speakers to my left, and I know they are having trouble with their consciences from time to time, when they can find them. However, I would hope that on a point of this kind—I know they have in the past fought vigorously and vehemently for combines investigation legislation and its preservation—it would not be their intention to willingly give protection to corporations from the sanctions of combines legislation. I hope, particularly after they listen to me, they will come to this conclusion when I point out that there is adequate defence for any corporation or individual without Clause 23.

Let me read from the Canadian Abridgment, Volume 33 at column 655. This is a decision of the appellate division delivered by the late distinguished Mr. Justice Frank Ford. I remember him very well because he admitted me to the bar a great many years ago, but I do not know whether or not that is to his credit. This is the case of Rex *v.* Knott, 1929 1 W.W.I 304. Mr. Justice Ford said this on behalf of the court:

> It is, as I understand the rule of construction, only when there is an irreconcilable conflict between earlier and later statutory enactments that the latter must be given effect to and the earlier give way.

Let me repeat those words: "The latter must be given effect to and the earlier give way".

Finally, sir, reading from the Canadian Abridgment Consolidation, Volume 9 at column 1011, I refer to a judgment of the court of appeal of British Columbia delivered by Mr. Justice Bird:

> If two inconsistent Acts are passed at different times the last is to be obeyed and if obedience cannot be observed without derogating from the first, it is the first which must give way,—

That is from a case on constitutional questions, the Determination Act and the Vancouver Incorporation Act, 1921 (1946) 1 W.W.R. 177.

I have one further citation and then I will not detain the House further. This is from the same volume at column 1012. This time the judgment is delivered by Robertson, C.J.O. With this I will have given you decisions of the appeal courts of British Columbia, Alberta and Ontario. I am sure if I looked hard enough I could find several from Nova Scotia which has turned out great lawyers and great speakers, as you will know, Mr. Speaker.

Mr. Hees: Stop shining the apple.

Mr. Baldwin: I was going to say that I think there is one sitting in the Chair at the present time. This was in the case of Rex *v.* Broughton, 1951, court of appeal. As I said, the judgment was given by Robertson, C.J.O. and he says this in the headnote:

> If, therefore, there is that repugnancy between the two statutory provisions for which appellant contends, the result must be that the provision of the older statute will go, and the appeal would fall on that . . . ground.

I am sure I could find dozens of cases as the books are replete with illustrations of that simple principle. When you lay down, as the government is attempting to do by this bill, a provision which says the board has the right to direct a person or corporation to engage in a certain act or to do a certain thing and impose a penalty if it is not done of a fine of $5,000 or $10,000 as well as a jail term of up to two years, which provision is approved in the year 1974, as it will be on this 11th day of January, that takes effect and abrogates to the extent necessary the provisions of the combines legislation. If a corporation engages in an act as a result of that decision and then is prosecuted in respect of an order, a regulation or a rule under the bill we are now considering, Bill C-236, it has a defence. I, for one, will not voluntarily accept Clause 23 which gives the kind of exemption the government seeks to give.

I will give the minister credit, and I want to say this as I am sure if I do not he will say it anyway, that the oil corporations did seek an even wider exemption. He knew very well, however, the position of rectitude this party has always taken on this score, and if he had attempted to make the exemption even wider it would have been rejected. Being a wise man, he did not accept their proposition. Even so, he has gone too far and we want to turn him back. I hope my friends to my left will support me.

Hon. Donald S. Macdonald (Minister of Energy, Mines and Resources): Mr. Speaker, the long and convoluted argument we have just heard from the hon. member for Peace River (Mr. Baldwin) is perhaps the best evidence of why it was thought desirable to try to deal specifically with this problem of the combines legislation in the statute rather than to leave it to the possible interpretation of the courts, in the sense that we are in the position that we are seeking, in the event of an emergency, the ability to act quickly to make sure that supplies are available for Canadians who may suffer from shortages. In these particular circumstances we really would not want to be in a position where a party might well feel it necessary to refuse to co-operate on the grounds that one of the statutes of Canada might abrogate another.

It could well be that the argument made by the hon. member for Peace River would be sustained months of years later by a court of appeal in relation to one of these particular transactions. Obviously the sensible administrative practice would be that rather than leaving it to such a long-run conclusion, when you have a board of this kind, is to give the specific responsibility to that board, as the clause does, to in the first place to make a specific examination in respect of a particular application and then make a reference to the Minister of Consumer and Corporate Affairs.

That minister has within his responsibility the director of investigation and research under the Combines Investigation Act. In so doing and after consultation with him and with the assistance of the combines authorities, a decision can be made as to the kind of action that might be taken alternatively to that proposed by the application, and then an exemption order could be issued which, as sub-clause (4) points out, would be limited in time and, incidentally, might be even more limiting, to 12 months or less at the discretion of the board.

● (1240)

In other words, the obvious and sensible way to deal with a situation where the parties might be combining in their conduct for the purpose of protecting supplies to consumers and who might be concerned about possible criminal prosecution is to put that particular transaction under the specific scrutiny of the board as this action does and if the board finds that they are out-running the exemption given or that it ceases to be in the public