

*Industrial Relations*

does not make it possible for a trade union or an employers' organization to initiate an action under that statute even though it may regard itself as aggrieved under the terms of this legislation.

**Mr. Martin:** If that was the crux of the judgment, it was not an *obiter dictum*.

**Mr. Knowles:** My hon. friend, I would say, has made a point. Perhaps I could straighten it out this way. Maybe it was not the crux of the argument, so far as this application was concerned. It may have been that the learned judge allowed an order of prohibition on the basis of other defects which were spelled out in the judgment, but so far as labour generally is concerned, in relation to matters that may arise in the future under our labour laws, the crux of this judgment is in the sentence I have just quoted. The smile on the minister's face seems to suggest that I have straightened that out, so perhaps I may read it again.

Section 46 (1) of the statute—

The reference is to the Manitoba statute, but the language is exactly the same as we find in section 45 (1) of the federal statute.—provides for a trade union or an employers' organization being informed "against" i.e., of being an "accused". I am unable to find any section of the statute allowing either of them to be an informant.

Now, Mr. Speaker, those who are interested in this case, both because of their interest in this particular case and because of their interest in the labour laws of this country, felt at first that the judge had made an error, and that his decision should be appealed. The latest word I have is that that decision on the part of those interested has been altered although it may be they are still planning to appeal to a higher court. Certainly labour lawyers and counsel who advised the trade union bodies, both locally at Winnipeg and nationally here at Ottawa, are of the opinion that the learned judge may have something in so far as the interpretation of the wording of the law is concerned. None of us thought that the law was meant to have that interpretation, that trade unions or employers' organizations could be informed against but could not lay an information. It is because it appears to be a defect that we felt consideration should be given to making the necessary amendment to section 45, subsection 1, of the labour code. Perhaps so that this record might be complete and clear to those who are interested,

I should put on the record section 45, subsection 1, of the labour code as it now stands. It reads as follows:

A prosecution for an offence under this act may be brought against an employers' organization or a trade union and in the name of the organization or union and for the purpose of such a prosecution a trade union or an employers' organization shall be deemed to be a person, and any act or thing done or omitted by an officer or an agent of an employers' organization or trade union within the scope of his authority to act on behalf of the organization or union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union.

Bearing in mind the point I am trying to make, hon. members will see that if, as I contend, there is a weakness or defect in this subsection it is in the first line or two thereof. I refer to the portion of that subsection where it says:

A prosecution for an offence under this act may be brought against . . .

And so on. Our contention is that to cure the defect the wording should be that a prosecution for an offence under this act may be brought "by or against . . ." All that is needed to ensure protection either way, if either party is aggrieved, is to insert the words "by or" in the appropriate place, just before the word "against". Those who have looked at this matter feel it would be well to make sure there are no loopholes, no point not covered, and just to do that section 45 should be further amended by adding a new subsection 3 which would read:

(3) Any information or complaint in respect of any prosecution under this act may be laid by an employer, an employers' organization, trade union or person claiming to be aggrieved under this act.

In presenting this bill, Mr. Speaker, it is my belief we are not asking for anything new. We are not asking for anything we have not assumed to be part of the labour law, but rather we are asking that the necessary step be taken to correct what appears to be a defect, in view of the decision rendered by Mr. Justice Campbell at Winnipeg to which I have made reference. I present the matter to the house hoping that favourable consideration will be given to this request of those who are interested in the correction of this defect, and that the legislation be made to read so that it will carry what we thought was the intent, namely that the aggrieved person or aggrieved body, be it a trade union or an employers' organization, should be able to lay an information under the Industrial Relations and Disputes Investigation Act.

**Hon. Paul Martin (Acting Minister of Labour):** The Minister of Labour, as my hon. friend and the house knows, is not