

Defence Production Act

respecting the department of defence production—Mr. St. Laurent—Mr. Dion in the chair.

On section 29—*Inquiry and appointment of investigator.*

Mr. Fulton: The last time we were discussing this section we were asking the Minister of Trade and Commerce about his radio broadcast and the effect of this bill and the defence program generally on the Combines Investigation Act. It was stated by both the Minister of Trade and Commerce and the Minister of Justice that in certain cases connected with the defence production program it might be necessary to call in an industry and ask them to make certain arrangements which *prima facie* would be an offence under the Combines Investigation Act. It was said that if that should become necessary an order would be made under the Emergency Powers Act which would have the effect of placing such an industry in the clear so far as the combines act was concerned.

Just before eleven o'clock a question was asked whether that power to set aside the Combines Investigation Act did not exist under section 28 of this bill; whether that section did not give the Minister of Trade and Commerce the right to suspend the Combines Investigation Act for the purpose which he had in mind. The matter was not dealt with fully before the house adjourned, and I wonder if the Minister of Trade and Commerce or the Minister of Justice could state whether in his opinion section 28 does in fact give that power.

Mr. Garson: I am not too sure that I heard the whole of my hon. friend's question, as a conversation was going on just beside me. I hope my hon. friend will correct me if I am wrong, but my understanding of what he said is that he is urging that section 28 of the bill empower the minister to direct that in connection with a defence order a person shall not be bound by any obligation imposed by or under any statute such as the Combines Investigation Act.

Mr. Fulton: I did not urge that that be done; I asked whether section 28 gave that power.

Mr. Garson: I will treat it on the basis of whether it could be done. I think my hon. friend on reflection will agree that it would be difficult to imagine a set of circumstances under which such an order could be made. Section 28, as its language clearly indicates, is directed toward removing legal obstacles to the entering into or the performance of defence contracts. A typical defence contract is a contract for the purchase of certain defence supplies—for example, motor transport, radar, guns and the like—between the

[Mr. St. Laurent.]

government as a buyer and a single manufacturer as a seller. I suggest that in relation to such a defence contract it is almost inconceivable that it would involve, even collaterally, any agreement between the manufacturer named in that defence contract and other manufacturers with regard to the fixing of prices for any commodity.

On the other hand, a typical price fixing agreement under the Combines Investigation Act is an agreement entered into between two or more corporations, usually in the same industry, to fix prices of certain lines of goods which they all produce or sell. Such an agreement could not, I think, possibly be considered as a defence contract within the meaning of section 28 of the department of defence production bill. Therefore if any effective method is required of exempting from the operation of the Combines Investigation Act an agreement fixing prices, a clause of much more specific application than clause 28 must be provided. In our view it might most aptly take the form of a clause in an order in council passed under the Emergency Powers Act. In the view of the Department of Justice we have never thought of relying upon section 28 in any way to achieve the purpose to which my hon. friend was referring in his question.

Mr. Fulton: It is true, however, is it not, that the operation of the defence production act may make it necessary to enact these orders in council which the minister says will be enacted under the Emergency Powers Act? I refer particularly to the words of the Minister of Trade and Commerce as reported at page 987 of *Hansard*, where he said, with respect to his remarks on the radio broadcast:

I had in mind a situation where it might be necessary in the public interest, and by reason of the defence program, to invite a number of industries to take part in arrangements which would ordinarily make them suspect under the Combines Investigation Act.

I take it, then, it is contemplated that situation may arise by reason of the bill that we are now considering.

Mr. Howe: It may very well.

Mr. Fulton: Then the intention is, and in fact the statement of the Minister of Justice is, that the only way in which the Combines Investigation Act can be, shall I say, suspended with respect to that arrangement is under the Emergency Powers Act?

Mr. Garson: That is right.

Mr. Fulton: For the purpose of getting it on *Hansard*, I take it that the minister says yes?

Mr. Garson: Yes, I said it was right. I guess my hon. friend did not hear me.