

Combines Investigation Act

considered, at least by Mr. McDonald in his statement of evidence, as having operated over the years through what was considered to be a process of normal collective bargaining, and by that collective bargaining to have operated in contravention of the statute itself. This will place, in effect, a moratorium on that suggestion of alleged illegality under the statute for this year and for next year.

It has been suggested that this should be included now, or drafted in such a way as clearly to indicate that the act will not apply to fishermen in the conduct of their affairs, not only on the west coast—I notice this confines itself specifically to British Columbia—but to other parts of Canada. Although there may well be in other parts of Canada similar organizations, unions and collective bargaining processes between fishermen and the employers in the industry, who have been carrying on their collective bargaining processes in precisely the same way as is done in British Columbia, they may yet find themselves not protected by this particular clause inasmuch as it is restricted to British Columbia.

I realize that it is most unwise to attempt to draft legislation in committee because the changes and amendments advanced by hon. members sometimes fail to meet the situation they are intended to meet but for the two reasons with which I dealt I am going to advance a proposal for the consideration of the minister although I do not advance it as a formal amendment. I would propose deleting everything after the word "apply" in the second line and substituting therefor the words "to combinations of fishermen for their own reasonable protection". That portion of the clause would then read:

Nothing in the Combines Investigation Act or in section 411 of the Criminal Code shall be construed to apply to combinations of fishermen for their own reasonable protection.

The minister may consider that this wording does not adequately meet the problem but I put forward this suggestion to cover the two points I mentioned. Fishermen should not be in a position of wondering whether they have committed an offence, and this should not be restricted to British Columbia because fishermen elsewhere may be engaging in the same type of activities.

Mr. Pearson: Mr. Chairman, may I state that we on this side do not consider that this kind of collective bargaining represents a combine. We agree with the hon. member who has just spoken that any doubts on that matter should be removed. We would be interested to hear the minister's reaction to the suggestion that has just been made to that end.

Mr. Fulton: Mr. Chairman, I appreciate the remarks that have been made by the Leader of the Opposition and the hon. member for Skeena. There were two questions raised. The first one raised by the hon. member for Skeena was whether the act should be made of more general application. I believe the answer to that is that so far as I can ascertain there is no situation anywhere else in Canada comparable to the situation in the fishing industry in British Columbia, for a variety of reasons. As far as I am aware that is the only place where there is an organization calling itself a fishermen's union that operates in the way this one does with agreements with companies, and so on. Whether I am right or wrong in saying it is the only place where this method of bargaining or price setting takes place, the fact is that this is the only area in which such activities on the part of fishermen and fishing companies are now being investigated.

We considered it very carefully. It was my thought that in making an exemption of this type it would be desirable to confine it as narrowly as possible. We are making an exemption from an act of general application and therefore I believe it is wise to confine the exemption only to those cases where such an exemption is demonstrably necessary.

With regard to the second question as to what should be our attitude toward the bargaining activities carried on between the U.F.A.W.U. and the fish packing companies and as to whether or not such bargaining activities should clearly be exempted from the Combines Investigation Act, I am sure my hon. friends would not expect me to make any definite commitment at this time until I see the report that will be made by the restrictive trade practices commission.

When we receive that report we will have to consider first of all whether it discloses an offence. If so, we will then have to consider whether or not we should institute legal proceedings. I think I should say that possibly our final decision cannot be made until after any legal action which is instituted shall have been determined and we get the decision of the court.

I am quite satisfied that the union will raise the point that it is a union within the meaning of the word as used in the combines act and therefore that its activities do not come under the provisions of that act. That will be a question before the commission and depending upon the finding of the commission it may be a question before the court. The question, as I understand it, is whether in fact this is a union of employees or, rather, an association of independent producers or fishermen.