

Canada Labour (Standards) Code

The law officers of my department informed me today that they feel the inclusion of the words, "reasonably justify" in the amendment tends to create, unintentionally, loopholes that would make it possible to discriminate against women or men.

May I point out to the hon. member the rigid wording of section 14A (1) on page 5 of the bill. It reads:

No employer shall establish or maintain differences in wages between male and female employees, employed in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.

The department feels that the wording of the clause is about as tight as we can make it, and that the amendment being proposed by the hon. gentleman might create loopholes. Because of the inclusion in the amendment of the words, "reasonably justify" as opposed to "justify", it would be easier for the employer to justify what could appear to us to be a differentiation in wages for reasons based on sex rather than, say, seniority or other reasons that could justify a difference in pay.

Although I understand precisely what the hon. gentleman wants, we feel that his purpose would be best achieved by leaving the clause precisely as written. That is the advice that I was given by the Department of Justice and by the legal advisers of my department.

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, as did the Minister of Labour (Mr. Mackasey), I appreciate the concern of the hon. member for Hamilton West (Mr. Alexander). I did my best to read his proposed amendment in the light of what I felt to be his aim, that of tightening up this clause. I realize that we are dealing in semantics. I also realize that if you can say something in one word or in ten, it is better to say it in one. The ten commandments were pretty good at that, you know.

Mr. Mackasey: Has the hon. member any particular commandment in mind?

Mr. Knowles (Winnipeg North Centre): I do not have any particular one in mind. May I put it this way: I think the latter part of the hon. member's proposal is quite clear. It says that no one trying to escape the requirement to pay equal wages shall get around the requirement by something that tends to avoid the attainment of the remedial objects of subsection (1). Although this language is contrary to my suggestion that something can be better said sometimes in one word than in ten, I think those amending words tend to make the clause tighter. It is the word "reasonably" in the first part of the amendment which weakens the position. In this I agree with the Minister of Labour.

If an employer wants to pay a female employee less than he is paying a male employee and has to justify that, it is pretty clear—and I must not split an infinitive—but if he has to justify this "reasonably" he will call in a lawyer or two, and the first thing you know he is home free.

Mr. Mackasey: The discrimination could go the other way. He might want to pay a man less than he pays a woman.

[Mr. Mackasey.]

Mr. Knowles (Winnipeg North Centre): I thought of that. The Minister of Labour has said, in case the *Hansard* reporter did not hear him, that an employer might want to pay a woman more than he pays a man and the discrimination might go the other way. That is perfectly true. It has not happened yet, although it may. We may yet need to bring in legislation to provide equal pay for men if a certain movement gets going strongly enough.

Seriously, may I boil this down. Saying that an employer must justify paying lower wages is a lot stronger than giving him the chance "reasonably" to justify it. Perhaps in that light the hon. member for Hamilton West (Mr. Alexander) will appreciate that I support his objective and that I am therefore against his amendment.

Mr. Deputy Speaker: Is the House ready for the question on Motion No. 3.

● (4:10 p.m.)

Mr. Alexander: I rise on a point of order, Mr. Speaker. I am always ready to accept good advice. After having given this matter further thought, I can readily appreciate why the word "reasonably" was left out. As I listened to the explanations of the minister and the hon. member for Winnipeg North Centre (Mr. Knowles), I could see the complications. Perhaps because I was more or less placing emphasis on this, I lost track of the very matter about which I was vitally concerned. I was stressing the point "Do not tend to avoid the attainment of the remedial objects of subsection (1)." I ask for the unanimous consent of the House to withdraw the motion because of the explanations given which I accept.

Mr. Deputy Speaker: Is there unanimous consent that the hon. member be allowed to withdraw his motion?

Some hon. Members: Agreed.

Motion withdrawn.

Mr. Deputy Speaker: The House has for consideration motion No. 4 standing in the name of the hon. member for Hamilton West (Mr. Alexander).

Mr. Lincoln M. Alexander (Hamilton West) moved:

That Bill C-228, to amend the Canada Labour (Standards) Code, be amended by deleting the word "employees" from clause 17, in line 11 at page 12, and substituting therefor the following:

"employees; and the Department shall provide to such employer or such trade union any information except information privileged from production or communication, requested by the employer or trade union, as the case may be, for the purpose of assisting such employees and shall cooperate with the employer and the trade union to facilitate the re-establishment in employment of those employees."

He said: Mr. Speaker, I will be very brief. As clause 34J now reads, it is incumbent upon employers and trade unions to assist the Department of Manpower and Immigration by providing that department with any information requested by it in order to assist employees who are being laid off. I am wondering why we cannot have a reciprocal agreement. The amendment suggests that the department must reciprocate by providing employers and trade unions with similar information, subject only to an