

Farm Products Marketing Agencies Bill

appearance of a violation. Apart from matters of purely local and private concern, this country is one economic unit; . . .

I commend those words to members of the government opposite as something they seem to have forgotten; that is, that this country is one economic unit. One of the main purposes of confederation is precisely that. Mr. Justice Rand continued:

—in freedom of movement its business interests are in an extra-provincial dimension, and, among other things, are deeply involved in trade and commerce between and beyond provinces.

—“Free,” in section 121, means without impediment related to the traversing of a provincial boundary.

These words I particularly commend to hon. members.

—If, for example, Parliament—

This is not a province, this is Parliament.

—attempted to equalize the competitive position of a local grower of grain in British Columbia with that of one in Saskatchewan by imposing a charge on the shipment from the latter representing the difference in production costs, its validity would call for critical examination. That result would seem also to follow if Parliament, for the same purpose, purported to fix the price at which grain grown in Saskatchewan could be sold in or for delivery in British Columbia.

When we come to examine this particular bill, in clause 2 we find a definition of “marketing plan” which, in my opinion, could bring a proposal in the form of a plan submitted by Order in Council squarely within the restrictions which according to Mr. Justice Rand might well be unconstitutional just as much for the federal government as for a province. Clause 2(e)(iii) provides that:

(iii) the marketing of the regulated product on a basis that enables the agency that is implementing the plan to fix and determine the quantity, if any, in which the regulated product or any variety, class or grade thereof may be marketed in interprovincial or export trade by each person engaged in such marketing thereof and by all persons so engaged, and the price, time and place at which the regulated product or any variety, class or grade thereof may be so marketed;

I repeat the words “the price, time and place at which the regulated product or any variety, class or grade thereof may be marketed”. There is a clear indication contained in this definition of marketing plan that an agency may establish a price and means of sale, which would mean that a product—and I do not care what it is, whether apples, potatoes, chickens or what have you—grown in one province could be marketed under the structure of the marketing plan in some other province with an artificial price gauged by the difference between the cost of production in the two provinces.

I suggest to you, Sir, and through you to members of the House, that in the mind of Mr. Justice Rand this would clearly bring into question and challenge the constitutionality of this plan. It is for this reason that any doubt as to the right of any province to engage in marketing programs which infringe on the federal government’s right to deal with trade and commerce by means of regulation is now set completely at rest. There is no right in a provincial government to engage in activities which, in the province of Manitoba, the province of Quebec, the province of Ontario or in any other province, prevent the free flow of trade. That now has been clearly defined.

However, we still have this other consideration to take into account, and it is for this reason that I welcome the amendments of the hon. member for Crowfoot (Mr.

[Mr. Baldwin.]

Horner) and debate on this subject. It is not a technical matter which is peculiar only to lawyers. Surely all of us in this House must be very anxious and greatly concerned about the promotion of the freest possible flow of trade between the different parts of Canada. Surely we are interested in seeing that the legislation is not ultra vires, that it is legislation which cannot be challenged.

I suggest that if this bill were passed in its current form we would be authorizing the government to establish by Order in Council an agency with a marketing plan which could very easily involve proposals which would be in violation of the Constitution. Therefore I welcome these amendments and the proposal of the government to take out of the bill all the supply management features, which in my mind would do away with the possibility of this sort of situation arising. We would still include poultry products and eggs.

• (3:30 p.m.)

I would think that if the amendments of the hon. member for Crowfoot are defeated, and if the government goes ahead, enacts this bill in its present form in defiance of what I have said, a bill that I am sure a great many constitutionalist lawyers will say is of doubtful validity, and proceeds to establish a marketing plan which flies directly in the face of the statements made by Mr. Justice Rand, then the government will be challenged, the marketing plan will be challenged, and the agency will be challenged. And we in this House will have a great deal of responsibility to bear for allowing passage of legislation of this kind without looking at this very important issue.

Finally, Mr. Speaker, I recognize that if this country is going to grow and prosper there is need to provide for an over-all marketing program. But in devising the individual programs, I say that we must exercise the greatest care to ensure that what we do will pass muster as being part of the federal structure leading to greater prosperity, unity, and the cohesion of all parts of Canada.

Mr. Arnold Peters (Timiskaming): Mr. Speaker, I just wish to say how surprised I am that we are back here between Christmas and New Year’s discussing this bill, particularly when the Senate *Hansard* indicates that that chamber is not coming back until the middle of February, although subject to recall in January or later this week. Obviously they are not too concerned about this bill but will be available to deal with it.

This bill has been with us for a long time. It was with us in the form of Bill C-197 several years ago. It has been with us for some time as Bill C-176. I think many hon. members are unfamiliar with it, but in my experience it is the most amended bill I have ever dealt with in Parliament. Last year the committee travelled across the country with the bill and collected a sheaf of amendments. And wherever we went the minister or his representatives kept on saying, “We are going to amend this particular section, or that particular section. We don’t intend to implement it as it is; you have to read the amendments in conjunction with the bill.” In January, 1972, we will be looking at a new batch of amendments connected with this bill. The amendments now on the order paper are not necessarily the last word on this measure.