

Combines Investigation Act

to give the government a certain measure of latitude and hold them to account. For that reason I certainly intend to vote against the amendment.

Mr. Fisher: I should like to answer the hon. member for Bonavista-Twillingate. Surely the logic of what he has just said is that we should wipe this clause out of the bill.

Mr. Pickersgill: Not at all. May I ask the hon. gentleman a question? Does he think it is wrong to have any kind of armaments unless you use them?

Mr. Fisher: Surely the hon. member was saying that the teeth of the hon. member for Skeena was referring to were false teeth. One of the most important parts of the argument, I think, was the fact that the governor in council had powers to reduce duties, anyway.

Mr. Pickersgill: He has just as much power with "may" as with "shall".

Mr. Fisher: Whether he has with "may" or with "shall" he does not really need it in this section, then, and this wonderful legislation, this wonderful section—as the hon. member for Essex East was saying, once in 22 years was a mighty short time, or words to that effect—has been in effect I do not know how many years, but it has never been used. I have tried to look at this phrase "disadvantage to the public" and it seems to me that "disadvantage to the public" has to do with the difference between the cost price and the selling price; there is some inordinate margin as a result of the combination. Then, as a result of an inquiry if it appears to the satisfaction of the governor in council that a conspiracy exists I cannot see why it would not go ahead instead of saying "may". Surely, it would consider the other factors.

One of the reasons I like "shall" better than "may," despite the minister's argument and the argument of the hon. member for Bonavista-Twillingate, is that I can see as in the fine papers case, that pressure groups have an opportunity to come into the situation in such a way that the whole matter can be befogged and you get the situation where a number of small pressure groups can contradict or stop what should be the general intent of this clause; whereas in another industry or with another group of producers with less powerful persuasion they could be proceeded against under the word "may". Therefore, I presume to argue that the words "shall direct" are better than "may direct".

Amendment (Mr. Fisher) negatived: Yeas, 2; nays, 67.

Mr. Fisher: There is one point I want to make. The minister has said that if we use

[Mr. Pickersgill.]

"shall" it would be necessary to insert a schedule in this particular clause. I cannot follow that argument at all. In the light of the phrase "the duty thereon be reduced to such amount or rate as will, in the opinion of the governor in council, give the public the benefit of reasonable competition" I just want to point out whatever the fate of the amendment, I cannot accept that particular phase of the minister's argument.

Mr. Benidickson: Mr. Chairman, on this clause I recall very well that in the banking and commerce committee we had some discussion about grammar teachers, grammar pupils, semantics, and so on, but I find there has been a departure in a material way in this clause from the bill as introduced last year. The bill last year had the words "has been" which were fairly positive; but I am more concerned in this particular clause with the words "presently being" in the 38th line. I wonder what significance they have? I have looked at this fairly carefully and I am convinced that they could be deleted without any material effect to the intent of the clause and perhaps would make the reading of the clause more basic and understandable. On that basis I move, seconded by the hon. member for Hull:

That clause 11 be amended as follows:

That the words "presently being" be deleted from line 38.

Mr. Fulton: Mr. Chairman, this was also discussed in the banking and commerce committee and, as I explained at the time, on the grounds that this is a remedial section, not a punitive section, it seemed to us to be much more appropriate in a remedial section to point up the fact that you could only apply the remedy if there was an active use being made or an active advantage being taken of the existence of a tariff to promote the public disadvantage. If you simply say that the disadvantage is facilitated because tariffs exist and that therefore a situation exists under which any disadvantage is or might be facilitated, that did not seem to us to be going quite far enough to establish that before you had the authority to apply the remedy you had to have evidence and be satisfied not only that the potential situation existed but that actual advantage is presently being taken of the tariff to bring about a disadvantage. That is why we put in the words "is presently being".

Amendment (Mr. Benidickson) negatived: Yeas, 14; nays, 56.

Mr. Howard: I should like the minister to make something a little clearer. Is it correct that the governor in council has the authority to do this regardless of whether or not this section is in the act?