

The Chairman: With respect to your latter ground, the expertise of the Anti-dumping Tribunal is in the area of injury or threatened injury to the producer. The Tariff Board has a basis of experience and has dealt much more broadly along the lines you have indicated in this question.

Senator Molson: I see one difficulty in Senator Connolly's premise. There are probably two different industries affected. One is injured and the other benefiting. However, it would be rather improbable that it would be an injury and a benefit to the same industry in the same transaction.

Senator Connolly (Ottawa West): That is quite true; it is obvious in my example. The injury would be to a manufacturing organization in Canada; the benefit would be to an exporter who used the imported goods to produce foreign exchange by exporting to the country where the equipment was manufactured.

Senator Molson: We would need a Solomon to deal with that.

Senator Connolly (Ottawa West): I do not think so; it seems to be a matter of policy.

The Chairman: That brings us into the area of national policy of balancing exchange as an element against injury to the Canadian producer.

What is the feeling of the committee with respect to clause 3?

Senator Blois: I move we amend it as you suggested.

The Chairman: I have suggested this limitation, which is in line with the present intention for the use of this extended authority. Does the committee support that change?

Senator Connolly (Ottawa West): I certainly do not wish to vote against the chairman, because he carries us so far on these matters. What does Mr. Joyce think? Does it restrict?

Mr. Joyce: I am a little concerned about it, for two reasons. One is that it may be difficult to word the section in such a way as to allow the tribunal to perform even the immediate task contemplated, which is the determination of injury in cases where there are importations but no dumping.

However, more broadly I would suggest to you again, senators, that there may in fact not be as great a danger as you see in providing powers to this tribunal as broad as those provided in the Tariff Board Act. In both cases the reference has to be made by the Governor in Council. Leaving this clause stand would give the option to the Governor in Council to refer a broad question to this tribunal rather than possibly to the Tariff Board.

Senator Connolly (Ottawa West): Is it not more than that, Mr. Joyce? Are you not giving an importer who has perhaps been found to have imported goods that attract

dumping an opportunity to go to this particular tribunal, which is primarily charged with considering dumping matters?

Mr. Joyce: At present.

Senator Connolly (Ottawa West): At the present time, and allowing that tribunal to weigh this particular allegation of injury against a possible benefit in another area of trade and commerce?

The Chairman: Well now, senator, if you read section 16 of the act, which deals with dumping, and then the determination the Anti-dumping Tribunal must make as to whether there is an injury, the only manner in which a producer can benefit is by establishing injury.

You are suggesting that, have made that decision, the same question in substance could be referred under this authority. What kind of decision would you expect to be made by the Anti-dumping Tribunal on the wording we have here? They have already decided that there is or is not injury; would you have them make two different decisions?

Senator Connolly (Ottawa West): They may decide, for example, that there may be injury in respect of the equipment imported because it may be manufactured in Canada.

The Chairman: Then we must broaden the authority as to the basis upon which they can proceed. Guidelines would have to be established to say that even if they have made a finding of injury under section 16 there is this general reference that they are not bound by that finding. In my opinion that creates an impossible situation.

The Chairman: Those in favour of the amendment please indicate? Contrary?

Carried.

Now, Mr. Joyce, I think the other items in the bill are just tidying-up items, are they not? I notice you have changed "three months" to "90 days". That is simply to be uniform in your language, I presume.

Mr. Joyce: Yes, I think there is another small point there in that three months is not necessarily always the same because it can depend on the length of the months, and with this change, everybody will be treated on the same basis. "Ninety days" is a more appropriate term.

The Chairman: Then in clause 4 you provide that where there is a finding of no injury and that terminates the proceedings, if the importer has put any money up in the interim, he gets it back.

Mr. Joyce: He gets the money back if there is a no injury finding even at the present time, but he will get it back more quickly under section 4 because it will be automatic. Under present arrangements, National Revenue still has to make a finding and a final determination