

Combines Investigation Act

of the proceedings where he had this to say with reference to the act:

It did not seem compatible with the independence of the commission. So the commission requested that the provisions be widened so as not to put upon them the necessity of going to the minister through the director. And when the section was redrafted, as a result of that request from the commission, it took this form.

What I should like to know is whether the commission requested the specific form in which the amendment now is or that the wording be somewhat similar to what exists at the moment with respect to the director, although expanding it to include the commission. I should also like to know whether or not if the clause were amended to provide that the commission specifically had the right to do this, as the director now has, this would not be more compatible with the independence of the commission. Would it not be more compatible with their independence if we were to spell out precisely that the commission could make this determination and follow the same course as the director does now except on an independent basis?

Mr. Benidickson: This amendment, in my opinion, is of some importance. I think the minister should tell us in a more explicit fashion why he feels these words should be interchanged in what looks like an innocent way. I must tell the minister that I look upon this alteration as having implications that are suspect and sinister. I speak very seriously.

We are all acquainted with the rules in parliament that parliament has not the right to ask for certain information that comes from an employee to the minister in the ordinary course of his activities. Now, whether I am right or wrong, I am of the opinion, after looking at this so-called innocent amendment, that if it is passed parliament will not have the right it has now to expect answers from the minister in the ordinary course of inquiries concerning the opinion of the director as to the propriety of appointing counsel or instructing counsel. If this amendment were passed I am of the opinion the minister could henceforth answer, as was done some years ago, that information conveyed to him by the director is confidential and is not something to which parliament has any right.

I want to know specifically whether, in the opinion of the minister, we can henceforth ask whether he has received information from the director that it would be advisable and desirable to appoint and instruct counsel and whether as a result of this amendment the minister can confront parliament in the future with the statement that this is confidential information from an employee?

[Mr. Howard.]

Mr. Fulton: Mr. Chairman, this is a clause on which the *Winnipeg Free Press*, by the most extraordinary process of so-called reasoning I have ever tried to follow, bases some most extraordinary criticisms against the minister with respect to his deep, dark plot and intent under these amendments. The hon. member for Kenora-Rainy River appears to have echoed some of these sentiments here tonight. It is surprising to me that they were expressed in no manner when the clause was under discussion in the banking and commerce committee.

Mr. Benidickson: The minister knows why.

Mr. Fulton: I do not know why at all.

Mr. Benidickson: The minister knows that the bill was introduced in the dying hours of the session, and it was not possible for most members of the committee to be there at all sittings of the committee.

Mr. Fulton: That is an absurd statement; the bill was in committee for just over one month. It went to the committee on the 16th of June and was reported from the committee on July 18.

Mr. Hellyer: When there are a dozen other things to do.

Mr. Fulton: There were 24 meetings of the committee and if my hon. friends, who had representatives there most of the time, were not capable of asking one question about a very small clause, then they are less capable of interruption than I have ever held them to be.

The purpose of this clause is to take care of an embarrassing situation, a situation which is embarrassing to the commission and not to the minister. At the present time the act says that whenever in the opinion of the director the public interest so requires the director may apply to the minister to instruct counsel to assist in an inquiry, and upon such application the minister may instruct counsel accordingly. It is quite clear, therefore, that if the director feels an inquiry would be facilitated by the instruction of counsel he is authorized to go to the minister and the minister now has authority to make the final decision as to whether counsel will be appointed. The minister is not taking any greater authority under the present amendment than he has under the present act.

However, if the commission felt that it was desirable to appoint counsel, the act provides no way in which the commission may come to the minister. It is the opinion of my advisers that since the act lays down a way in which an approach may be made to the minister, then the only proper way in which that approach could be made would be through