

*Combines Investigation Act*

On section 18—Requirement of written returns.

An hon. MEMBER: Carried.

Mr. BENNETT: I wonder if the hon. gentleman who sang out "Carried" so loudly has looked at this section. He is a man of business, and I wish he would just look at it.

Mr. ROGERS: There is no change in the principle.

Mr. BENNETT: The last part is the essence of it, with respect to contracts or agreements. I have heard complaints made about the character of the information required not being of any value. I speak now from the standpoint of experience. The last part certainly is essential.

—a full disclosure of all contracts or agreements which the person named in the notice may have at any time entered into with any other person, touching or concerning the business of the said person named in the notice.

That is clear. The very essence of a combine, as defined by section 2, there becomes the issue. But look at the rest of it. It is a very arbitrary power to hand to one man. Consider what the consequence may be.

Mr. ROGERS: But is this not relevant to the point? Quite true that when you are dealing with a combine or combination as outlined in the earlier definition, there would presumably be evidence of contracts and agreements; but if you are dealing with a monopoly, trust or merger, that would not necessarily be the case. Surely in order to prove activities against the interests of the public it might be necessary to have access to documents other than agreements and contracts concerning the particular business in question.

The CHAIRMAN: Shall clause 18 carry?

Mr. BENNETT: No; but I am not going to waste more time about it.

Mr. LAPOINTE (Quebec East): Carried on division.

Section agreed to, on division.

On section 19—Investigation after requiring written returns.

Mr. STEWART: This is a new section.

Mr. ROGERS: This, and section 20.

Mr. BENNETT: Part of it is new, and part of it is a combination. If the Minister of Justice will look at section 19 he will see how contrary to some of the general views of jurisprudence it runs. A commissioner is to do all this. He is now investigating a question of fact and law and he says: If after

[Mr. Rogers.]

receipt of these returns made in compliance with the act I consider the circumstances so justify I may do so and so. What does that mean? If he considers circumstances so justify, he may enter and pick up my books. He may do that, after he gets the return. If no return is made,—

—within a time set in the notice requiring such return or within such further time as the commissioner may upon application allow, the commissioner may investigate the business, or any part thereof, of the person making or failing to make such return, and may enter and examine the premises, books, documents and records of or in the possession or control of such person.

That puts a direct premium on not making a return. If he makes a return they take his books; if he does not make a return, they take his books. Therefore it would be better not to do it. That would be the obvious conclusion with respect to that section. That did happen, as a matter of fact.

Mr. ROGERS: This would appear to be a question of policy in connection with the administration of the act. Section 19 provides for the investigation of the business and the records of persons who have been required to give information. I might say that this section is to the same effect as section 15 of the former act. It was repealed by the amendment of 1935. In the present instance the word "commissioner" is used instead of the words "registrar" and "registrar or the minister".

Mr. BENNETT: I have given some reasons why it was repealed in 1935. I do ask the minister and members of the committee to look at the true significance of the section. It enables a man, one person, without reference to a minister or to a court to take possession of books of any person who has not made a return which he thinks is satisfactory. He arrogates to himself this right, and may say: "This is not satisfactory; I will take the books and he may go and take them.

Mr. KINLEY: He has to find them first. I have heard of them being lost.

Mr. BENNETT: Yes, but I am leaving that out for the moment. The Minister of Justice will surely admit that this is an extraordinary power. In my observations I have known of no such power being placed in the hands of a layman clothed with a little brief authority, and without regard to anything except his own judgment, his own discretion and his own state of mind. He may say: I am not satisfied. Is that fair?

Mr. ROGERS: There is his oath of office and his sense of public duty.