

Combines Investigation Act

presently being facilitated by the duties of customs imposed on the article, or on any like article, the governor in council may direct either that such article be admitted into Canada free of duty, or that 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.

The governor in council, as its first determination, must decide if there has existed any conspiracy, combination, agreement, arrangement, merger or monopoly, to promote unduly the advantage of manufacturers or dealers at the expense of the public. If it then appears to the governor in council that such disadvantage to the public is presently being facilitated by the duties of customs imposed on the article or on any like article, as a second determination the governor in council may direct either that such article be admitted into Canada free of duty or that 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 believe it was the hon. member for Essex East who in the committee advanced the reasoning that this is an authority which the governor in council has in any event, to reduce or eliminate tariffs without reference in the act to that at all. This action is taken when the crown sees fit as unilateral action or as a result of negotiations with any country or countries with respect to the elimination or reduction of a tariff or duty on different articles or even the same article. Listening to the Minister of Justice and the hon. member for Bonavista-Twillingate I conclude that they are in fact arguing that we have no need of section 29 of the act because it should never be used to bring this advantage to the public.

Mr. Pickersgill: Not at all.

Mr. Howard: I am trying to relate what was said this evening to what was said in the committee by the hon. member for Essex East about the crown already having this right so there is no need to have it spelled out here. But if it is in the act and is to be used primarily to give the public the benefit of reasonable competition then it should have some teeth in it. The governor in council should not be given discretionary power with respect to (1) determining if there is a conspiracy; (2) determining that it is facilitated by customs duties; and (3) determining whether or not it should be lowered or eliminated.

The effectiveness of the present law is indicated by the fact that it has not been used. We do not know if the minister plans to use it or not. Presumably it is a deterrent. Presumably this force in the economy which

would think in terms of engaging in a conspiracy to fix prices, for argument's sake, would look at the law to see whether court cases had been developed and would say, "Well, we are liable to a number of things; we are liable to be fined; we are liable to be imprisoned or to lose our patent rights"—this is under another section; if they have any patent rights—"we are liable to lose our tariff protection and the merchandise will not be able to enter Canada and our economic position within the nation will not be quite as good as it was before".

I am quite sure that if this is the reasoning that goes on within a group of manufacturers' minds on the question of whether they enter into this sort of an agreement, then this is not a deterrent. It has not deterred anyway in the past by the mere fact it is there, because the Liberal party did not see fit when it was in office so many years to take any steps under this section and people presumably came to the conclusion that it was not going to be used and there was no sense worrying about it.

If the Minister of Justice is taking the position that it is not going to be used or perhaps should not be used because of all these other complicating factors, perhaps there is no need to have it in the legislation; but so long as it is there I submit, Mr. Chairman, as the hon. member for Port Arthur has indicated—and if its purpose is to give the public the benefit of reasonable competition—then there should be some teeth in there and some authority given to the cabinet to take action if they find that certain things exist and use has been made of certain tariff protection. They have two discretionary powers and I do not think they should have three to bring the public the benefit of reasonable competition. This is when they should act, and I think the legislation should say so.

Mr. Pickersgill: Mr. Chairman, I do not intend to labour this point at length, but I cannot forbear to point out that the hon. gentleman has shown that there are half a dozen matters of opinion that the governor in council must form before he acts, anyway. The teeth he suggested he is going to put in by changing the word "may" to "shall" are pretty false teeth. All he was really doing, as the hon. member for Skeena I think pretty effectively showed, if his arguments were valid at all, was showing that the amendment is meaningless. That was the whole purport of his remarks. But I do not think it is proper to use a word like "shall" when in fact you do not mean shall. This is obviously a matter where, under our system of responsible government, it is not possible for parliament to lay down all the detailed rules under which this thing would apply, and we simply have