arose at the last session and the minister brought in an amendment at that particular time which amended section 23 of the act to provide for negotiations between the fisheries associations and the fishermen, but there is no provision made in this particular section. Perhaps it might have been an oversight, but no mention is made in this particular section about maintaining the status quo with regard to fishing companies which were engaged in the export trade.

As Mr. Hyland stated, they have carried on this practice for the last 60 years and they carried it on in good faith. This question was raised by Mr. MacDonald, the combines director, and I think quite rightly under the circumstances and under the present legislation. Nevertheless a doubt was raised as to the status of those particular companies with respect to their dealings in the export industry and I feel that the companies and the people who appeared before us wanted to have it perfectly clear that what they were doing was entirely within the realm of the law.

To emphasize the position I think reference should be made particularly to the decision of the Supreme Court of Canada in Howard Smith Paper Mills Limited *v.* the Queen, 1957 Supreme Court Reports at page 403. I should like to refer particularly to the statement of Mr. Justice Taschereau at page 406. Incidentally, I might mention that this is the latest supreme court case dealing with this matter, or it is the case that comes closest to this particular matter because, as was said earlier in the committee, there never has been any case dealing specifically with the export market. But I feel that the principles enunciated in this particular case would apply to any company involved in the export trade. Mr. Justice Taschereau is reported as having said at page 406:

> It has been argued on behalf of the appellants that the offence is not complete, unless it has been established by the crown beyond a reasonable doubt, that the agreement was detrimental to the public, in the sense that the manufacture or production was effectively lessened, limited or prevented, as a result of the agreements entered into. It has also been suggested that there is no offence, if it is shown that the acts complained of were beneficial to the public. With these submissions I entirely disagree. Conspiracy is a crime by itself, without the necessity of establishing the carrying out of an overt act. Stephen (Digest of the Criminal Law, 9th ed. 1950, p. 24), basing his opinion on Regina *v.* Whitchurch, et al. (1), goes as far as saying:
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> "When two or more persons agree to commit any crime, they are guilty of a misdemeanour called conspiracy whether the crime is committed or not, and though in the circumstances of the case it would be impossible to commit it."
>
> The public is entitled to the benefit of free competition, and the prohibitions of the act cannot be evaded by good motives. Whether they be innocent and even commendable, they cannot alter the true character of the combine which the law forbids, and the wish to accomplish desirable purposes constitutes no defence and will not condone the undue restraint, which is the elimination of the free domestic markets.

I feel I should also quote the statement of Mr. Justice Cartwright in the same case at page 426.

> In essence the decisions referred to appear to me to hold that an agreement to prevent or lessen competition in commercial activities of the sort described in the section becomes criminal when the prevention or lessening agreed upon reaches the point at which the participants in the agreement become free to carry on those activities virtually unaffected by the influence of competition, which influence parliament is taken to regard as an indispensable protection of the public interest; that it is the arrogation to the members of the combination of the power to carry on their activities without competition which is rendered unlawful; that the question whether the power so obtained is in fact misused is treated as irrelevant; and that the court, except I suppose on the question of sentence, is neither required nor permitted to inquire whether in the particular case the intended and actual results of the agreement have in fact benefited or harmed the public.
>
> In other words, once it is established that there is an agreement to carry the prevention or lessening of competition to the point mentioned, injury to the public interest is conclusively presumed, and the parties to the agreement are liable to be convicted of the offence described in section 498 (1) (d). The relevant question thus becomes the extent to which the prevention and limitation of competition are agreed to be carried and not the economic effect of the carrying out of the agreement. In each case which arises under the section the question whether the point described has been reached becomes one of fact.

I would suggest that if Mr. Hyland's evidence before the banking and commerce committee is read in conjunction with the statements in the Howard Smith case we will see that Mr. Hyland has raised a reasonable doubt whether the particular companies are in violation of the present Combines Investigation Act. In my opinion the amendment brought forward by myself, based on technical advice from the minister and his assistants, has the effect of clarifying the situation and, as the minister said earlier in introducing the bill, one of the prime objects was to clarify this particular situation.

The evidence given by Mr. Hyland was reinforced by the evidence given by Mr. Nicholson on behalf of the forest people.

I believe that the contention made by the hon. member for Skeena that the Combines Investigation Act is not a suitable place for this amendment is completely erroneous. I have put this information on the record although a great deal of it was tendered before the committee and, although as a government member I have taken up the time of the committee in speaking on the floor of the house, I hope that hon. members do not