

Combines Investigation Act

Mr. LAPOINTE (Quebec East): I may assure my hon. friend that the instructions received by those who act as counsel are to act with the strictest impartiality for the purpose of attaining the end which the governor in council has in mind in ordering the inquiry.

Mr. CAHAN: I am not casting any personal reflections, but that is not the point. I have no doubt that the Minister of Justice believes in counsel acting with strict impartiality in eliciting the facts. The old traditions prohibited even counsel for the prosecution from acting in other than an impartial manner, because he was believed to act, and according to the traditions of the court did act, not as prosecutor for one side but in such a way as to elicit the information necessary for an impartial decision of the court. I had under my hand a whole pamphlet dealing with that phase of the question, but I do not intend to refer to it. The mind of the government should be expressed, I think, in the order in council appointing counsel, to the effect that his duty is to act impartially.

Mr. LAPOINTE (Quebec East): Of course, as the hon. member knows, the parties whose actions are being investigated are always very well represented before the commission.

Mr. BENNETT: They cannot be, in some of these investigations.

Mr. LAPOINTE (Quebec East): But I have in mind investigations to which my hon. friend refers. Necessarily the actions of counsel for the commission seemed to be somewhat opposed to those of counsel for the parties investigated. I agree entirely with my hon. friend, however, that their attitude ought to be that of a crown prosecutor trying to bring out the facts, without taking sides against any party to the issue.

Mr. BENNETT: I wholly agree with the minister's view, but I was surprised to learn that during the meetings of one of the committees of the house at this session, counsel appointed by the government actually said "No, we will not do that; it would be favourable to the company." There it is on the record, and it is rather a bad thing. I will be perfectly frank with the minister.

Mr. LAPOINTE (Quebec East): A committee of this house?

Mr. BENNETT: Yes, sitting in this house. I must say also that I took strong objection to the attitude of leading counsel for the price spreads commission. The attitude taken was not of that impartial character which, in my judgment, counsel assisting a commission should show; and what is more, I told that

[Mr. Cahan.]

gentleman so. I asked him to come to my office, and told him that his duty was to assist the commission impartially in getting the facts, and not to treat the witnesses as though they were in a police court; rather he should treat them as witnesses giving evidence before a commission. I think the minister's statement of it should perhaps be embodied in written instructions to be given to counsel who are appointed, because the condition is becoming bad in this country. It reached its zenith the other day—I should like to show it to the minister, and I may have to refer to it in the house—in the committee where counsel said "That would be helpful to the company."

Mr. FACTOR: Does the right hon. gentleman remember action of counsel on the price spreads commission?

Mr. BENNETT: That is what I was talking about.

Section agreed to.

On section 9—Temporary assistants.

Mr. BENNETT: One of the greatest abuses is found under the procedure embodied in this section. What happens is that you constitute a commission, and then begin to call in your experts. I wonder if the minister has looked at the bills paid to auditors in connection with this matter? Last year the minister had occasion to direct attention to the amount of money being spent in connection with some of these transactions. One of our difficulties was that the commission had directed, without regard to anything else, that a very expensive audit should be taken with respect to various businesses, and the result was that in the aggregate we spent nearly \$100,000—the hon. member for Spadina (Mr. Factor) can correct me as to the exact amount; I know it was a very large sum of money. I believe there should be a clear limitation upon that. I have felt that for some time, not now, but while head of the government. I had to direct attention to what I considered to be an abuse of the words "the commissioner may, with the approval of the minister, employ such temporary, technical and special assistance, as may be required to meet the special conditions that may arise in carrying out the provisions of this act."

As the Prime Minister said this morning, this is an investigating statute. It is not intended to have somebody delegate to half a dozen other people the right to pry into every transaction in connection with an organization's affairs. Especially is that so with respect to the financial side of the matter. I do