

*Combines Investigation Act*

would be necessary in conducting an investigation of this kind. A dozen attorneys in the city of Montreal may have been associated in their professional capacities in the formation of what is believed to be a combine and under section 20 the commissioner may proceed to their offices and seize all their papers, although they are confidential, with respect to the organization of certain companies or associations. These may be retained by the commissioner. Section 21, which gives the commissioner authority to summon in an official way persons for the production of papers and the giving of evidence with respect thereto should be quite sufficient.

Subsection 2 provides that any person summoned by the commissioner shall be competent and may be compelled to give evidence as a witness. I submit that that can be enforced only with regard to a breach of the existing criminal law. This parliament has no legislative power or competence to authorize an investigation, to summon witnesses and to compel the production of papers unless it be an investigation into a subject matter within the legislative competence of this parliament. The mere belief of a commissioner is not a matter within the legislative competence of this parliament. There must be a violation of some existing criminal law. The whole matter of the rights of contracts and the rights of individuals to conduct their business and to organize companies under the civil law of the province—dealing especially with the organization of companies under provincial legislation—are not infringements of criminal law with respect to which this commissioner may act. He has no authority and this parliament can give him no authority to investigate a civil matter, except it be a matter such as banking, insolvency or some other matter which is within the special classes of subjects under the legislative jurisdiction of this parliament. This commissioner can have no power and this parliament is incompetent to give him any authority to deal with matters which primarily and nominally are under the legislative jurisdiction of the provinces.

Mr. THORSON: The answer to the remarks just made by the hon. member for St. Lawrence-St. George has been given by the judicial committee of the privy council. The judicial committee held that the Combines Investigation Act was *intra vires* of this parliament.

Mr. CAHAN: Certainly.

Mr. THORSON: Does it not follow that the powers necessary to the proper administration of the act and the proper investiga-

[Mr. Cahan.]

tion into whether there is or is not a combine are also within the jurisdiction of this parliament?

Mr. BENNETT: As being ancillary.

Mr. THORSON: Yes. I think that follows as a matter of course. The whole purpose of this act is to provide machinery for investigation into combines. Once parliament has adopted that principle it ought to provide proper and adequate machinery to accomplish the purposes of the act. It does so by giving certain powers to the commissioner, who is the officer appointed under the provisions of this bill. That is the justification for section 20 and section 21. Admittedly section 20 gives wide powers, and section 21 provides for the calling of witnesses and the production of documents. If an investigation is to be conducted properly and thoroughly, witnesses must be called and documents must be produced, because usually the essence of a combine is the making of an agreement of some kind or other, and in many cases that agreement is evidenced by a document. That document is therefore the basic document, and we ought to provide in this bill for the machinery which will enable that document to be produced, so that the commissioner may make the thorough investigation that ought to be made if the principle of this bill is to be applied.

Mr. CAHAN: In reply to that I would say that a combines act has been declared to be within the competence of parliament, but not this combines bill. The contemplated act is very different. As I attempted to explain yesterday, it is much wider in its application than the combines act which was before the judicial committee of the privy council. Secondly, the basis on which the old combines act was declared to be within the competence of parliament was that it was dealing with an investigation into certain sections of the criminal code to ascertain whether crimes had been committed in respect of those provisions of the code. What I stated yesterday by citation of the acts is, I think, quite sufficient until the amendment proposed by the minister is brought down, and I need not now go into it further. But this proposed combines bill has never been before the judicial committee. Possibly the implication which this bill contains is necessary and inevitable, but it is only by implication that this commissioner is proceeding preliminary to or during an investigation when he proceeds as suggested in sections 20 and 21 of this bill. But assume that he is proceeding with respect to an investigation: in the act which was confirmed by the judicial