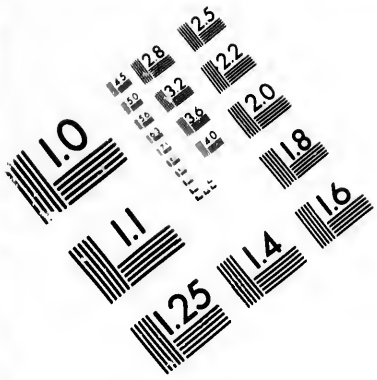

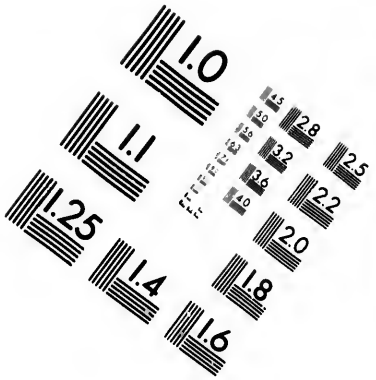

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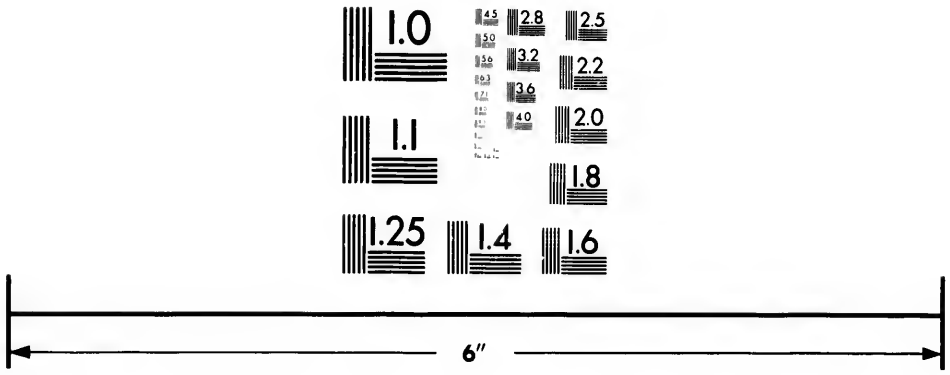

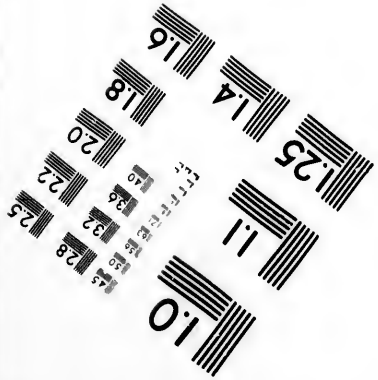

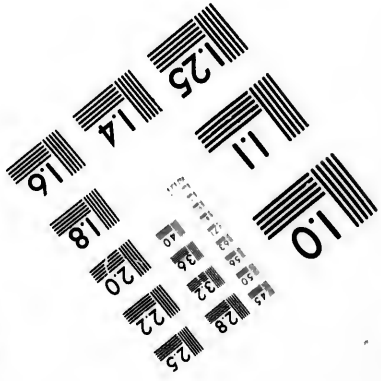

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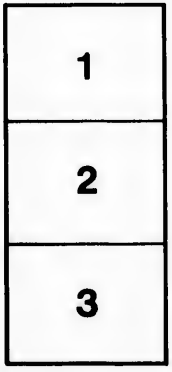

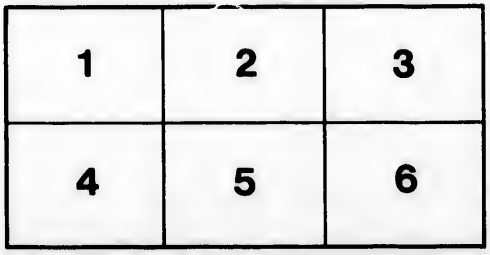

BOARD OF TRADE.

THE LEVYING OF DUTY ON THE COST OF INLAND FREIGHT ON IMPORTED GOODS.

BOARD OF TRADE.

THE LEVYING OF DUTY ON THE COST OF INLAND FREIGHT ON IMPORTED GOODS.

THE COMMITTEE to whom this matter was referred by THE COUNCIL have the honor to report their doings up to the present date.

In March 1879, the Customs Department promulgated for the first time the suggestion that *ad valorem* duties should be levied not merely on the cost or foreign value of imported goods, but also on certain of the transport and transhipping charges incident to the importation.

On that occasion Sir S. L. Tilley opened his budget in the House of Commons at night, and its provisions were put in force all over the Dominion next morning.

One of these provisions was as follows :—

" *Resolved*, That it is expedient to provide that in determining the suitable [dutiable ?] value of merchandise, there shall be added to the cost or the actual wholesale price or fair market value at the time of exportation in the principal markets of the country from whence the same has been imported into Canada, the cost of inland transportation, shipment and trans-shipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made, either *in transitu* or direct to Canada."

To introduce and put in force a change of so great magnitude to the importing and freighting interests of the country, without

notification to the persons affected and without giving them an opportunity of being heard, was in itself a grievance of no mean proportions.

Remonstrances more or less effective quickly followed the enforcement of the resolution, with the result that the minister gave way in so far that he consented to minimize its scope, by excluding the United Kingdom from its operation, and to otherwise modify it.

It now forms section 61 of the Customs Act, and is in these terms—the words within brackets being the modifying clauses :—

"**61.** In determining the dutiable value of goods (except when imported from Great Britain and Ireland), there shall be added to the cost, or the actual wholesale price, or fair market value, at the time of exportation in the principal markets of the country from whence the same have been imported into Canada the cost of inland transportation, shipment and transhipment, with all the expenses included, from the place of growth, production or manufacture, whether by land or water, to the vessel in which the shipment is made, either *in transitu* or direct to Canada, (subject to such regulations as may be made by the Governor in Council ; — Provided that in case of any dispute as to the proper amount of such inland transportation charges, the Minister of Customs may determine the same, and his decision shall be final in that respect)."

In addition to the exports from the United Kingdom, which are expressly excluded from the operation of the section, goods imported from and through the United States, from Mexico, the West Indies, Central and South America, the Pacific Inlands and elsewhere, are scarcely or not at all affected by its provisions. Of the one hundred million dollars annual value of dutiable goods imported into the Dominion, perhaps not more than four or five million dollars' worth come from countries reached by it, and a modicum of even that trifling amount may represent the value of the goods, the freight charges upon which have been assessable under it. Up to this time, therefore, while the trouble and inconvenience have been very considerable, the revenue obtained has been of trifling moment.

There was no public request for legislation of this character nor any public interest subserved by its enactment. In its nature it was a mere Departmental experiment, and was passed without reasons being adduced in its favor. The Department seems to have simply copied from the customs' laws of the United States without adequately considering, whether, in freighting matters, this was a well-considered and provident course, in view of our smaller population and trade, our geographical position, and our climatic disabilities.

But in the experience of the United States this legislation was a signal failure. It induced fraud, it proved unequal in its operation, and it led to endless friction between the importing merchant and the Custom House.

This dissatisfaction may be said to have culminated in 1883, with the result that the provision was repealed by Congress with more than usual emphasis, and the influence of a few persistent official doctrinaires has been powerless to procure even a reconsideration of the matter by Congress since that date.

The enacting and repealing clauses are as follows :—

Extract from the Revised Statutes of the United States as in force December 1st, 1873.

"SECTION **2907.** In determining the dutiable value of merchandise, there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principle markets of the country from whence the same has been imported into the United States;

—the cost of transportation, shipment and transhipment, with all the expenses included, from the place of growth, production or manufacture, whether by land or water, to the vessel in which shipment is made to the United States ;

—the value of the sack, box or covering of any kind in which such merchandise is contained;

—commission at the usual rates, but in no case less than two and one-half *per centum*; and

—brokerage, export duty, and all other actual or usual charges for putting up, preparing and packing for transportation or shipment.

All charges of a general character incurred in the purchase of a general invoice shall be distributed pro-rata among all parts of such invoice, and every part thereof charged with duties based on value shall be advanced according to its proportion, and all wines or other articles paying specific duty by grades shall be graded and pay duty according to the actual value so determined."

Extract from an Act of Congress, approved March 3rd, 1883.

"SECTION 7. That Sections 2907 and 2908 of the Revised Statutes of the United States and Section 14 of the Act entitled "An Act to amend the Customs' Revenue Laws, and to repeal Moieties," approved June 22, 1874, be, and the same are hereby repealed, *and hereafter none of the charges imposed by said sections or any other provisions of existing laws shall be estimated in ascertaining the value of the goods to be imported;* nor shall the value of the usual and necessary sacks, crates, boxes or coverings of any kind be estimated as part of their value in determining the amount of duties for which they are liable;—Provided, that if any packages, sacks, crates, boxes or coverings of any kind shall be of any material or form designed to evade duties thereon, or designed for use otherwise than in the *bona fide* transportation of goods to the United States, the same shall be subject to a duty of one hundred *per centum ad valorem* upon the actual value of the same."

The importing and shipping merchants of the Dominion have not been so fortunate. In March, 1885, two years after the United States had abandoned the principle that certain freights and shipping charges should be included in all dutiable values, our Customs' Department again promoted fresh legislation of this character; the mercantile community and the Board of Trade again protested and memorialized, and the attempt was again abandoned.

The Board's memorial on that occasion was as follows:—

To The Honorable Mackenzie Bowell,

Minister of Customs of the Dominion of Canada.

The Memorial of the Council of the Montreal Board of Trade:—

Most respectfully sheweth,—

I. As regards duty upon inland rates of freight:—

That strong representations have been made to your Memorialists by importers, merchants, and persons representing the shipping interests, against the proposal in Tariff Resolution 2, clause (1)—to add inland freights and costs of trans-shipment etc., to the value of imported goods for customs duty;

That, with a noteworthy exception, the clause seems to your Memorialists, to be in the main, similar to section 9 of the Tariff Act of 1879, said section having been amended by the House of Commons, by the addition of the following words in the first and second lines thereof—"except when imported from Great Britain and Ireland" — and now, after being on the statute-book for about six years, that decision of Parliament is eliminated from what now stands before the House of Commons as part of the second tariff resolution;

That it is contended as strongly now as it was in 1879, that such a method of raising revenue for the Government is false in principle, and would be arbitrary in its operation, as well as troublesome and vexatious in detail; and that all the arguments brought to your notice, and that of the Hon. the Minister of Finance, by deputation and otherwise, are quite as valid now, if not more so, as they were when, in deference to the remonstrances of the mercantile and shipping interests, Parliament ordered the before-mentioned exemption in favour of merchandise imported from the United Kingdom.

That, as has been the case heretofore concerning the value of imported merchandise, interminable questions and disputes will, in the opinion of your Memorialists, be sure to arise between Customs' officials and importers, as to the true rates of inland transportation, trans-shipment, charges, etc., especially as regards

importations from Great Britain and Ireland, because for many years past, competition for freight has been so sharp, as practically to merge inland freights, so-called, from the place of production or manufacture, into a single through-rate *via* the port of shipment.

* * * * * * *

That it appears to your Memorialists that the tendency of such an enactment would be to increase inequitably the rate of duty upon certain of the cheaper kinds of heavy goods for which comparatively high freight-rates are paid, while more expensive but lighter merchandise of the same class would be far less affected by that method of raising revenue; and that, as your Memorialists believe, the enactment of the clause in question would not be insisted upon for revenue purposes, it would be in the interests of trade and shipping to have it omitted altogether from the Tariff.

Wherefore your Memorialists, etc., etc.

Signed on behalf of the Council of the Montreal Board of Trade.

JNO. KERRY, President.
WM. J. PATTERSON, Secretary.

MONTREAL, 19th March, 1885.

And now, and for the third time, the Minister of Customs has proposed the same legislation to Parliament and the Board has again remonstrated in the following terms:—

OFFICE OF THE BOARD OF TRADE,
Montreal, March 19th, 1889.

HON. MACKENZIE BOWELL, *Minister of Customs, Ottawa.*

SIR,—The attention of the Council has been called to a notice given by you in the House of Commons of a resolution to amend the Customs Act, one paragraph of which reads:—

"That in every case the value for duty shall include the charges for transportation and shipment."*

Literally construed, this would mean that the freight and shipping charges from the place of purchase to the port of entry must be added to the cost of the goods to make up the value for duty. Goods purchased in Paris and shipped thence *via* Liverpool and Montreal to Vancouver, would thus have to be assessed by the collector at Vancouver on the Paris cost, *plus* "the charges of transportation and shipment" from Paris to Vancouver.

It is assumed that this cannot be the intention of the Department, and that when the resolution comes to be expanded into a bill, its scope will be limited somewhat after the provisions of the resolution passed in 1879 and now embodied in section 61 of the Customs Act.

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* Mr. Bowell's notice of motion, given March 7th, read as follows, the clause to which the Council's remonstrance applies being italicized :—

"On motion of Mr. Bowell, the House resolved to go into Committee of the Whole, to-morrow, to consider the following proposed resolution:—

"That it is expedient to amend "The Customs Act" and the Act amending the same, and to provide: (*a*) That the bringing of goods into Canada by land conveyance other than railway cars shall be prohibited during the night and on statutory holidays, except under permit and supervision; (*b*) That the Board of Customs and Dominion appraisers shall be authorized to review the valuations of port appraisers; (*c*) *That in every case the value for duty shall include the charges of transportation and shipment*, and shall be that of the quantity imported; (*d*) That such value shall include any royalty, rent or charge in respect of exclusive rights or territorial limits; (*e*) That goods entered for warehouse shall be placed therein without delay; (*f*) That information shall be exigible as to goods in transit through Canada, for statistical and other purposes; (*g*) That the manner of ascertaining the time of exportation from any place out of Canada shall be defined; (*h*) That moneys deposited in lieu of articles smuggled, and subject to seizure, shall be treated in like manner as if such articles had been seized."

The principle of the clause is of comparatively recent enactment in Canada, having been brought forward for the first time at the above-named date of April, 1879, and for reasons which were not publicly announced.

At that date this Board, in common with numerous importing and shipping merchants, strenuously opposed its enactment on the ground that while no possible good could result from it, the effect of its enforcement would be to injure the Canadian direct importer, the Canadian carrier, and the Canadian route.

Although the Board was unable at that time to procure from the Department the withdrawal of the clause, the Minister consented to modify it so far as to exempt Great Britain and Ireland from its operation, and to make the remnant of the enactment subject to such regulations as might from time to time be promulgated by the Governor-General in Council,—with which concessions the Board was fain to be content.

By these concessions the volume of European imported merchandise affected by the clause was largely restricted, and the nuisance of the double impost much diminished. Nevertheless the inconvenience to the Canadian importer and the loss to the Canadian carrier have been sufficiently marked to warrant the Board in demanding of the Department a reconsideration of the whole matter, with a view to a return to the principle that uniformly prevailed in Canada prior to the year 1879.

The conditions of the trans-Atlantic trade are year by year changing for the worse as regards the Canadian route. The port of New York is drawing to herself a constantly increasing share of trans-Atlantic tonnage, until now Scandinavian, German, French and Mediterranean steamship lines, and lines from the leading British east-coast ports, continue to ply regularly summer and winter with that port;—and this in addition to the regular lines to Glasgow, London and Liverpool, with which alone the Canadian route was formerly in competition.

Moreover, these various steamship lines, while they do not disagree or unduly compete with each other for United States

traffic as a general rule, are nevertheless ready to privateer as regards Canadian traffic, and in doing so they are joined by the trunk lines of railway centring in New York.

The Canadian lines cannot hope to emulate this immense direct traffic, nor can they make reprisals. Canadian steamships, to find cargoes at all, have to confine themselves largely to the leading British ports, and have, in conjunction with the Canadian railways, to compete with the New York route for Canadian traffic from the interior and east-coast of Britain, and from the continent of Europe, making a through-rate of freight from all these points to the Canadian destination, and paying the transit freights out of that through-rate.

It is therefore manifest that a levy of duty upon this transit freight is not really a charge on the goods, but is a direct charge on the Canadian railway and Canadian steamship carriers, and a discrimination against the Canadian and in favor of the New York route which remains untaxed.

In fine the Council begs earnestly to represent:—

(1) That a levy of customs duty upon any freight-charge, incident to the importation of merchandise, is a measure of doubtful utility in any event, and the Council would strongly recommend that the duty should, in all cases, be levied on the cost price or fair market value at the place of purchase;

(2) That a levy of customs duty upon certain of the freight-charges due upon any one importation and not upon the others will be inequitable and unjust in its operation; and

(3) That if such levy be upon the transport and shipping charges from European or other seaports to the ports of departure of the Canadian steamship lines the injury and injustice will be most grievous.

The Council, therefore, confidently trusts that the Department will reconsider its course and revert to the principles of assess-

ment for customs duty which prevailed in Canada prior to the year 1879.

We have the honor to be,

Sir,

Your obedient servants,

J. P. CLEGHORN,

President;

GEO. HADRILL,

Secretary.

The following reply was received from the Minister of Customs:—

OTTAWA, March 21, 1889.

J. P. CLEGHORN, Esq., *President Board of Trade, Montreal*:

DEAR SIR,—I am in receipt of yours of the 19th, calling my attention to the resolution now before the Commons *in re* amendment to Customs Act. You are quite correct in supposing that it is not the intention of the Government to make goods dutiable on their value at the port of entry. The proposition is simply to strike out from the 61st clause the words "except Great Britain and Ireland." Your further representation in reference to this matter shall be brought, at the earliest moment, before the notice of my colleagues. Yours truly,

M. BOWELL.

The Council replied to the Minister in the following terms:—

OFFICE BOARD OF TRADE,

MONTREAL, APRIL 3rd, 1889.

HON. MCKENZIE BOWELL,

Minister of Customs, Ottawa.

SIR,—I have the honor to inform you that the Council of this Board has considered your letter of 21st ultimo, and that it has also taken communication of the debate in the Commons on same date, and of clause 4 of Bill 117 which re-enacts and greatly extends section 61 of the present Customs' law.

It is stated in your letter that the Department's proposal is "simply to strike out from the 61st clause the words except Great Britain and Ireland." But inasmuch as the words proposed to be struck out represent imports aggregating an annual value of from thirty to thirty-five million dollars, and the clause as it stands perhaps a value of only four or five millions, the change is one of very great importance.

The usual Continental custom is for the seller to offer his goods to the Canadian buyer at a price free-on-board at a shipping port, which price is also the value for duty. In Great Britain this custom is not so prevalent; the rule there is for the Canadian buyer to purchase at the point of manufacture and to make his own packing and shipping arrangements. Hence it is that the proposed clause will have a much wider application, in proportion to value, upon British than upon Continental exports to Canada. This Continental custom is so common as respects exports from Germany to Canada that the Council thinks the Minister must have been misinformed as to the onerous inland freight charges in the former country; but if it be true that these charges have sometimes amounted to fifty or sixty per cent of the dutiable value of an importation, it is manifest that with such almost prohibitory freight-charges the quantity of said exports must be so trifling as to be unworthy of notice in the general volume of traffic.

Another change in section 61 has also received attention from the Council, viz., the insertion of the words "of the quantity so exported and imported," so that it reads thus,—"In determining "the value for duty of goods, there shall be added to the fair "market value, at the time of exportation, of the quantity so "exported and imported, etc., etc." In principle this proposed change, intended to favour the wholesale purchaser of large lines of goods, is both just and reasonable, but in view of the great doubt as to whether it could be generally and effectively applied, the Council recommends its withdrawal.

After consultation with numerous large importers of Russian German and French goods paying *ad valorem* duties, the Council has found the wish for a return to the principle that prevailed

prior to 1879 to be unanimous; importers from Great Britain being especially urgent in protesting against the levying of duty upon the cost of inland transportation and shipment charges.

The Council ventures further to submit that the "constitutional difficulty" will not be overcome by the proposed alteration of section 61. It is true that discrimination in favor of Great Britain would be removed, but that in favour of countries on this continent remains; and goods may continue to be brought from such distant points as California and Mexico, the freight-charges from whence far exceed those referred to in Germany, without such charges being made to form a part of the dutiable value.

The Council also begs reference to the circumstance that this section 61 of the Customs Act of 1879, the re-enactment of which the Department has proposed to Parliament, appears to have been copied from section 2907 of the Customs law of the United States in force Dec. 1st, 1873; but it is understood that said section 2907, with other of the restrictive provisions of their laws, was repealed by Congress on March 3rd, 1883. Such being the case, and the conditions of 1879 being thus altered, the *raison d'être* for the clause have ceased to exist.

The question at issue not being one of revenue or of protection to home industries, nor one involving any principle which the Government has hitherto laid down for universal acceptance, the Council trusts that the Department will revert to the usage that prevailed prior to 1879.

The steamship interests of the Port, whose views were embodied in the Council's last communication, have re-stated them in a letter which is appended.

I have the honor to be,
Sir,
Your obedient servant,

GEO. HADRILL,
Secretary.

MONTREAL, April 3, 1889.

J. P. CLEGHORN, ESQ.,
President of the Board of Trade,
Montreal.

SIR,—We, the undersigned, owners and agents of steamships trading with Europe, having taken communication of the correspondence that has passed between the Council of the Board of Trade and the Customs Department *in re* the re-enactment and extension of clause 61 of the Customs Act, fully concur in the position taken by the Council; and we enter our earnest protest against the inclusion of transportation and shipment charges in valuations for duty, as being inimical to the interests of the Canadian steamship lines, and a discrimination against the St. Lawrence route.

We are your obedient servants,

(Signed) H. & A. ALLAN,
Agents Allan Line.

" DAVID TORRANCE CO.,
Agents Dominion Line.

" ROBERT REFORD CO.,
Agents for
The Donaldson Clyde Line.
The Thomson Line.
The Temperly Line.

" H. E. MURRAY,
General Manager
Canada Shipping Co.
Beaver Line S.S.

" J. G. SIDEY,
S. S. Agent.

" ANDERSON, MCKENZIE CO.,
Agents Furniss Line.

The following is the text of clause 4 of Bill 117 as it now stands before the House of Commons. The Board of Trade petitions that so much of the clause as is placed within brackets shall be eliminated and the remainder passed into law:—

"**4.** Section sixty-one of the first cited Act as amended by section thirteen of the secondly cited Act is hereby repealed and the following substituted therefor:

"**61.** [In determining the value for duty of goods, there shall be added to the fair market value, at the time of exportation, of the quantity so exported and imported, in the principal markets of the country from whence the same have been imported into Canada, the cost of inland transportation, shipment and transhipment, with all the expenses included, from the place of growth, production or manufacture, whether by land or water, to the vessel in which shipment is made, either *in transitû* or direct to Canada; subject to such regulations as are made by the Governor in Council: Provided, that in case of any dis ute respecting the proper amount of such inland transportation charges, the Minister of Customs may determine the same, and his decision shall be final in that respect:

"2.] When parts of any manufactured article are imported into Canada, each such part shall be charged with the same rate of duty as the finished article, on a proportionate valuation, and when the duty chargeable thereon is specific, or specific and *ad valorem*, an average rate of *ad valorem* duty, equal to the specific or specific and *ad valorem* duty so chargeable, shall be ascertained and charged upon such parts of the manufactured article."

Some of the anomalies produced by this legislation, as it now stands, are noteworthy. Countries that are without sea-ports (as Switzerland) are under permanent disabilities; countries whose ports are winter-bound are under disabilities during the ice season; while countries whose ports are always open are under no disabilities in that respect. The Canadian who is unfortunate enough to have his goods frozen-in at Hamburg is assessed on the railway freight to a more southern sea-port, he may however evade the tax by holding over his goods until the navigation is again open.

Again, the cost of all-rail carraige, which in Europe must always be assessed,* is in America always exempt, all-rail shipments from the remotest parts of the United States and Mexico being without the scope of the section. But should a vessel intervene, say at Prescott or at Windsor or on the Lakes, all the rail freight beyond will then become assessable for duty. This latter levy may however be avoided by waiting until winter and then carting the goods over on the ice.

These anamolies are much more numerous under the proposed extention of the legislation to the United Kingdom, and, because of the greater volume of traffic, will become largely intensified.

Artificial ports like Glasgow, reached through dredged channels, are free; while markets nearer to the seaboard like Manchester are taxed because their communication is by rail, but when the latter's ship-canal is built she too will be free. Irish markets like Dublin and Belfast may use Liverpool as a shipping port without being taxed; but Sheffield, Huddersfield and other English inland markets, must always pay duty.

The Minister has explained that Havre purchases may be freighted across the channel to London and thence by rail, to the Canadian steamship at Liverpool, without being subject to this tax, the channel steamer being—

"the vessel in which shipment is made;"

but that London purchases shipped from thence over the same railway to the same steamship will have to pay duty on the rail freight. So that of two shipments of goods, freighted to that extent identically, the English shipment would be taxed and the French shipment would go free.

There are, however, two or more modes whereby the Canadian importer from London may avoid this impost. He may hire a vessel to freight his goods from London to Liverpool, as, under

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* Mr. Bowell says otherwise with respect to goods purchased in Leipsic and shipped to Canada *via* Havre (*see* Hansard p. 797, March 21st), but the terms of the law are quite explicit on the point.

Mr. Bowell's ruling, while the rail freight would be dutiable the water freight would not be dutiable. Or he may avoid the Canadian route, with its taxation and worry, and ship his goods from London to Toronto *via* New York where all is plain sailing.

Hitherto our tariff policy has been to favor importations from distant markets and producing countries (*e. g.* on raw sugar the duties are 7½ p. c. less on direct importations than on indirect); but section 4 reverses this and discriminates against such markets unless they happen to be on the seaboard. This adverse discrimination does not however apply in the case of North America.

These, and numerous other anamolies that might be quoted, are incident to this and indeed to any tariff enactment which fulfils no public requirement and which is devoid of any well-defined underlying principle.

At a meeting of the Committee held on Saturday, April 6th, it was arranged that a deputation should proceed to Ottawa, to be there joined by deputations from the Boards of Trade of Toronto and Hamilton, to meet the Minister of Customs.

This meeting was held on Wednesday, April 10th, when, among others, the following points were argued with the Minister :—

(1.) That while the present impost yields no revenue,* it is nevertheless very troublesome and vexatious.

(2.) That the new impost will yield a certain amount of revenue, but with greately increased trouble and vexation to both the importer and the Customs.

(3.) That the new impost will of itself constitute a greater "change in the tariff" than if an equivalent amount of revenue were obtained from increased duties on certain goods.

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*Mr. Bowell mentioned $250,000 as about the sum now obtained from this source, meaning probably the total amount of *ad valorem* revenue derived from the goods under his review which were implicated in the clause as it now stands. The amount of duty or revenue collected from *ad valorem* assessments on inland freights last year could not possibly have amounted to one-tenth, or even to one-twentieth, of the sum named. D. A. WATT.

(4.) That if additional revenue be required, it can be had in an unobjectionable form, and without a "change in the tariff," by the simple addition of a certain per centage to the amount of duty now payable on each entry.

(5.) That, in practice, it is an impossibility to distribute the sum paid for the inland freight of a mixed consignment, *pro rata* over the various invoice values, upon which differing *ad valorem* rates of duty are payable; and that in the entries of such goods the proportion of the inland freight-charges will be in the nature of an estimate.

(6.) That the new provisions will afford increased opportunities for undervaluations and other frauds.

(7.) That the two following clauses of the Customs' law have been proved to afford all needed protection to the revenue and have given satisfaction to the merchants :—

VALUATION FOR DUTY.

"**58**. Whenever any duty *ad valorem* is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence, and at the time when, the same were exported directly to Canada.

"**59**. Such market value shall be the fair market value of such goods in the usual and ordinary acceptation of the term, at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is, by universal usage, known to be a cash article, and so *bona fide* paid for in all transactions in relation to such article; * * * "

But if the Department finds them not sufficiently stringent the merchants will gladly co-operate in their amendment.

(8.) That the discrimination created by the new provision, in favor of the United States and against the Canadian route, is a most serious departure from the general public policy of the country, and cannot fail to bring about disastrous results.

The Minister promised full consideration of the suggestions and a reply at an early date.

On behalf of the Committee.

D. A. WATT,
Acting Chairman.

Montreal, April 11th, 1889.

COUNSEL'S OPINION.

In March, 1879, when the proposal to levy duties on the inland-freight and transhipment charges, was first made to Parliament, the opinion of Counsel was taken on the scope of the resolution then introduced, the terms of which do not materially differ from Section 4 of Bill 117 now before Parliament, and quoted on page 16. Mr. Abbott's opinion is as follows :—

QUERIES *in re* 6TH RESOLUTION OF THE TARIFF OF CUSTOMS, FOR OPINION OF COUNSEL, THE HON. J. J. C. ABBOTT.

A certain line of goods was purchased by a Canadian merchant, Mr. James Johnston, in London, and shipped from thence to Canada. The route chosen was by rail to Liverpool, thence by Allan steamer to Halifax, and thence by rail to destination.

On being offered for entry at Customs, the Collector required the cost of inland-freight from London together with the Liverpool trans-shipping charges to be declared, and be levied on that sum as well as on the London value. His warrant for so doing being the 6th resolution.

Was the Collector justifiable in demanding this extra amount of duty ? and if yea—

Suppose the same line of goods has been shipped by direct steamer from London to New York (instead of *via* Liverpool to Halifax), and thence by rail or otherwise to destination in Canada, to what extent would the London value need to be written up, in respect of inland or other freights or charges, to meet the requirements of the Resolution ?

D. A. WATT.

MONTREAL, 29th March, 1879.

THE DUTY ON COST OF INLAND TRANSPORTATION.

DEAR SIR:—I have carefully looked into the questions submitted to me in this matter, and the following are my views upon them :—

The 6th resolution of the Tariff,* as it stands, is confused in its structure, and difficult of comprehension. It appears to be intended to provide for the addition to the cost of the purchase of goods, the cost of inland transportation to the point of shipment, and the expenses of such shipment. And although the resolution is short, there are nearly as many difficult questions arising upon it, as there are lines contained in it. It will suffice for present purposes to point out the chief among these difficulties.

1st. What place or what market in the country is to be deemed the market, the value at which shall be regarded as the fair market value, at the time of exportation?

2nd. From what place is the expense of inland-transportation to the point of shipment to be calculated?

3rd. What is meant by the words, "either in transit or direct to Canada."?

The language of the law as to dutiable value is as follows:— "The cost, or the actual wholesale price, or the fair market value, "in the principal markets of the country from whence the same "has been imported into Canada." This language gives three alternative modes of ascertaining the dutiable value; the two first of which are barely distinguishable from each other. If "the cost" means the cost to the importer, it is nearly identical with "the actual wholesale price," a distinction only arising between them if the article is bought at its retail price. If "the cost" means the cost of production or manufacture, with the expense of importation to the place of purchase added, as seems to have been contemplated by the Act of 1870, it might produce a very different result from either of the other modes of ascertaining the dutiable value.

The third standard, namely, the fair market value in the principal markets of the country, *ex quo*, &c., does not imply that the value of any one principal market shall be held to be the standard of dutiable value, but the value at the principal markets which seems to involve the necessity for a broader view of the

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* Quoted verbatim on page 3.

question of value, and points to an average of the value of the article in the principal markets of the country from which it is imported.

But, assuming that "the cost" and "the actual wholesale price" are practically convertible terms, they and "the fair "market value" all include the cost of transportation and other costs of importation of the article purchased, from its place of production to the place where the Canadian importer buys it.

Unless, therefore, (first question) the dutiable article was produced at the place of purchase, say in London, there is no ground whatever in this resolution for the demand of the Collector to have the cost of transport from London to Liverpool added to the value in London, because the resolution does not authorize the addition of the cost of transport to the place of shipment from the place of purchase, but from the place of production.

If, therefore, the article had been produced in China, and purchased by the Canadian importer in London, the resolution would require the cost of transportation from China to London to be added to the London value, although, of course, that value must already form part of the value in London; so that the cost of transportation from China to London would be comprised in the dutiable value twice over, which is absurd; yet the language of the resolution is so explicit that it cannot be misconstrued, although it seems difficult to believe that the Legislature really intended to create such an anomaly.

If it be contended, as has been contended by the Collector at Montreal, that the resolution only requires the addition of the cost of transportation from the place of purchase to the place of shipment, it must be remarked that there is no process of reasoning by which the resolution can be strained to mean the place where the Canadian importer buys the goods, unless it happens that the place is also the place where the goods are grown, produced, or manufactured.

As to the question, whether if the goods had been shipped to Canada from the port of London, *via* New York, any addition would have to be made to the London value, I am of opinion that

no addition would require to be so made. The point at which the transportation ceases, the cost of which is to be added to the value for duty, seems to be the point at which the last shipment by water is made, by means of which the goods are expected to reach Canada. In this instance, again, the language of the clause is singularly ambiguous, but it seems to be intended that the point of shipment in a vessel in a port of the country *ex quo* is the point at which the cost of inland-transportation, to be computed in the dutiable value, is to cease. And two modes are evidently pointed at by which the goods can afterwards reach this country, viz., directly from the port of shipment, and indirectly *via* a foreign port on this side of the Atlantic, reaching Canada from there by land, and the *transitus* spoken of in the clause must therefore mean the carriage of the goods across the ocean.

It is scarcely necessary to point out, that, although the meaning thus stated is probably the meaning intended to be conveyed by the words "*in transitu*," used in the resolution, they really possess no such distinctive signification, as they apply equally to a shipment direct to Canada and to a shipment to Canada *via* a foreign port.

I should therefore answer your questions, as follows :—

1. In my opinion the Collector was justifiable in demanding the addition of the cost of transportation from London to Liverpool, if London was the place of produce, growth, or manufacture of the article imported, but not otherwise.

2. I am of opinion, that if the same article had been shipped by steamer direct from London to New York, and thence to Canada over land there would be no addition to the value for duty by reason of such land transport.

J. J. C. Abbott.

Mr. D. A. Watt,
Montreal.