

Combines Investigation Act

to make sure the government would not have to pay any subsidy in addition to that which had been fixed after the most careful calculation. Mr. Gordon says, and the government accepts, because it is obvious, that anything done to this end would be privileged under the Combines Investigation Act. As to whether or not Mr. McGregor was aware of this, I quote from a memorandum from Mr. H. D. Anger, solicitor of the board, to Mr. McGregor, dated February 18, 1942, in reply to a letter from Mr. McGregor:

As you say, the Combines Investigation Act only prevents persons from combining to set prices or take other action detrimental to the public. When prices are fixed or specified restriction or standardization is required by or under the authority of this board, the fixation or requirement has statutory effect and the Combines Investigation Act does not apply, as no combine whatsoever has taken place.

Mr. Coldwell: Has the minister Mr. McGregor's letter, to which this is a reply?

Mr. Garson: Yes, and I will table it with the others. I do not want to read too many extracts. There has been a tendency, more by implication than by direct challenge, to suggest that Mr. Gordon was exaggerating, shall I say, as to the necessity for a large number of oral directions and so on. I should like to read from a letter from Mr. W. H. Howard, who was co-ordinator of the pulp and paper products administration, to Mr. Donald Gordon, setting out the conditions in the industry that he had in charge, which letter I think will make very clear the sort of pressure and the kind of conditions and circumstances under which the administration of the wartime prices and trade board had to be carried on. The letter is dated March 3, 1942, and states:

This is the first occasion on which this matter of conflict with the Combines Investigation Act and No. 489 of the Criminal Code has been put forward in such a formal manner although as I have already indicated to you, the question is constantly being raised by the pulp and paper manufacturers generally.

And further:

In this connection, you must bear in mind that what you now want manufacturers to do, by voluntary agreement among themselves and with your administrators, are precisely those things for which they, or others in similar positions, have been prosecuted in the past by Mr. McGregor and his minions.

Then he goes on to say:

I assume that, by process of blanketing by formal rulings, every agreement reached and action taken in respect of concerted elimination of frills, standardization and simplification, the administrators could provide protection to all concerned,—

We could do this all by a great series of agreements, blanketing the whole thing "but", he said:

—this would involve not only a formidable amount of detail work but would slow things down and

[Mr. Garson.]

impair, if not destroy, the present co-operative spirit and general desire to attain your objectives.

It is surely infinitely better, under existing conditions, to arrive at our objectives by voluntary co-operation than to formalize the program by an elaborate series of orders, directions and rulings issued by the administrators and your board.

In any case, I am not certain in my own mind,—

And Mr. Howard is an able lawyer.

—not having found time or inclination to study the intricate legal questions involved, that a series of administrative rulings or orders would provide an absolute barrier against prosecutions at some time in the future.

In any case, the businessmen concerned are not going to assume avoidable risks and there is no reason why they should be expected to when all that is involved is a conflict of authority between departments of government.

Some suggestion has been made that in questioning the willingness of any company to co-operate in this matter, we are questioning their patriotism. No one would question that. But when the government was stepping into a picture and directing these concerns as to what the government wanted them to do, why should they have to run the risk of being prosecuted by some other department of the same government in respect of the very thing that they did under that direction?

Mr. Diefenbaker: Will the minister allow a question?

Mr. Garson: Yes.

Mr. Diefenbaker: Who could possibly give Mr. Gordon the power to promise anyone immunity from the law? That is just a question seeking information.

Mr. Garson: If my hon. friend will let me leave the answer of that question until later, I shall be obliged to him; I have a letter right on that very point.

Mr. Diefenbaker: All right.

Mr. Garson: There is further discussion on the same point and two separate letters were written. The first one was by Mr. McGregor who, as you remember, was an enforcement officer of the wartime prices and trade board. He dictated this letter for signature by Mr. Gordon as chairman. Then within two or three months afterwards there was another letter on the same point by Mr. H. D. Anger, the solicitor, also written for Mr. Gordon's signature. I am going back to the same correspondence. Mr. McGregor, in the letter which he drafted—and I think perhaps I had better read it so as not to interpret it in any way—says this:

It seems to me that any significant possibility of difficulties such as you suggest—

That is, such as suggested in the letter that I have just finished reading.