

Mr. BENNETT: Yes. As it stands, section 19 was not included in the 1935 act for the reasons I have given. I cannot stand in my place as a member of the house and place in the hands of one man, without reference to his minister or reference to anybody, the power to say: I am not satisfied with what these people have given me, and I am now going in to clean out their books—with all the publicity incident thereto. That was done in this country. The mounted police did go and take books, because the commissioner was not satisfied.

I must say I think the minister would be well advised to reconsider any such power as that being granted in this twentieth century to any person who, for the moment, is clothed with the position of commissioner.

Mr. ROGERS: In order to disclose the existence of a combine under the act, obviously it may be of the utmost importance to have access speedily to all documents in possession of the person or persons whose activities are being investigated. We will assume that the minister initiates the investigation; he takes the responsibility for that.

Mr. BENNETT: Quite.

Mr. ROGERS: I take it that all that is contemplated here is pursuant to the investigation, and in order to determine whether or not evidence exists upon which a full inquiry may take place. Is it out of the way that a commissioner who is under instructions to carry out a preliminary inquiry of that kind should not have these full powers in order to obtain access to documents, so that he may determine whether or not there is sufficient case for further inquiry?

Mr. BENNETT: The minister has asked a fair question, but he has overlooked the section with which he is dealing.

Mr. ROGERS: Section 19.

Mr. BENNETT: Yes, it states that if, after the receipt by the commissioner of a return made in pursuance of his power as a result of a request made by him to the party,—

the commissioner shall consider that circumstances so justify, or if after a return under this act has been required none is made, or none is made within a time set in the notice requiring such return or within such further time—

—he may do so and so. He may go in and take possession of the books, documents and records in possession and control of such person, and may examine them. Now, mark you: What founds his authority? His mere state of mind. In other words, just because I say: I am going to do it; circumstances justify it.

What are the circumstances? If you go so far as to say that he may do so with the consent of the minister, and let the minister exercise his authority, then we have ministerial responsibility. But if you say that this man, who may possibly have ill feeling towards someone or may be dissatisfied with someone may say: Well, the circumstances justify it; I am going to walk in and take possession—you have a different position. He may walk in and take possession of the books. I do not think that is the twentieth century way of doing it.

Mr. ROGERS: May I suggest that this section stand for further consideration?

Section stands.

On section 20—Investigation into business of alleged parties to combine.

Mr. BENNETT: I mentioned to the Minister of Justice (Mr. Lapointe) this afternoon what is involved in this section. This is a delegation of power to somebody to enter and examine the premises, books, documents and so on of any person who the commissioner believes may be a party or privy to or have assisted in the formation or operation of a combine. The section reads:

The commissioner shall have authority to investigate the business, or any part thereof, of any person who the commissioner believes may be a party or privy to or have assisted in the formation or operation of a combine, and he or his duly authorized representative may enter and examine the premises, books, documents and records of or in the possession or control of such person, and make copies of or retain any of such books, documents or records which the commissioner or his duly authorized representative believes may contain information relating to an offence against this act.

There is no gainsaying the general rule that a man is not bound to go into a witness box and incriminate himself; but now we are giving the commissioner authority to take his books and make copies therefrom. The reason given for this is that the circumstances are not satisfactory; and all the time you have in mind the desire to prosecute him for an offence made criminal by the statute. I think the minister will agree that that is going too far. It is going even farther than we regarded as sound when we were a bit hysterical at times.

Mr. ROGERS: I can appreciate the difficulty created for the leader of the opposition by the wording of this section, but it seems to me that possibly he is exaggerating the likelihood of a commissioner carrying on an investigation of this kind in a vexatious manner.

Mr. BENNETT: It has been done.