

Canada Labour Code

• (2130)

Mr. Woolliams: No, I want to say a few words on this matter.

Mr. Gilbert: I want to ask a question.

Mr. Deputy Speaker: Order, please. I was under the impression that the hon. member for Calgary North wanted to ask a question.

Mr. Gilbert: This is a very short question. I have been impressed by the rationale and persuasive arguments of the Minister of Labour (Mr. O'Connell). The idea of setting forth a philosophy in the preamble is a good one. Is there any truth to the speculation that the Canadian Manufacturers Association is not happy with this statement of philosophy and want it deleted?

Mr. O'Connell: Mr. Speaker, I think it is known to all of us that not all the participants in collective bargaining in Canada are happy with this or that part of the labour bill. That applies to both parties to collective bargaining. I would not want to draw specific attention to any one of them this evening.

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, I listened with a great deal of interest to the hon. member for Winnipeg North Centre (Mr. Knowles). I thought he was very good. I listened to the hon. member for Edmonton West (Mr. Lambert). I also thought he was very good; he put the problem squarely before the House and the people. I also listened to the hon. member for Comox-Alberni (Mr. Barnett), and I felt he misinterpreted the problem somewhat. From the questions put to the minister it seems to me that the preamble does nothing to assist in the interpretation of the legislation. It seems that it was intended by the minister's advisers to assist him in selling a bill that is not favourable to either labour or management. That is why it is there.

Let us consider what the legal authorities say about a preamble. I wish to quote from Maxwell in "The Interpretation of Statutes," twelfth edition. When I went to law school, Maxwell had a large book, but tonight I found that his book is only a quarter of an inch thick. When I read from it hon. members will realize why he has reduced it in size.

I know that the minister had the best possible legal aides to assist him in drafting the preamble. I would like to deal with it in a legalistic way and then say something about its political implications. The preamble does not add anything to or subtract anything from the bill. It was put in at a time when we are heading into a general election, when the government wants to keep both labour and management happy. As a result, we have a weak bill with a long preamble. This reminds me of lawyers who when they have a strong case on the facts spend considerable time stressing the facts, but when they have a weak case on the facts they stress the law. I suppose anybody in the minister's position would have done the same.

When I reread Maxwell tonight it rather shocked me, not having looked at it for a number of years. It starts by saying:

Many old statutes—

[Mr. Deputy Speaker.]

In passing, Mr. Speaker, I always thought the Liberal party was a new party, an aggressive party.

—have preambles in which the main objects of the Act are set out, and these are legitimate aids in construing the enacting parts. But considerably less space will be devoted here to the use of the preamble in construction than in previous editions of this work, for two reasons.

He goes on to give the reasons. That is why the question was asked by the hon. member for Winnipeg North Centre, by the hon. member for Hamilton West (Mr. Alexander) and by other hon. members. I point out that Maxwell is a legalistic man who has nothing to do with politics. His is a text book which would be used by a court in deciding how this bill should be interpreted. I continue the quotation:

First, hardly any modern statutes have preambles, so that the importance of the preamble as an aid to construction is constantly declining.

I see the Minister of Labour (Mr. O'Connell) pointing to statute books. Those are Liberal statutes.

Mr. O'Connell: Would the hon. gentleman like to indicate which party was in office when the Bank of Canada Act was passed?

Mr. Woolliams: Wait, I am coming to something. When you are dealing with the interpretation of the constitution through the BNA Act, or with the Bill of Rights, then you can refer to the preamble. But when you are dealing with a working statute having to do with labour-management relations, that is a different proposition. If the minister is pointing to statutes that may have been passed by a Conservative government, I point out that I was not a member of that government. I am talking about Bill C-183. We are dealing tonight with a very important matter, probably one of the most serious questions affecting Canada.

Mr. O'Connell: What about the Bill of Rights?

Mr. Woolliams: I am glad the minister asks me about the Bill of Rights. That is an exception. When you are dealing with the BNA Act, the interpretation of the constitution, or the Bill of Rights then you may go to the preamble. Here we are dealing with the interpretation of a statute respecting labour-management relations. Let me just finish the quotation.

First, hardly any modern statutes have preambles, so that the importance of the preamble as an aid to construction is constantly declining.

Mr. O'Connell: It is still there.

Mr. Woolliams: I would not get too excited if I were you. I don't think you have read what I am going to read.

Secondly, the office of the preamble in interpretation has been authoritatively stated by the House of Lords—

This was an English case, *The Attorney General v. Prince Ernest Augustus of Hanover*, 1957 Appeal Cases, page 436. Here I might say that the British authorities are followed as part of the process in rendering decisions in Canada.

In that case, Lord Normand said (at pp. 467, 468): "When there is a preamble it is generally in its recitals that the mischief to be remedied and the scope of the act are described. It is therefore clearly permissible to have recourse to it as an aid in construing