

THE SENATE

Friday, July 7, 1972

The Senate met at 10.30 a.m., Hon. John M. Macdonald, Speaker *pro tem* in the Chair.

Prayers.

FARM CREDIT ACT

BILL TO AMEND—THIRD READING

Hon. Hervé J. Michaud moved the third reading of Bill C-5, to amend the Farm Credit Act.

Motion agreed to and bill read third time and passed.

ST. LAWRENCE PORTS OPERATIONS BILL

SECOND READING

The Senate resumed from yesterday the adjourned debate on the motion of honourable Senator Martin for second reading of Bill C-230, to provide for the resumption of the operation of the ports of Montreal, Trois-Rivières and Quebec.

Hon. Jacques Flynn: Honourable senators, as I said last night when I moved the postponement of the debate, I and those around me on this side of the house are in full agreement with the purpose of this bill, which is to provide for the resumption of operations at the ports of Montreal, Trois-Rivières and Quebec. The facts of the situation giving rise to this legislation are not in dispute, generally speaking, and they were put on the record by the Leader of the Government yesterday as they had been put on the record of the other place by the Minister of Labour earlier yesterday.

We have here a situation where an illegal strike began on May 16 last, over 50 days ago. That strike is causing and has caused a great deal of damage to the Canadian economy. That strike is causing and has caused tremendous losses to many people, including the longshoremen themselves. There is no question whatever but that this strike must end, and end now. It simply cannot be allowed to continue. That the government should act, there is absolutely no doubt; that the government should have acted earlier, there is equally no doubt. The situation has deteriorated over the last 15 days. I suggest to honourable senators that it is due more to the inaction of government than to any other factor.

• (1040)

As I have said, the facts are not contested—at least the fact that we are dealing with an illegal strike. This was obvious from the beginning and was confirmed by the findings of the arbitrator, Judge Gold, in his judgment from which the Leader of the Government read a portion yesterday. What I wish to put on record, and which, unless I am mistaken, was not quoted by the Leader of the Government, is the conclusion of the judgment of Judge Gold which reads as follows:

For the foregoing reasons the grievance herein is hereby maintained—à toutes fins que de droit—and I hereby find and declare:

(1) That the union and its members have violated the provisions of article 501-I of the collective agreement;

(2) That the union, its president, Mr. Jean-Marc St-Onge, and its business agents, Messrs. Claude Guay, Theodore Beaudin and Jean-Baptiste Tremblay, have violated article 501-J of the said agreement;

(3) That the strike by the union and its members is illegal, constituting work stoppages in violation of article 6 of the agreement and contrary to law;

(4) That the construction placed by management upon article 911 of the agreement was correct and that the orders given in consequence were lawful and should have been obeyed by the employees concerned.

The judgment, as honourable senators know, was rendered on June 29, which is only a week ago.

If the union had complied with the collective agreement and acted in conformity with the Canada Labour Code, and submitted its grievance to the arbitrator immediately, and had not ordered the men to stop work, this decision could have been rendered some time in May and the strike could have been avoided. But in any event, as I say, instead of observing the collective agreement, and instead of abiding by the law of the country, the union decided on a work stoppage.

The other facts which followed and which have given some ground for criticism in the other place of management's attitude in this conflict, I think are, even if correct—which I do not accept—merely consequential upon this very fact that at the beginning there was a violation of the collective agreement and of the law as it now exists.

The question is: What does the government or the Minister of Labour expect from this special legislation? I have studied Bill C-230 and can really find nothing in it which is not already provided in the Canada Labour Code or which could not be dealt with under ordinary civil law. It was obvious from the beginning that the strike was illegal because, as I mentioned, the collective agreement contained a clause providing that no strike would take place during the duration of the agreement, and that all grievances or disputes as to its interpretation would be submitted to binding arbitration. This was in accordance with the provisions of section 125 of the Canada Labour Code, which I shall quote:

(1) Every collective agreement shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into, concerning its meaning or violation.

That is very clear. Paragraphs 2 and 3 provide as follows:

(2) Where a collective agreement does not contain a provision as required by this section, the Board shall, upon application of either party to the agreement, by order, prescribe a provision for such purpose and a provision so prescribed shall be deemed to be a term of the collective agreement and binding on the parties to and all persons bound by the agreement and all