

*Combines Investigation Act*

**The Chairman:** Shall new section 31A carry? Carried. Shall new section 32 carry?

**Mr. Howard:** I should like to make a request. We have just received the proposed amendment to new section 32, which adds two new subsections. I wonder whether it might not be more advantageous to allow the proposed section 32 to stand in order to give us an opportunity to assess the effect of the proposed amendment. Perhaps the minister might have one of his colleagues move the amendment and then ask that the proposed section 32 stand. We could then take it after the lunch hour or later today or on another day, if discussion of the bill lasts that long.

**Mr. Fulton:** I anticipate there will be quite a lot of discussion on new section 32, subsections 1, 2 and 3, which have been in the bill for some time. As my hon. friend has pointed out, the amendment would add new subsections 4 and 5. In effect they stand by themselves, and I had hoped that we could deal with 1, 2 and 3. It may well be that by the time we have dealt with them there will have been time for consideration of the proposed amendment. If there has not been time and the matter is raised again I would be prepared to consider allowing the matter to stand, but I should like to get on with subsections 1, 2 and 3 at the present time.

**Mr. Howard:** I should like to point out that when we proceed to consider and debate subsections 1, 2 and 3, those who are intensely interested in this legislation will be engaged in that consideration and debate and will not have an opportunity to look at the proposed new subsections 4 and 5. At the end of the debate on subsections 1, 2 and 3 I think we will still find ourselves in the position of not having had an opportunity to consider the minister's proposal. I anticipate that this will occur.

**Mr. Fulton:** Can we see how we stand when we get there? It may well be that the lunch hour will intervene. If at the time we come to the amendment hon. members feel strongly that they have not had time to consider it, I will be quite prepared to deal with the question then.

**Mr. Pickersgill:** I see no reason for not going on with the others.

**Mr. Howard:** If I may proceed to make some remarks with respect to the proposed section 32, subsections 1, 2 and 3, as every member of the house knows and as every witness who appeared before the banking and commerce committee indicated, this is one of the two major amendments in the bill, the other having to do with the amendments to

section 34. They are the ones which aroused the greatest amount of controversy involving support on the part of some interested parties and objections from others.

I do not intend to go extensively into such things as whether or not it is proper to put the word "unduly" in paragraph (d) of subsection 1, a matter which I believe was referred to earlier by the hon. member for Hull in dealing with the evidence of Professor Cohen respecting whether or not the verbs "restrain" and "injure" needed any qualification or were absolute in themselves.

I am concerned at this moment with subsections 2 and 3. The argument has been put forward that at the moment those things contained in subsection 2 are permissive as long as they do not have a detrimental effect or do not lead to any of the effects set out in subsection 1. In other words, at the present time corporations can conspire, combine, agree or arrange one with the other to exchange statistics provided the exchange of statistics does not result in limiting unduly facilities for transportation, manufacturing, production or distribution, or enhances prices, and so on. Corporations can and do make arrangements with respect to the defining of product standards as set out in paragraph (b) of subsection 2. As to the exchange of credit information, they undoubtedly engage in such practices. Then there is mention of the definition of trade terms and co-operation in research and development. The pulp and paper industry is a prime example of co-operation in research and development in which even government agencies participate.

Apparently these things can be done at the moment. They are not considered illegal practices in themselves; but if agreements or arrangements of this nature, at the moment, lead to the undue limiting of facilities, transportation and so on, as I related earlier, then the people engaged in these practices run foul of the law.

Cogent arguments against the inclusion of subsections 2 and 3 in the bill were given by practically every one of the university professors who appeared before the committee. Professor Cohen went into the matter extensively, and without reading his testimony word for word may I say that he made the point that this acts as an incentive to engage in these practices. It would be very easy for a group of businessmen who have legal authority and sanction to exchange statistics to feel a psychological incentive to engage in practices which are contrary to the law. The economists, men of stature and ability in the field, were likewise opposed to the changes that are set out herein.

Again without reading the testimony word for word I should like to indicate in a general