

*Canada Labour Code*

there has been a history of attempts to make progress in this direction.

The second paragraph of the preamble states that Canadian workers, trade unions and employers recognize and support freedom of association and free collective bargaining as the bases of effective industrial relations for the determination of good working conditions and sound labour-management relations. I think it is useful to include that paragraph in the preamble. Again, there may be some argument about the facts of the matter; certainly some of the correspondence that I receive from employers indicates that that is not their point of view. Many employers do accept this principle, but I am sure the minister and hon. members will agree there are some who do not, which makes it all the more important that in enacting a piece of legislation such as this there be set forth very clearly the basic premise and principle upon which the legislation is based.

The third paragraph links the action we are taking through the vehicle of this bill with the conventions of the International Labour Organization, and I submit this recognition is very important. The fourth paragraph refers to the necessity of encouraging and developing further legislation toward the ends described. I think all this is very good and useful, but there are a couple of points which deserve further consideration. It is very useful to have this sort of statement set out in the bill. I do not question the motivation of those who want to remove it, but the only possible motivation that makes sense to me is a desire to weaken the legislation and the effectiveness of the labour code as it may be enacted by this Parliament.

• (1630)

The first point of concern to me is that in looking at the structure of this bill I find that the preamble is nothing more than that—a preamble to the bill. It does not establish clearly that it will be a preamble to the act or any part of the act. The operative portion of the bill commences at the end of the preamble, or after the portion which the amendment would delete. So there seems to be a very real question which the minister should clear up, that is, whether the preamble as contained in the bill will find its way into any consolidation of the act that is printed or into the revisions of the act when it is again revised. Will it be considered an integral part of the Canada Labour Code as amended by this bill? That is an important point for clarification.

There is another point which I think should be considered. It was raised by the hon. member for Timiskaming (Mr. Peters) who pointed out that there have been discussions about the preamble and asked whether it is in fact to be part of the act. The suggestion has been made that a preamble in many instances is sort of a "motherhood" statement. I do not wish to trespass in the area of the law because that is not my field of expertise. I know the minister had the assistance of very competent and able draftsmen and other experts in preparing this bill. Certainly I do not want to take away from their skills in any way. Nevertheless, there are some questions that need answers.

[Mr. Burton.]

When the foreign takeovers review bill was before the committee on finance, of which I am a member, there were some discussions about a particular clause. I assure you, Mr. Speaker, that I am relating my remarks to the amendment now under consideration. In the foreign takeovers review bill clause 2 sets out the purposes of the legislation and it is nothing more nor less than a preamble which indicates what the bill is about and why it is being enacted. When the bill was before the committee there was some question as to why it was not a preamble. At that time the legal advisers who appeared before the committee stated that a preamble does not have any effect in law, and that there are a number of important cases which show that a preamble is not taken into account in deciding a case before the courts.

**Mr. Alexander:** But they look at them.

**Mr. Burton:** They may look at them, but as I understand the situation a preamble does not have any bearing on the decision in a case. The judge looks at the sections of the act under consideration. That is what has to be taken into account. It was pointed out that when you have a statement in a clause of a bill which sets out the purpose of the legislation, then legal precedents support the argument for taking such statement into account. In fact, if a statement similar to the one contained in this preamble is set out in a section describing the purpose of the act, when a case comes before the courts the judge must take account of that section. It seems to me that this matter deserves further consideration.

The suggestion of the hon. member for Timiskaming, that in fact it would be desirable to amend this preamble in such a way that it would be included as a clause of the bill or as part of the act should be given further thought by the government. It should be included at a suitable place in order that it would have greater effect than would appear to be the case in the manner in which it has been incorporated in this bill. I hope these two points receive further consideration by the minister, and I hope he will comment on them.

One further reason for having a statement in the bill such as is contained in this preamble, either in the form it is now or in the form of a separate clause, is that it would be a reminder to the government that it needs to pull itself up by its own bootstraps in conducting labour relations in a more effective, open and efficient way than it has done to the present time. If we are to have free collective bargaining operating as it should, and as stated in this preamble, the government should set out something of an example rather than carrying on the kind of negotiations it conducts at this time.

When the government often makes completely meaningless offers, and in some cases no offers at all, to employers carrying on negotiations it cannot expect a piece of legislation such as this to operate in an effective manner across the country. If this bill is to mean anything, the government itself must show some leadership and create a better record than it has in carrying on relationships with public employees. I hope this point receives consideration by the government.

I have not entered the debate on amendments to the labour code up to this point, but I want to indicate very