

Mr. Carton: I think the situation is better because it is definable and acceptable, and on occasion we have been able to make this definition hold up in court.

Senator Cook: This arises out of your previous experience. Because of your unsatisfactory experience you want this change?

Mr. Carton: Yes. We want to get rid of this phrase "fit for human food" because it is almost impossible to convince anybody at what point something is not fit. If you want to take an extreme example, even rotten eggs are fit for human food.

Senator Flynn: In Japan they bury them and eat them some years later. It is supposed to be a delicacy.

Senator Smith (Queens-Shelburne): Do you have many cases of fish packers who are quite willing and ready to export fish products that could not comply with any definition, but which someone else might think are suitable for and exportable to the country for which they are destined? Is this a general problem? Does it happen very often?

Mr. Carton: I think it would be better if the Director of the Inspection Service answered that.

Mr. H. V. Dempsey, Director, Inspection Service, Department of Fisheries: I suppose there are always people in every business who are prepared to market something if they can make a dollar doing so. I am sure there are people who would attempt to market fish which we would judge by all standards to be decomposed or unwholesome. I might explain that we have been using these definitions for five years in Canada. I discussed them with industry in meetings from coast to coast in Vancouver, Edmonton, Prince Albert, Winnipeg and other cities, and there is understanding in the industry of what they mean.

I might make one other point. We in the Inspection Service do not rely on prosecutions in order to achieve improvement in quality, because you do not succeed in inspection if you attempt to apply coercion. In our service we have had great co-operation with industry because we have approached it on a co-operative basis, firmly believing that 99 per cent of the time when bad or poor quality fish is produced or available to the consumer it is because of lack of information on the part of the manufacturer

and not because of a deliberate attempt to do so. In a year we have seldom had more than three prosecutions in Canada because of this. Unfortunately, we have to approach some people.

The specific answer to your question would be that if an inspector did find—and this rarely happens—fish offered for export inspection which did not meet the requirements of the regulations he would refuse to issue a certificate. There has been no offence committed. Withholding the certificate is in itself all the action that is required. We explain to the packer what is wrong with the fish, and we have rarely had any difficulty.

Senator Flynn: If the inspector makes a bad decision is there any recourse?

Mr. Carton: There is provision for appeal.

Senator Flynn: Appeal to whom?

Mr. Carton: For re-inspection by other officers.

Senator Methot: If a certificate is withheld and he exports, is there any offense?

Mr. Carton: There would be an offense, yes, if he exported without a certificate. Of course, he would be in trouble at the other end, because in the United States and many other countries the consignee would not accept the fish.

Senator Flynn: If his appeal succeeds can he claim damages?

Mr. Carton: If he wins his appeal, if his fish were passed by our inspectors, he would suffer no damage.

Senator Flynn: But if the inspector refuses to issue the certificate and there is an appeal, he wins the appeal but because of the delay he suffers damages, is there then any recourse open to him?

Mr. Carton: Not in any of our statutes, unless under the Crown Liability Act we feel compelled to take action.

Senator Smith (Queens-Shelburne): Perhaps this would have to be a civil action?

Mr. Carton: Yes, a civil action.

Senator Cook: Provided you show malice.

Mr. Carton: Malice.

Senator Cameron: It is conceivable that this lack of quality could come about through