as a result of the passage of this legislation this afternoon. I quite agree with the Minister that it is a necessary thing to do and that probably 99 times out of 100 cases we would be acting in favour of the people involved. However, I would like to have the assurance that we are not cutting the ground out from underneath any litigant's feet.

Mr. Beatty: Mr. Chairman, I can indicate that to the best of my knowledge that is the case. I can also indicate that if the amendment does not pass today, the effect would be to declare null and void all of the decisions which have been made by officials in the name of the Deputy Minister. I can pretty well guarantee that those people who were unhappy with the decision made, even if it was soundly made, would use that legal basis to try to undo the decision that was made.