

Combines Investigation Act

prepared, in the face of my own responsibilities as Minister of Justice, to have the report publicly condemned in this way until we had made a most careful check to determine whether or not the government should accept it and prosecute on it. I have to confess with some embarrassment now that the facts, which we have checked, proved to my satisfaction at least that the Minister of Trade and Commerce was quite right in the position he took at that time; and if we had followed the course he recommended, of publishing the report and having him make this statement, we would have avoided some of the difficulties that have ensued, though I believe we might have met with others. But with the knowledge I had before me at that time I felt my duty was to support the report of my officials until it was proved to be incomplete. That was what I did; and my colleagues, including the Minister of Trade and Commerce, backed me up in this course. It is regrettable that my action in standing up for this report has proved so embarrassing, but one can only be wise in the light of facts known at a particular point of time. Even in retrospect it still seems to me that it was my duty to support the report, on the information I had at that time, especially when there was no chance then of complying strictly with the requirement as to publication.

The second course we could have followed was to publish the report with a statement—a true statement, if you like—that the government was sceptical about certain aspects of it; that we were going to check those aspects and that in due course, when we had finished our checking and had found out what were the true and complete facts, we would publish them and report to the house. If we had made such a disclaimer, does anyone suppose it would have strengthened the hands of the combines investigation commission or added to its prestige? No matter whether our checking had proved the commissioner in the right, the fact that we had advertised to the world our doubt concerning it and concerning him would have had an adverse effect upon the combines investigation commission.

The third alternative was the course we followed, to delay publication—which had already passed the statutory period of fifteen days—until we could check the facts so that when the report was published the government would be able to state definitely its position in regard to it. Moreover, and I think most hon. members will sympathize with this view, we were naturally most anxious to adopt a course which all members

[Mr. Garson.]

of cabinet would feel they could support; and we agreed that the first requisite was to learn whether the full facts, when ascertained, would support the views held by some members of council, or whether they would support the report, in which event we could publish it and prosecute.

Mr. Knowles: At about what time was that agreement reached by cabinet?

Mr. Garson: Well, I could not pretend to tell my hon. friend.

Mr. Knowles: February? March?

Mr. Garson: I could not say even roughly. There were several meetings, and I would not be telling the truth if I even attempted to say at which meeting this precise position was reached.

Mr. Knowles: But it was probably while parliament was in session and before the election campaign?

Mr. Garson: I would not say as to that. Well, Mr. Speaker, it took some time to get at those facts, but again I contend there was no lack of diligence on my part. Consistent with the other duties which had to be performed, we brought this matter to a conclusion as soon as possible. We wanted to reconcile the conflicting views of our public servants if that could be done. If it had been possible to handle the matter in any other way I did not want to do what I was finally forced to do, have high-ranking public officials confront each other in a highly controversial way, which could have had an adverse effect upon the morale of a department of government. So we took a good deal of time trying to resolve the matter without resorting to this hazard.

A few moments ago the hon. member for Lake Centre (Mr. Diefenbaker) raised the question of the bearing of the court of appeal judgment in the dental supplies case upon this whole matter. I said I would deal with that question, and I propose to do so now. One of the facts which influenced me in giving priority to other matters than bringing this particular question to a conclusion was that the combines investigation administration had suffered a severe defeat—there is no gainsaying that fact—in the dental supplies case in March, 1948. The case had been withdrawn from the jury by the trial judge on the ground that the crown had not even made out a prima facie case. In course of time, on February 28, 1949, the Ontario court of appeal rendered a unanimous judgment against the crown, which was a body blow to the enforcement of the act in respect of any future reports, including the flour report. In this or in other debates some hon.