

*Combines Investigation Act*

—can best be obviated by enactment of duly authorized administrators' orders directing such action as may be required in respect of standardization, simplification and related matters. Under the machinery now set up, such orders can be handled without delay. Action taken by an industrial or trade group pursuant to such orders would not be subject to prosecution as against the public interest. Provision for their formal authorization would seem to be a reasonable precaution to prevent inadvisable arrangements being made in the name of the board without its knowledge and sanction.

In other words, in this letter for Mr. Gordon to sign, he was taking much the same rather technical position that is taken in the flour report that was tabled the other day.

**Mr. Coldwell:** Were those orders ever formalized?

**Mr. Garson:** No. This letter was followed up by another letter from Mr. Gordon in the same sequence, written by Mr. Anger and which I will now read. I will not read it all, but merely the relevant parts of it. This is Mr. Anger's statement of the position and I direct this particularly to my hon. friend for Lake Centre (Mr. Diefenbaker).

**Mr. Diefenbaker:** What is the date?

**Mr. Garson:** The date of that letter?

**Mr. Diefenbaker:** Please.

**Mr. Garson:** The date of it is June 17, 1942. The date of the former letter was April 16, 1942. I direct the attention of my friend, the hon. member for Lake Centre, to this letter because I think it contains the answer to his question as to whether Mr. Gordon could promise any immunity and so on. Of course he could not. But the law could. When a man states the law, he does not promise immunity. It is the law that grants the immunity. This is what Mr. Anger said in his letter:

The regulations have always provided that contravention or failure to observe any regulation or any order is an offence.

That is, any regulation or order under the wartime prices and trade board.

From the foregoing it is seen that it is not only a formal order of the board or of an administrator that must be obeyed, but also any general or specific requirement or instruction of an administrator. It being clear that failure to comply with an order as defined is an offence, it is equally clear that obedience of such an order would be a good defence to any possible action brought under the Combines Investigation Act or the Criminal Code, if there were, in fact, any conflict between such statutes and an order. As has been stated before, however, our legal department and the commissioner of the Combines Investigation Act—

That is Mr. McGregor.

—concur in the view that there can be no such conflict, because orders are in the public interest and there is no liability under the above statutes except in respect of acts which are against the public interest or to the detriment of the public, which is the same thing.

**Mr. Coldwell:** But no order was issued.

**Mr. Garson:** Or in other words, Mr. Speaker, where you have an arrangement in connection with the whole milling industry arrived at after a long series of negotiations, based upon an exhaustive inquiry by a firm of chartered accountants, formalized in a succession of orders in council, one of the fundamental principles of which is that the government is not prepared to be mulcted—I think that is not an improper term—in the amount of tens of millions of dollars in terms of extra subsidies to milling companies selling down below the price ceiling, surely under these circumstances you have an obligation in the matter of whether they choose or not to call upon the milling companies to comply with that arrangement; and if they do comply with it, who is going to say, in the face of the letters I have quoted, that they are guilty of any kind of infraction of the Combines Investigation Act? When Mr. Taylor, Mr. Gordon or the administrators, as they did many times, directed these concerns to comply with the arrangements which had been entered into after the fullest consideration, they were not granting any immunity. They were disciplining the industry and telling them that they had to comply with the orders of the wartime prices and trade board. But once they did comply with the orders of the wartime prices and trade board, they should not be prosecuted for doing so.

**Mr. Coldwell:** But there is no evidence of any orders. That is the thing we are puzzled about.

**Mr. Garson:** Mr. Speaker, I do not know what orders my hon. friend is referring to.

**Mr. Coldwell:** Orders with respect to legislative or statutory authority.

**Mr. Garson:** I do not think that he is challenging for a moment the statements of these men. Not having been in Ottawa myself during wartime I cannot personally vouch for these facts but the arrangements in connection with the milling industry were so well known that I do not think that anyone would challenge them. If my hon. friend wants to know what the legislative and statutory authority was, let him examine these orders in council and he will see the subsidy arrangement set out there. If he has any doubts about that I can lend him the report of this firm of chartered accountants, which shows the basis upon which the amount of the ceiling price for flour was established, and how the millions of dollars of subsidies that this would involve was calculated, how the government would have to pay the amount of