

Combines Investigation Act

made. Not once in the history of this legislation has the provision in the code which provides either for a jail sentence or a fine been acted upon in the sense that judges have thought the offence important enough to impose a jail sentence on the directors or officers of the company which has been proven guilty.

Since that is true I am proposing that the law be amended to make it mandatory that where the offence has been committed a second or third time there shall be a jail sentence required. Section 31 (3) of the Criminal Code reads as follows:

A court may punish any person who contravenes or fails to comply with a prohibition or direction made or given by it under this section by a fine in the discretion of the court, or by imprisonment for a term not exceeding two years.

That is a provision which has not once in the history of Canada been enforced. My amendment would provide that where such an offence has been committed a second or third time a jail sentence is mandatory; that there be a minimum jail term of one year for the second offence and a jail term of two years for a third or subsequent offence.

Our combines legislation has been with us for a long time. I have before me a pamphlet written by Mr. Grant Dexter, who is certainly not a wild-eyed socialist but a very respected member of the press gallery for many years as well as being a very prominent Liberal supporter, entitled "The Parties and the Combines Act". This pamphlet was published in 1959 and I should like to read a few sections from it to show how long we have had this law and who piloted it through parliament. He says that Mackenzie King introduced the first anti-combines legislation in the House of Commons in 1910, and goes on to say:

From the outset, the Liberal party has insisted that there must be free competition in prices. All acts which lessen competition are unlawful and Liberal governments down the years have vigorously and successfully enforced this concept of combines control.

I will try to analyse briefly how successful this has been; but this is what Mr. Dexter says in his pamphlets:

The success achieved by Liberal administration in uncovering, prosecuting and convicting combines is indicated by the fact that, between 1925 (when the first prosecution was launched) and 1957 (when the Liberals left office), 35 combines had been convicted in the courts and the fines imposed exceeded \$1,600,000....

Thirty five represents a substantial cross-section of Canada's big business, since a single combine might embrace scores of individual companies.

From a return to a question which I asked last session, which was tabled by the then minister of justice on July 10, 1963, and which listed the persons or corporations convicted by the court, the date of conviction and the amount of fine imposed, it will be seen that between 175 and 200 companies were convicted between January 1, 1939 and the time when the question was answered in 1963. To suggest, however, that this has in fact stopped the desire and the practice of big business to participate in combines is, of course, not true. In a book written by Professor G. Rosenbluth and H. G. Thorburn entitled "Canadian Anti-Combines Administration, 1952-60", the following appears at page 97 in connection with the way the law has been administered:

Under the St. Laurent-Howe administration, the backgrounds and personalities of the government leaders, their natural desire for financial support from business interests for campaign purposes, the remoteness from the electorate caused by the duration of the Liberal regime, and the general economic prosperity all favoured a certain solicitude for the interests of large corporations. In the field of combines legislation, the logical development of government policy would have been towards reduction in emphasis upon activities that might disturb major business groups.

We can say, Mr. Speaker, that this is true because recently during this session I put down a series of questions which asked what the government has done or proposed to do about these specific recommendations made by the restrictive trade practices commission, which had investigated combines. This commission found that there were combines existing and listed about eight of them—there are probably about 25 which have not yet been reported upon—and in every case the answer, in effect, was: "We are looking into them and studying them". So there has been little, if any, action.

If anyone doubts that the practice of combines is continuing, let me refer him to a small news item in the *Globe and Mail* of June 3, 1964 headed "Bids Identical, Chance Decides Winning Firm". This article says:

The Toronto transit commission found itself faced yesterday with three identical quotations of \$8,425 on 8,000 bags of Portland cement.

I suggest that the possibility that this was a coincidence is virtually non-existent.

Let us take an example from my own city. In May of 1963 the city council of Winnipeg had before it a report from its committee on utilities and personnel having to do with the purchase of power cable. I should like to refer to five items. On item 1 there were identical bids to the penny in the amount of \$5,568 by