

*Combines Investigation Act*

of carrying out a preliminary inquiry than anyone else. If it is done under the direction of the minister, then obviously the minister must take full responsibility.

Mr. MacLENNAN: I am more apprehensive of the power placed in the hands of six persons under section 14. Possibly six competitors of some business firm may make application; then, by section 15, this preliminary inquiry must be instituted. The hon. member for Queens-Lunenburg (Mr Kinley) said that there ought to be a good deal of circumspection in regard to starting an inquiry into anyone's business. Suppose nothing detrimental to the public was found, the very fact of an inquiry being started does not look well for a firm or corporation. I prefer that the minister or someone responsible to the people should start an investigation rather than some six men who possibly are not responsible.

Mr KINLEY: I think the preliminary investigation is for the protection of industry, and there should be no publicity connected with it. If six persons make an application, the minister will have a preliminary inquiry. No one is hurt much by a preliminary inquiry, but he is hurt by a public inquiry, because business is based upon confidence and credit, and there is always a certain stigma about a public inquiry. I think the preliminary inquiry is for the protection of industry more than anything else, so that trivial and vindictive reports may be thrown out—

Mr. ROGERS: No preliminary inquiry has ever been held in public. I think that does bear on the point raised by the hon. member for Inverness-Richmond (Mr. MacLennan). I think there is something to be said for making it possible for a preliminary inquiry to be instituted by a commissioner. It is conceivable that you might have a minister who was not sympathetic to the administration of the act, and if his direction were required he might prevent preliminary inquiries which obviously were desirable.

Mr. BENNETT: But that is the whole basis of responsible government. Surely the minister with his wide knowledge of constitutional government would not put that up. The minister, whoever he is, would have to take the responsibility for it before parliament and the people.

Mr. ROGERS: Many commissions operate without going to the minister.

Mr. BENNETT: I suggest that the minister consider seriously striking out all the words between "minister" in line 37 and "cause" in line 39—"or may whenever he has

[Mr. Rogers.]

reasonable cause to believe that a combine may exist"—for this reason: all he has to do is to speak to his minister, and as the minister directs, that is the end. The responsibility becomes the responsibility of the government and is thus a public matter. That is the proper course. The question of ministerial responsibility is the basis; the government takes the responsibility. The commissioner should not be a law to himself. This bureaucracy should not be set up; the matter should be under the control of the minister. The commissioner comes to the minister and says: I believe a combine may exist here. The minister asks: What is your evidence?—Well, I will not consider that at all. And that ends it.

Mr. ROGERS: The trade and industry commission had just that power.

Mr. BENNETT: That is a commission of three people presided over by a judge.

Mr. ROGERS: But I take it the constitutional point is not affected by the difference between one commissioner and three.

Mr. BENNETT: No, but the difference is that in the one case it is: "there is reason to believe," in the other it actually may exist. You have a commissioner appointed who holds office and is not responsible to anybody, and he says: I exercise my best judgment. He goes to his minister, or writes him a letter or telephones him, and makes a memorandum of it afterwards, and he says: I have reason to believe a combine exists here. Then the minister says: I direct a preliminary inquiry. But this is widely different. To give the commissioner power to do it of his own volition is a negation of our whole theory of responsible government. It is an arbitrary exercise of power arrogated to one man who is not responsible to anybody. I think that is wrong, and if the minister will just give it a moment's thought I am sure he will say it is wrong.

Mr. KINLEY: Under this section the minister has nothing to do with the preliminary inquiry if six people make an application.

Mr. ROGERS: That is true.

Mr. KINLEY: But if an investigation is to be started by the department I think the minister, who is responsible to the people, should take the responsibility for commencing that inquiry, and the commissioner should not be able to start inquiries of his own volition.

Mr. ROGERS: Mr. Chairman, I quite see the weight of the argument in support of the contention made by the right hon. leader of