

Elsewhere:

It is the duty and purpose of the executive to direct an investigation by the Department of Justice, through the grand jury or otherwise, into the history, organization, and purposes of all the industrial companies with respect to which there is any reasonable ground for suspicion that they have been organized for a purpose, and are conducting business on a plan which is in violation of the anti-trust law. The work is a heavy one, but it is not beyond the power of the Department of Justice, if sufficient funds are furnished, to carry on the investigations and to pay the counsel engaged in the work.

So that the United States, after an experience of twenty years, has come now to the conclusion that the only manner in which to deal with large combinations, as President Taft says, where there is any reasonable ground for suspicion that they have been organized in a manner which violates the anti-trust law is to investigate and find out whether or not, as a result of that investigation, the suspicion is well founded:

Many people conducting great businesses have cherished a hope and a belief that in some way or other a line may be drawn between 'good trusts' and 'bad trusts,' and that it is possible by amendment to the anti-trust law to make a distinction under which good combinations may be permitted to organize, suppress competition, control prices, and do it all legally if only they do not abuse the power by taking too great profit out of the business. They point with force to certain notorious trusts as having grown into power through criminal methods by the use of illegal rebates and plain cheating, and by various acts utterly violative of business honesty or morality, and urge the establishment of some legal line of separation by which 'criminal trusts' of this kind can be punished, and they, on the other hand, be permitted under the law to carry on their business. Now the public, and especially the business public, ought to rid themselves of the idea that such a distinction is practicable or can be introduced into the statute.

At one o'clock, House took recess.

House resumed at three o'clock.

Mr. KING. When the House adjourned, I was referring to the legislation affecting trusts and combines in other countries and speaking more particularly with reference to legislation in the United States. I shall spare the House a detailed description of legislation in other countries. I would briefly mention that in England trusts are held to be illegal only where competition is shown to have been wholly removed or prices raised excessively. In such a case the combination is antagonistic to the English conception of freedom of trade, and is consequently judged as void. From this it follows that the decision, whether the com-

bination has the force of legal contract or not, depends according to the English court upon the merits of each case. But while the law in England and on the continent has left the development of trusts to be shaped by economic conditions, it is guarding more and more closely the incorporation and supervision of corporations.

Mr. J. HAGGART. In England can you not punish a corporation for enhancing prices?

Mr. KING. By common law.

Mr. J. HAGGART. Forestalling the market.

Mr. KING. Precisely. Under the French law combinations of the principal producers in any line with a view of controlling prices are illegal. The law has not been rigorously enforced in recent years, and such combinations are numerous; but in their control of prices they are far less successful than the American trusts.

The law of Austria declares agreements designed to create a monopoly void.

The German law recognizes the validity of cartel agreements even if such agreements result in power to control prices. If, however, the prices fixed are unreasonable, the combination is subject to an action for extortion.

Every incorporated company (in Germany) which operates independently, or as a member of a syndicate, is, from the moment of its organization, under the control of the law of corporations, a statute that reaches to every detail of corporate organization and management; compels the periodical publication of statements showing the exact condition of the company's affairs; makes its books and assets subject to official inspection at all times, and holds directors and officers rigidly responsible for every breach of trust.

A statute entitled 'The Australian Industries Preservation Act, 1906,' has been enacted by the Commonwealth of Australia to secure at once the suppression of monopolies and the prevention of dumping. The statute, as its title suggests, does not attempt the suppression of all trusts and combinations, but is aimed only at those which are to the 'detriment of the public.' By this statute it is forbidden to enter into any contract or engage in any combination in relation to trade or commerce with other countries or among the states of Australia (a) with intent to restrain trade or (b) with intent to destroy or injure by means of unfair competition any Australian industry, the preservation of which is advantageous to the Commonwealth, having due regard to the interests of producers, workers and consumers. Under the statute competition is declared to be unfair,

unless the contrary is proved, if the defendant is a commercial trust. In this way the onus is thrown upon the trust to prove that it is not unfair.

If I have made myself clear, I shall have shown in regard to the attitude of the government in this matter that it is not assumed that combines are wholly responsible for the increase of prices, that combines, in other words, may be one cause; in some cases they may not be a cause, but there is a strong reason for believing that in certain cases, combines have contributed to the enhancing of prices unduly. In the second place, there is the attitude towards combinations themselves. I have tried to show that this legislation is not brought in with a view to aiming at the formation of combinations as such, but rather a controlling of their actions, so that they may not unduly embarrass or interfere with the rights of the general public. We have sought to avoid the errors which have exhibited themselves in the legislation of other countries. We have tried to avoid the error which the United States have experienced in going too far in one direction, and on the other hand, to avoid being drawn into another extreme position such as has been found in the operation of legislation in Australia. Finally, in regard to the public, I hope I have shown that the main purpose of the legislation is to help to conserve to the general public some of the advantages which these large aggregations of capital are capable of rendering, not only to those whose capital is invested, but also to the whole community, that this constitutes strong reason for the state exercising some control. Sometimes we hear it said that the government of a country by interfering in the matter of these large industries is practically standing in the way of the growth of large combinations, that it is too much of an interference, and that, as a matter of fact, it is more the genius of individuals which is responsible for the great success of these large corporations than any other cause. In that connection, it might be well to point out in the public interest that there are material contributing causes on the part of the community itself. Were it not for the services which the country as a whole renders, and of which these large corporations take advantage, the services of any genius, however great, would not suffice to ensure the success of any corporation. What progress, for example, would a combination make but for the peace and security which is secured at the expense of the state, or but for the facilities of transportation, the banking facilities, the security in the matter of credit, transportation across the Atlantic, the markets which have been secured through commercial agencies and all these different factors for

which the state is primarily responsible or for which the credit is due to the state. So, when we take account of the large services which the state as a whole is rendering, and when we consider further, that but for the army of producers making up a nation and the army of consumers, after all, the people of the nation, no combination on earth could exist for a week, we begin to see another set of circumstances why the government of a country, representing the people of a country, should seek to see that any advantages which may accrue from these large aggregations of capital should in part be conserved for the good of the people as a whole.

It remains for me to speak of the place which the proposed legislation holds in the scheme of legislation already enacted by this parliament, and that brings me first of all to the central features of this Bill. The Toronto 'Star' has given a good deal of attention to this subject, more than any other journal in Canada. A year or two ago every second issue contained some article dealing with this subject of trusts and combines. In one of these articles we find an outline of what, according to that paper at least, is the kind of machinery which is necessary to effectually control these large organizations. I find in an article in the 'Star' of October 30, 1908, the following paragraph:

When there is reason to suspect the existence of a combine it should be the duty of the government to provide for an immediate inquiry into the facts, at the expense of the government. With a prima facie case established, the next step should be for the government to order an open and official inquiry, and where a combination is shown to exist, immediate relief should be given through the form provided by law by a reduction in, or entire withdrawal of, the protection accorded.

If a consumer is to be denied the benefit of foreign competition he must at least be assured against the creation of combines which prevent competition among home manufacturers and dealers.

In that paragraph will be found the essential features of the present legislation. What the government is aiming at in this measure is, first of all, to provide a means whereby when there is reasonable ground for believing that a combination exists which is unduly enhancing prices or unfairly restricting trade, the consumers, represented by a group of their number, may make out a prima facie case before a judge of the High Court and if a prima facie case is made out in this way, an investigation may be ordered by the judge, and if so ordered, must be carried out at the expense of the government. In order that an investigation of the kind may be as impartial and as fair as possible, the measure provides that each of the parties interested in getting at the truth or having