

Combines Investigation Act

Mr. McIlraith: I do not want to let it go at that because I believe there is an important point here. If these six persons in the circumstances outlined by the minister believe that an offence will not be committed because of action being taken or which will be taken by the minister by way of the restraining order, then the director does not have to make the inquiry at all.

Mr. Fulton: The hon. member is really straining the point somewhat incredibly there. He is saying that because those people believe that the director will act and then the minister may interfere—

Mr. McIlraith: No, will not act.

Mr. Fulton: —to prevent the commission of the offence because they may believe in the efficacy of the administration, they would then not be entitled to say that they believe that an offence is about to be committed. That is certainly straining the thing most incredibly. They apply to the director because they believe an offence is about to be committed. Of course, they hope it will be stopped, but if they do not apply they know it will be committed. So they go to the director and say, "We are of the opinion that an offence is about to be committed unless you do something". The mere fact that we do do something and prevent an offence from being committed does not mean that those persons would not have formed an opinion that an offence was about to be committed.

Mr. McIlraith: We have a section of the act here which gives six persons in certain circumstances the right to call on the director to take certain action. That right, in my view, is being put in jeopardy in certain of the merger cases. The fact that the administration will be a good administration and that it will prevent the public from being victimized by a merger is not, surely, the answer to this question about the right of the six persons to compel the director to investigate. They have the right to do so.

Mr. Fulton: They will still have that right, and if the hon. gentleman compares these words with the words which were in the act previously he will have to agree that these words are stronger and protect better the right of the six persons to have an inquiry.

The present section now reads:

Any six persons, Canadian citizens, resident in Canada, of the full age of 21 years, who are of the opinion that an offence has been or is being committed—

There is nothing said there with respect to the future at all. They cannot say: "We anticipate that an offence is going to be committed" and go to the director under the

present wording. But in the proposed wording they can, because the words now read:

Any six persons, Canadian citizens, resident in Canada, of the full age of 21 years, who are of the opinion that an offence...has been or is about to be committed—

They can, in certain cases, take certain action. Therefore, the rights of the six citizens are amplified, rather than restricted, by the new wording.

Mr. McIlraith: I should like the rights of the six persons to cover all the circumstances. What is happening here is that they are only covered in part.

Mr. Fulton: I can assure the hon. gentleman that that is not the case. The wording covers the full ambit of all possible events, an offence which has been committed, one which is being committed at the time they form that opinion, and an offence which is about to be committed in the future.

Mr. Howard: However that may be, I would point out that the act at this moment does make reference in one section to things which may occur in the future. I do not know whether this has resulted in an inconsistency in section 7 of the act or not. I will read again what the section says now. The minister read it and I will read it again so as to get the proper connection:

Any six persons, Canadian citizens, resident in Canada, of the full age of 21 years, who are of the opinion that an offence has been or is being committed...may apply to the director—

And so on. Then the second part of the following subparagraph (b) reads as follows:

And if the application relates to an offence against section 32, the manner in which and where possible the extent to which, the alleged combine is believed to operate or to be likely to operate to the detriment or against the interest of the public—

That information has to appear in the statement. So in part of section 7 we say, according to the minister, that they can only be of the opinion that an offence has been or is being committed, while in another part of the section it is possible to talk about what is likely to occur, or is likely to be the result—

Mr. Fulton: That is quite different, "likely to be the result".

Mr. Howard: It is true that one relates to the offence and the other relates to the effect of a combination which, in effect, is the offence itself.

I think the minister had the right approach when he said that he is quite prepared to accept the suggestion that the words "is being" be put in in order to avoid a lot of discussion. I think the minister could save a lot of debate on this point. Some people may think it is a minor one, but the rights