• (1710)

It is true that we are to have a new trade tribunal, but how will this tribunal work? How will this tribunal ensure that our exports have guaranteed access into the American market? How will it protect our exporters from protectionist United States legislation?

The Prime Minister attempted to deal with that this afternoon, saying that it is a better mechanism than we ever had before. However, his speech was full of endorsements, citations and statements of approval. He never once dealt with the agreement, dealt with the argument, or referred to the document. The Minister cannot tell us because he has not read it.

The fact is that the trade tribunal will not protect us or give us an exemption from American trade law. Not only will the system be longer and costlier for Canadian exporters, the tribunal will still be unable to challenge American trade law.

I refer once again to the trade agreement. Article 1904:2 states that the tribunal can review a trade decision of the American Government, using the document's words: " . . . to determine whether such determination was in accordance with the anti-dumping or countervailing duty law of the importing Party". That is U.S. law. It goes on to state that: " . . . The anti-dumping and countervailing duty statutes of the parties, as those statutes may be amended from time to time, are incorporated into this Agreement". It does not matter what the Prime Minister says or what his endorsements say, or how the citations he can provide in the House may support him here and there, the document is quite clear.

The President's statement of administrative action is even more brutal and blunt. Again at page 98 of the President's statement, it states: "The panel cannot order statutory modifications". In other words, the tribunal cannot change or challenge American law. Therefore, Canadian exporters will not be able to challenge American law.

The tribunal has the jurisdiction only to interpret American law, using American precedent, American jurisprudence, American judicial practice. This does not only include present American law, the 1930 Trade Act, the 1974 trade law, and now the omnibus legislation, which adds a whole new series of hostile remedies against Canada, but any future law or any law as it may be amended from time to time.

The Prime Minister stood up this afternoon and said: "We have made progress. We now have the rule of law". We certainly have. It is the rule of American law, enforced by this tribunal.

Let us look at some of the precedents that the tribunal would be referring to. The Government is hoping that Canadians will not look at the fact that dozens of our programs have already been found by American authorities to confer subsidies of some kind or another. During the five to seven-year period of negotiations, the Americans will be using their definition of subsidy as it has been derived under American practice in ensuring that they impose and force that definition on us.

Yesterday the Minister attempted to explain what countervail was. He told Canadians that U.S. countervail action "had nothing to do with regional development". U.S. countervail decisions have everything to do with our regional development programs, and it is nothing short of scandalous that the Minister responsible either does not know that, has not read the deal, or is attempting to tell Canadians something completely at variance with the documents before us.

Read some of the decisions made by the U.S. Commerce Department pursuant to American law that will be binding on this tribunal. For example, in a 1986 decision on groundfish, it listed 55 separate federal, provincial and joint programs which it considered subsidies. That is part of that American jurisprudence incorporated into this agreement.

The 1986 finding of the U.S. Trade Administration of the Department of Commerce says:

> "Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of Section 701 of the Tariff Act of 1930 as amended are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish. For purposes of this investigation, the following programs are found to confer subsidies":

I obtained a copy of this agreement and went through the list of 55 programs. I will not read them all, but will describe how some of them are categorized. Under federal programs they include certain types of investment tax credits; a program for export market development; regional development incentive program; industrial and regional development program. Are these not regional equality programs?

Others include the fisheries improvement loans program; Government equity infusions into National Sea Products Limited and Fishery Products International Limited. Those are among the federal programs.

Joint federal-provincial programs include agricultural and rural development agreements; transitional programs; economic and regional development agreements. All the ERDA agreements.

Let me refer to some of the provincial programs listed in the judgment. In New Brunswick, interest rate rebates; in Newfoundland, marketing assistance; in Nova Scotia, industrial development division grants; in Prince Edward Island, technology improvement grants; in Quebec, insurance premium subsidy programs.

The list goes on and on. It also included the fishing vessel assistance program which, since 1942, was used to help fishermen build and repair boats. Suddenly in February, 1986, the Minister of Fisheries and Oceans (Mr. Siddon) cancelled the program saying in a press release that "it had outlived its usefulness", and noted only in passing that the Americans had found it to be a countervailable subsidy.