

Combines Investigation Act

right, under the old law but you are wrong under our new law, so you have no right. I believe we must avoid this situation.

I trust that the necessary moratorium is applied to the industry now in order to have it proceed as it has always proceeded until such time as the investigation is completed. The interests of the industry are not being damaged in this period and will not be damaged until the investigation is completed. The rights of these citizens who felt that they had a case are protected. Then, in due course, as a consequence of the investigation, parliament can determine whether or not a further study ought to be undertaken. I do not believe we should accept the amendments that are proposed here. I do not believe we should act in that fashion until the report is in our hands and then parliament, by applying study to the situation, can perhaps take whatever action is necessary to protect the rights of the industry. In the meantime, I think we have a duty to protect the rights of these six citizens.

Mr. Nicholson: There are two aspects of the matter that may have been overlooked. One is the direction to the chairman in the judgment of the Supreme Court of Canada and which directed that the restrictive trade practices commission should consider the thousands of exhibits that have been entered and decide which ones should be given to the representatives of the union and which should be given to the industry. The personnel of the restrictive trade practices commission has been changed, so they now have to consider the matter *de novo*. There is only one member of the three member commission left. There are months of work, perhaps longer than that, involved in this study. It does seem, therefore, that we can terminate this matter at this stage.

If the government, in its wisdom, sees fit to initiate a new policy two years or five years from now, that is for the government to decide. There is a further aspect to the matter. I had hoped the minister, in his remarks, might deal with what happened prior to the amendment in 1959. This practice which has continued since the last decade of the last century, or possibly longer, has been legalized for a period of three years. It cannot be a very serious offence or parliament would not have been asked to condone it. If anything, it is a technical breach of the act. Surely, we can put an end to what happened prior to 1959 by an appropriate amendment.

I believe that anyone who has any trial experience in the courts, particularly with the combines act where the question of public interest comes into the picture, would think

that if parliament in its wisdom has seen fit to legalize the practice it could not have been a very serious offence in the first instance. It could not have been contrary to the public interest. I believe a good trial lawyer could do pretty well under these circumstances. It has been five years since this investigation began. There was first an investigation by the director and then there was the institution of proceedings by the commission, and court proceedings. One could very well write "finis" to this situation by the appropriate amendment.

If after the government has studied this policy on fisheries or the combines legislation generally, the minister were to invite members of this house to bring forward their suggestions, I believe this would be one suggestion which would be welcomed by the minister. Let us get rid of this thing that has given us so much trouble in the light of the changes that have taken place. The minister has had considerable experience in the courts. What chance does he think he would have before a court when parliament has legalized this practice for four years. Surely, we can get rid of it.

Mr. Fleming (Eglinton): I think the hon. member would agree that if he or I were engaged in the fishing industry the goal we would most hope to achieve, in the light of these proceedings which have been suspended now for some time as a result of litigation, would be an end of that procedure and a successful outcome of it. If the outcome is successful, then there is no need for any exempting legislation and parliament in that event would not be asked to enact any more exempting legislation. There would be no more moratorium. As to the extent to which the whole proceedings have operated as a cloud over the industry, that would be removed by the conclusion of these proceedings themselves.

I think that the hon. member on reflection may be disposed to agree with me that it is only under the most extraordinary circumstances that this legislative approach to a problem would be justified. It was justified in this particular case because it was introduced to avoid a strike, a strike which I think he will agree would have certainly resulted. In these succeeding years during which the moratorium has been in effect I suppose a strike would have resulted or the pack for the year would have been delayed, or perhaps it would not have proceeded at all. I do not know.

But this is not the kind of method by which one would wish to proceed very often or very far. You have legislation, the principle of which has been accepted by the