

Combines Investigation Act

I agree with the hon. member for Lake Centre when he says that this is a relatively unimportant section of the bill. It is not nearly as important as section 2 or as section 3, which is the most important. While I am on my feet perhaps I should deal with some of the questions which the hon. member for Lake Centre asked in a new form of cross-examination. He put his questions in groups and if I overlook some of them I hope he will remind me.

He wanted to know who gave anyone the authority to say that the Combines Investigation Act was not in effect during wartime. I think the simple answer to that is: "No one." If he thinks that that answer is unresponsive and not sufficiently revealing I should like to refer him to the letter from Mr. Anger, the legal adviser of the wartime prices and trade board, to Mr. McGregor, to which I referred previously. This letter will be found on page 2079 of *Hansard*. In referring to wartime prices and trade regulations passed by order in council under the War Measures Act, a statute properly passed by this government, Mr. Anger says:

The regulations have always provided that contravention or failure to observe any regulation or any order is an offence.

It is an offence to contravene or disobey any order of the wartime prices and trade board. Then he goes on:

From the foregoing it is seen that it is not only a formal order of the board or of an administrator that must be obeyed, but also any general or specific requirement or instruction of an administrator. It being clear that failure to comply with an order as defined is an offence, it is equally clear that obedience of such an order would be a good defence to any possible action brought under the Combines Investigation Act or the Criminal Code, if there were, in fact, any conflict between such statutes and an order. As has been stated before, however, our legal department and the commissioner of the Combines Investigation Act concur in the view that there can be no such conflict, because orders are in the public interest and there is no liability under the above statute except in respect of acts which are against the public interest or to the detriment of the public, which is the same thing.

Perhaps the hon. member for Lake Centre suspects that Mr. Gordon or Mr. Taylor gave assurances of privilege or assurances that the Combines Investigation Act would not be enforced against John Doe Company Limited, but it was rather a matter of the officials of the wartime prices and trade board calling the attention of the John Doe Company Limited to the fact or the law, if you like to look at it as such, that if they comply with the order of the wartime prices and trade board then *ipso facto* they will not be prosecuted under the Combines Investigation Act. That is not an assurance of privilege or exemption given by an individual. That is a statement by an individual, either Mr.

Anger, the legal adviser, Mr. McGregor, the enforcement officer, Mr. Gordon, the wartime chairman, or Mr. Taylor, the present chairman, of what the law is. The law would be the same whether they stated it or not. That being the law, if the John Doe Company carries out the provisions of the wartime prices and trade board order, then by virtue of that fact it cannot in doing so be a member of a combine detrimental to the public, and it cannot be prosecuted under the Combines Investigation Act.

Mr. Diefenbaker: If that be so, then why did you not publish the report? It would have done no harm because they were not liable anyhow.

Mr. Garson: I will tell you the reason why we did not publish the report. When it came in I read it and I was much impressed with it. I thought it disclosed an offence, but I had no knowledge of this other background, nor did any of the other people who read the report and who had not had communication with the officials of the wartime prices and trade board. The whole basis for any action on my part in the matter has been that I did not want to jettison the report until I had been absolutely assured by the proper authorities that the actions which were recorded in the report as being on offence under the Combines Investigation Act were not those which were a mere compliance with the wartime prices and trade board regulations.

Mr. Diefenbaker: What do you mean by "jettison"?

Mr. Garson: Suppose when this report first came in we had followed the course my hon. friend recommended about two minutes ago. Suppose we had said: These things are all covered by the wartime prices and trade board so we will just not bother with the report at all. That would be jettisoning it because to all intents and purposes we would do nothing under it. I was not prepared to do that until the officials of my department and I had gone into the matter and we had satisfied ourselves, and I had been satisfied beyond any peradventure of doubt, that what had been done was really in accord with the wartime prices and trade board orders. It is not a case of any person like Mr. Gordon, Mr. Taylor, Mr. Anger or anybody else giving assurance of any protection. It is simply that the law applicable to the facts of the case does not disclose an offence.

Mr. Diefenbaker: Do you believe that is the law?

Mr. Garson: I not only believe it is the law; I know it is the law.

[Mr. Garson.]