

Combines Investigation Act

Mr. Benidickson: I was only going to comment that it could not have been very serious; I was also going to say that in my experience here there has been the odd occasion when I have had some feeling that perhaps the public interest was at stake in certain commercial matters and I have never found that the combines branch was not prepared to look at that very seriously on my responsibility as a member of parliament.

Clause agreed to.

On clause 3.

Mr. Caron: Mr. Chairman, I do not want to re-open the debate which has just taken place on clause 2. I admit that the minister might have been technically right when he said that what is in the process of being done at the present time the next moment has been done. With respect to mergers and monopolies, however, sometimes it will take six months, eight months or a year for the process to be completed. The process is started and it goes on for months and months before the merger or monopoly is complete. In order to clarify the clause and to put everybody at ease, I move:

That clause 3 be amended as follows:

That the words "is being" be inserted in line 28 and line 30 after the words "has been".

Mr. Pickersgill: Just before the question is put I should like to point out that this also applies, of course, to resale price maintenance. I do not think the minister would argue for a moment that resale price maintenance is something that would be covered exclusively by "has been" or "is about to be". This is something that might be a continuing process and, indeed, would certainly be a continuing process. In order to make amply certain that it is covered I suggest to the minister that he might consider accepting this amendment.

Mr. Fulton: It is quite true it would be a continuing process but as it is a continuing process it is also clear that there is an infraction of the act at any point in time during which that process continues, and that therefore at this point what took place a minute ago is an offence that has been committed.

With regard to the point of the hon. member for Hull about mergers being the sort of thing that take some time to complete, that again is quite true, and that is exactly the point I had in mind when I said with respect to mergers that they are covered almost certainly under these circumstances by the words "or is about to be committed". These words would also cover the continuing feature of the resale price maintenance situation to which the hon. member for Bonaville-Twillington referred.

Amendment (Mr. Caron) negatived: Yeas, 15; nays, 54.

Clause agreed to.

Clause 4 agreed to.

On clause 5—*Counsel*.

Mr. Howard: Mr. Chairman, there was some discussion of this clause in the committee. Relating the alteration in the bill to the act as it now stands, the act provides that if in the opinion of the director the public interest so requires he may apply to the minister to instruct counsel and the minister may accordingly instruct such counsel to act. The explanatory note reads as follows:

The proposed amendment will enable counsel to be employed on the recommendation of the commission as well as the director.

I suppose in one sense that is quite true because the amendment reads:

Whenever in the opinion of the minister the public interest so requires, he may appoint and instruct counsel to assist in an inquiry under this act.

If the director is of the opinion that the public interest requires the appointment of counsel to assist in an inquiry, presumably the director will make his views known to the minister and the minister will then exercise his discretion with respect to whether in his opinion such an appointment should be made. In addition, if the restrictive trade practices commission was of the opinion that counsel was required to assist in an inquiry it would undoubtedly make its views known to the minister and the minister likewise would come to a decision whether in his opinion the appointment of counsel was required.

I wonder why it was not done the other way round so that it would be specific and give some recognition, as the act does at the moment, to the desires of the director. Perhaps it should read, "Whenever in the opinion of the director or of the commission the public interest so requires". It should spell out precisely whether the commission has the right to apply formally or informally to the minister for assistance in an inquiry under the act. The first question I should like to pose is why this recognition was not given. Second, I understand that the commission made representations to the minister for an alteration in the act to provide them with the opportunity or right to express their opinion about the requirement of counsel to assist in an inquiry and that this amendment is what resulted from the representations of the restrictive trade practices commission. This information was given to the committee by the director, Mr. MacDonald, at page 647