

*Combines Investigation Act*

to inflict injury upon him, I think any jury in the land would say the servant was perfectly justified.

Mr. BENNETT: Because he has no document in his hand; the law says there must be a warrant.

Mr. CAHAN: Yes. I am not supposed to open my office to everyone who says, "I am commissioner so and so" or "I am constable so and so." I ask, "Where is your warrant?" and he has to show a judicial warrant authorized under the criminal code by a judge in his judicial discretion, before the person so authorized as a constable can forcibly enter my home or office. Otherwise if he gets a bullet through him he can have no complaint; the person who resists him is justified.

Mr. THORSON: How do the examiners under the income tax act operate when they wish to see the books or documents of a firm about which they are inquiring?

Mr. CAHAN: I am not going into the powers under the income tax act. Under this measure there are powers of seizure of private property, powers which are not contained in the Inquiries Act and were not in the old Combines Investigation Act.

Mr. THORSON: I should like to say a few words in support of what the minister said a few moments ago. I am entirely in agreement with the leader of the opposition in deprecating anything that is bureaucratic and arbitrary, but I do not agree with him in his criticism of the powers given the commissioner under the provisions of this bill. The Inquiries Act, which has for its purpose the institution of investigations into a great many matters, leaves the authority of the day free to appoint anyone as a royal commissioner. The royal commissioner under the Inquiries Act does not have to be a judge; he ought to be the person best qualified to pursue the particular inquiry that is contemplated. In some cases he may be a judge, in other cases he may be an economist, in still other cases he may be a business man, and we have even had members of parliament appointed as royal commissioners under the Inquiries Act. In many cases a person who is not a judge may be better qualified for the purpose of conducting inquiries such as are contemplated by the Combines Investigation Act, than a judge would be. The person appointed as commissioner under this statute ought to have the qualities of good sense and good judgment, and he ought to be a thorough-going investigator. If we appoint a man as commissioner under this statute who has had long experience of investigations

[Mr. Cahan.]

and who has shown thoroughness and good judgment in the investigations which he has made, then I think we are better off than if the commissioner were a judge having no experience and being untried in investigations of this kind. If we are going to give the investigator the necessary powers to make the proper inquiries, then we must give him some authority: we must vest him with power to enforce obedience to his orders. This is the justification for giving him the powers set out in this bill. These powers have been in the statute since 1923.

With regard to the question of the issuance of a commission, it will be noted that the bill proposes an amendment to the effect that the minister may issue commissions to take evidence in another country. The previous legislation gave the commission power to issue commissions to take evidence in a foreign country. The Minister of Labour has at his disposal the advice of the Department of Justice and the law officers of the crown and I submit that with such assistance he may be trusted to see that adequate steps are taken for the proper conduct of a commission in a foreign country.

Mr. BENNETT: I just want to quote the authority for what I said a minute ago. It is:

In executing a search warrant, the officer must have the warrant with him; it being expressly provided by the first paragraph of section 40, ante, that it is the duty of everyone executing any process or warrant to have it with him, and to produce it, if required.

Once more I direct the attention of the minister to the point which is raised. If this commissioner goes to the office of any person he has no warrant. The minister says that this statute is his warrant, but he has nothing that clothes him with the authority or power of a constable or a peace officer. If he is resisted, what is the authority for the exercise of this power? He has not any. That is that point. But another point is raised by the hon. member for Selkirk (Mr. Thorson). If a witness declines to give evidence, what happens? What is the commissioner going to do? According to the contention just advanced he is going to send him to gaol. Is that the theory of this jurisdiction now to be established?

Mr. LAPOINTE (Quebec East): No.

Mr. BENNETT: That is what happens.

Mr. LAPOINTE (Quebec East): We are not establishing it; it was the law in 1935, under the statute introduced by my right hon. friend.