

judge and the jury, as well as the policeman. We have a situation in which the commission will investigate and then charge a businessman or some concern with an offence. That man or concern will come before the very people who did the investigation and laid the charge. There is no provision in the bill for a fair hearing or trial of the issue, no provision for the calling of evidence, for cross-examination of witnesses by counsel, and no provision that the commission, when adjudicating on a matter, must give written reasons for its decision.

That would not be so bad, I suppose, if all the commission could do was levy a fine, or make an order, but the difficulty arises in respect of a civil suit which can be brought as a result of the order of the commission. All the person complaining must do is prove that the commission made an order. Then, if he can show any loss at all he gets back not only that loss but also any costs he may have incurred in investigating the matter. We do not have any provision for written reasons, yet an order of the commission is all that is necessary to collect civil damages. This is an amazing change in the concept of law.

Let me go into the matter of criminal law, or highway traffic law, if you like, which applies to the offence of careless driving. Let us take the case of a person who is charged by a policeman with careless driving. He attends court and may plead guilty. He may feel that really he is not guilty because the person with whom he had the accident was also careless. In many cases both parties have been charged with careless driving and, because of the cost involved in defending the charge, plead guilty and pay the fine. If a lawsuit should result, then the whole issue is tried all over again and evidence produced. When a person pleads guilty he may not know what damages are involved.

● (1640)

If a person is charged under this particular provision of the bill, he would not dare plead guilty. He had better fight it right down to the wire because he does not know when he may be sued for damages and the order made by the commission is sufficient to nail him for damages. Such people must defend an action brought by the commission to the very utmost. Ordinarily when a person is involved in a civil lawsuit arising from a criminal charge, a new trial is held and the plea to the criminal charge is not taken into account. This is not the case in this situation, so what we have here is a step away from the normal jurisprudence of this country.

Should this bill pass second reading, I feel the committee must carefully examine this provision because it is a new step. It is a totally new proceeding, a new way of handling the question of civil responsibility for actions that are now declared to be of a criminal nature. Nowhere else in law does this situation exist. One may commit rape and be placed in jail. However, one also can be sued civilly for that offence and may have to pay damages. But in such a case there are two separate trials of the whole issue. Under the provisions of this bill there are not two separate trials. There is one trial by the commission. This is a kangaroo court conviction. The person concerned is stuck for civil damages. Any damages that are proved he must pay. This situation must be looked at in every detail.

#### *Competition Bill*

One concern that has been expressed by the hon. member for Trinity (Mr. Hellyer) and others is that the bill exempts the labour organizations from being subject to the restraint of competition or combines legislation. Certainly, over the history of the 19th century, and the first part of this century, the labour unions, with the development of collective bargaining, have managed to obtain for the men a fair recognition of their labour in the development of the country.

Unfortunately, however, there have developed on the labour scene conditions that are far from marketplace conditions and which go a long way beyond what is normally the proper sphere of collective bargaining. For example, the collective agreement of the electrician's union in Toronto contains a provision which places a serious limit on the number of persons who can become apprentices. If I or my son wished to become apprenticed as electricians we could not do so. The number of apprentices is limited and the number of people allowed in the trade is limited. That is a combine every bit as much as any other combine.

**An hon. Member:** What about law?

**Mr. Blenkarn:** Yes, the legal profession, the engineering profession and these other professions should be included because they are combines in restraint of trade. The same situation applies in respect of the construction industry. I will tell you a story, Mr. Speaker. I was acting for a construction company which wished to bid on some work. That company was told it could not bid on the work unless it was unionized. So, a patsy agreement was made with the union. The employees did not have anything to do with it. The company paid the dues and the company obtained the contract because it was a union company. The men were not organized. The contract price was increased by the amount of the union dues paid. If this is an example of collective bargaining, then I am pretty shocked.

This is the type of thing the minister should direct himself to as well. There is no reason this bill should exclude from the provisions of restraint of trade legislation labour unions which operate in that fashion. If there is a monopoly in respect of the people entitled to be plumbers in a city, is that not an example of restraint of trade just as it would be in the case of real estate brokers or doctors. While these people may be excluded from this legislation because of provincial legislation, I suggest the labour unions should be placed in the same position as professionals. I am a member of a classy labour union, the Law Society of Upper Canada. I am a member of the society and I cannot practice law without such membership. I am at least subject to provincial jurisdiction and I am subject to this legislation where it is not in conflict with provincial legislation.

Surely, this bill should include all forms of people involved in professions. If you drive a truck or locomotive you are a professional. There is no reason that type of activity should not be treated as professional. Because these people are professionals they should come under the provisions of this act and should be subject to the same disciplines as any other professional. The reason they are exempt from these provisions is pretty evident in this parliament. It is because the government relies on the New