

*Combines Investigation Act*

legislation, it was my primary purpose to have some base upon which to found a brief discussion of the attitude of the courts on these matters.

I appreciate, Mr. Chairman, that we are skating on pretty thin ice when we undertake to be critical of the judiciary or the courts because this is contrary to the rules of the house. If I had embarked upon critical comment as to the attitude of the courts in levying fines in past cases I would be contravening the rules and would be out of order and so would others. Therefore I preferred to draft an amendment around which a discussion could be centred in order to point up the fact that in my opinion the courts have been overly lenient in past years and have had a tendency to follow the \$10,000 limit that used to exist even in respect of cases that have arisen after the change was made with respect to the fine. I think their attitude warrants some criticism.

I do not intend to press this matter to a vote. I thought I might provoke some discussion at this stage. I would be prepared to withdraw the amendment if that is agreeable. It does not matter one way or the other to me. If I cannot withdraw it I naturally intend to vote for it, but my primary purpose was to evoke a discussion of this nature. I think the Minister of Justice and the hon. member for Ottawa West more or less agree that there must be a change in the attitude of the courts with regard to infractions of this kind. Penalties should be more restrictive than they have been in the past thus providing a greater deterrent to illicit practices. It may be that our discussion of this matter will tend to influence the attitude of some of the otherwise reluctant judges.

**The Deputy Chairman:** Will the committee give unanimous consent to the hon. member to withdraw his amendment?

**Some hon. Members:** Agreed.

Amendment withdrawn.

**Mr. McIlraith:** I wish to ask one question for clarification having to do with the penal part of section 32 (1). I have particular reference to lines 28 and 29 where it says that every one is guilty of an indictable offence and is liable to imprisonment for two years who conspires, combines, and so on. That subsection is taken from section 411 of the Criminal Code, but as section 411 of the Criminal Code is now repealed by this bill we therefore have to rely on this legislation for the penal provisions. My question is this: Most of these offences are committed by corporations and the Criminal

Code deals with the matter of imprisonment and, where imprisonment cannot be imposed, fines in lieu thereof. Is the minister satisfied that the provisions mentioned merely for imprisonment are sufficient in a statute that is not part of the Criminal Code? I must say I am not familiar with the relative sections of the Criminal Code and I have not had an opportunity of looking them up since noticing this point. Perhaps if the minister wishes he could let that stand for later check.

**Mr. Fulton:** No, I think the relevant provision of the Criminal Code is section 622 which provides that where a person is convicted of an offence punishable with imprisonment for five years or less, he may be fined in addition to or in lieu of any other punishment that is authorized. If this section is taken together with the relevant provision of the Interpretation Act, plus clause 22 of this bill which has the effect—no, I am advised that perhaps I am not on sound ground in citing clause 22—but if section 622 and the subsequent sections of the Criminal Code are taken together with section 28 of the Interpretation Act, they have the effect of taking care of the matter with which the hon. member is concerned.

Mr. Chairman, I had in mind discussing briefly the question of the amendment with regard to export trade. Since I take it that the committee has at this time exhausted the questions it wanted to ask with respect to subsections 1, 2 and 3 of this section, perhaps I could go on now and discuss that matter briefly. Members of this committee will recall that many of the submissions before the banking and commerce committee concerned themselves with the present position of industry in Canada engaged in export trade. I believe that we have all received representations to the effect that, in the light of the current position in international trade, the situation of Canadian industry is declining and that there is the necessity of making some change in this legislation to allow industry to arrest that decline and to restore and improve its position.

It was represented to us that the concern of Canadian industry arises from a number of factors. The fact that we are a high cost economy is probably one of the less important in this context, although it was mentioned and certainly must be borne in mind in any assessment of the position of Canadian exports. More important, and I think more realistic in this context, are two other facts. First, whether we like it or not, in international trade there is a tendency toward association or cartelization, and whether we like it or not this is