

Combines Investigation Act

in the light of the situation and the circumstances the hon. member has in mind—we felt it would be unwise to bring in legislation, as it were, on our own reasoning because this legislation and its interpretation by the courts is of primary importance. It is of primary importance to have a clear understanding of what the legislation means before you start tinkering with it. It is different when you come to deal with procedures and remedies. The merger problem is under study. It is not being ignored and forgotten. But as a matter of legislative practicability and responsibility we felt it was not wise to introduce legislation at this time.

Referring to the comment made by the hon. member for Bonavista-Twillingate that he feels so strongly that it is undesirable that the administration should have any power to determine with respect to those who have committed offences under this legislation whether they should be prosecuted with a view to conviction or whether we should apply for an order, I suggest to the hon. gentleman that his stand is based upon emotion rather than research and reason.

Mr. Pickersgill: It is based on fundamental principle.

Mr. Fulton: It is generally agreed that the United States has one of the strongest anti-combines or anti-trust administrations in the world but the United States anti-combines authority have, and have had for a long time, the power to determine whether to proceed against a person who has committed an offence against their statutes by way of criminal prosecution or by way of a civil procedure and an application for an order.

No one to whom I have ever spoken about anti-combines matters has even remotely suggested that this option available to the United States administration has made them soft in their dealings with anti-trust problems and activities.

Mr. Pickersgill: It has nothing to do with softness; it has to do with principle.

Mr. Fulton: We are seeking to assimilate our approach and our position in respect of our anti-trust administration to that of the United States anti-trust administration in that one respect, the respect of having the freedom to decide whether the appropriate course is to prosecute and convict or to apply for an order and in that way bring about the end of a situation which is believed to be detrimental to the public.

Mr. Pickersgill: Mr. Chairman, I have a few observations to make on this matter. I first want to say to the minister that I never said anything about this matter being soft

[Mr. Fulton.]

or being hard. To me it is a matter of fundamental principle and in criminal legislation which this is—and this is the only way we can deal with this problem—it is entirely repugnant to my rather primitive ideas of justice and of equity that it should be open to the attorney general to decide in exactly similar circumstances to prosecute in one case and to ask for an injunction in another. To me that is wrong. For that reason it would not be possible for me to support this clause of the bill.

The hon. member for Skeena in that rather laboured attempt to get out of the pit into which he had fallen by supporting this bad legislation of the government sought to suggest that since the government had, as he said, no law to deal with mergers—which of course is not correct—there was some procedure here that would enable the government to take some kind of action different from that.

I might remind the hon. gentleman that the minister was careful to point out to me in reply to the first observation I made even before moving my amendment that you would have to satisfy the court in exactly the same way that the act had been done under subclause 2 as under subclause 1. In other words you have to give the court all the evidence that would be necessary to get a conviction before you could get an injunction in the case of the thing having been done. Therefore if that is the case, and if the minister has correctly informed me, it would appear that any argument to the effect that in some way or another the government should deal with mergers under subclause 2 and should not deal with them by prosecution under subclause 1 falls completely to the ground. If you have to make exactly the same proofs to satisfy the courts in exactly the same way it is absolutely impossible for me to see why there should be any relief from prosecution in one case as opposed to another.

As I have a few other observations to make and as one or two other hon. gentlemen wish to say something about this clause it would appear to me that it is eleven o'clock.

The Chairman: Does the committee wish to vote on this?

Mr. Pickersgill: No, Mr. Chairman, I have some other observations to make and from looking at the clock it appears to me that it is eleven o'clock.

Progress reported.

BUSINESS OF THE HOUSE

Mr. Pickersgill: Mr. Speaker, perhaps the house leader could indicate to us what we