

Mr. MACKENZIE KING: I should like to make sure that there is no intention on the part of the government to repeal the Combines Investigation Act.

Mr. GUTHRIE: Not that I know of.

Mr. MACKENZIE KING: As long as that is understood, it is all to the good to incorporate in this bill some of the provisions of the Combines Investigation Act. I should regret for any reason to see the Combines Investigation Act repealed.

Mr. GUTHRIE: I have not heard of a suggestion of that kind.

Amendment agreed to.

On section 21—Penalty for infraction of provisions respecting spreads.

Mr. MACKENZIE KING: Have the words "natural or" been added in line 30 of this section?

Mr. WEIR (Melfort): Yes.

Mr. MACKENZIE KING: Are not the provisions of the criminal code with respect to excessive prices, restraint of trade and the like to all intents and purposes the same as the provisions of this section?

Mr. GUTHRIE: The effect will be the same although I am not sure as to the exact language.

Mr. ELLIOTT: Has a similar section been enacted by the various provincial legislatures?

Mr. GUTHRIE: I am not sure whether the penalty clauses are the same.

Mr. ELLIOTT: My recollection is that in the Board of Commerce case it was held that regulations such as these and the penalties imposed for infractions thereof were not within the powers of the federal parliament. I have no doubt the Minister of Justice (Mr. Guthrie) is quite familiar with that case. Certain clothing men in Ottawa were charged with having charged excessive spreads with regard to clothing. Penalties were imposed but it was held that they were not within the jurisdiction of the federal parliament. I assume that the Minister of Justice has considered whether or not this section would be ultra vires because in another section of the bill it is provided that any part found to be ultra vires shall be excluded but that the rest shall be effective. Under the decision of the commerce case it would seem that no conviction would stand unless there was a similar provision in the various provincial acts.

Mr. GUTHRIE: Following the commerce case, there is no doubt that any matter falling within the classification of property and civil rights would be held to be under provincial jurisdiction. But there are many things which will arise under this act in the way of trade and the regulation of trade which would not fall within provincial jurisdiction. In regard to such matters this penalty clause would have application, but in regard to provincial matters the same decision would be reached as was reached in the Board of Commerce case. In such cases, proceedings could be taken under the provincial acts.

Mr. ELLIOTT: Does not the minister think that they should be as nearly uniform as possible?

Mr. GUTHRIE: That is my opinion but the provincial legislatures have passed their judgment with regard to matters of that kind. I think it would be a very good thing if they were uniform.

Mr. MACKENZIE KING: Is this the section with regard to penalties?

Mr. WEIR (Melfort): Yes.

Mr. MACKENZIE KING: So that the matter may be on record, will you be good enough, Mr. Chairman, to read the section? I think it is practically the same as the provision in the criminal code.

The CHAIRMAN: The section reads:

Every person who, to the detriment or against the interest of the public, charges, receives or attempts to receive any spread which is excessive or results in undue enhancement of prices or otherwise restrains or injures trade or commerce in the natural or regulated product, shall be guilty of an indictable offence and liable to a penalty not exceeding five thousand dollars or to two years' imprisonment or, if a corporation, to a penalty not exceeding ten thousand dollars.

Mr. MACKENZIE KING: The penalty as set forth here, as well as the nature of the offence, is very similar to what is contained in the criminal code, section 498:

Every one is guilty of an indictable offence and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to two years' imprisonment, or, if a corporation, is liable to a penalty not exceeding ten thousand dollars, and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company,—

(a) to unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or