

*Combines Investigation Act*

in the committee on this question, I think we would be rather opposed to them also. But that is another matter.

In summing up, I would say that the proposals do nothing but seriously weaken the effectiveness of the law in dealing with price conspiracies, and they will seriously hamper the courts in the determination they may have to make about price conspiracies because they will be spending their time in arguing theoretical concepts and results from the economic point of view. It will mean that we shall be able to have price conspiracies running rampant through this country without much fear of attention. The only people who are going to benefit are private enterprise, and the only people who are going to suffer are the consumers. To that end I move:

That subsections 2 and 3 of section 32 of clause 13 be deleted.

**Mr. Pearson:** Our proposition with regard to section 32 was made clear on second reading and it has been made clear in the committee. We are strongly opposed to it. The reasons for our opposition, or some of them, were given by my friend who has just preceded me, and I am not going to traverse the same ground. It must be pointed out that subsection 2 of this section 32 (2), which you might call the exemption subsection gives immunity to a conspiracy or a combination in respect of the matters enumerated, even if competition is lessened in matters such as price, production, marketing, distribution—

**Mr. Fulton:** Even if—?

**Mr. Pearson:** Even if competition is lessened.

**Mr. Fulton:** No.

**Mr. Pearson:** Competition under this wording has to be lessened unduly.

**Mr. Fulton:** As is the case with every breach of the combination provisions.

**Mr. Pearson:** Therefore, as has been pointed out—and it was pointed out in the committee—that provides quite a loophole and will give a field day to the lawyers. Indeed, in reading the committee evidence I recall that the hon. member for Greenwood, I think it was, said that it would make a lawyer's paradise. We think the word "unduly" certainly should be taken out. I do not want to say any more on the subject of this section. We have made our position perfectly clear. This is the heart of the amendments certainly one of the most important parts of the amendments, and will have a very bad effect.

**Mr. Caron:** We are quite in agreement with the hon. member for Skeena, because

we had the same amendment to propose this morning. The reason we felt obliged to propose this amendment is that we believe this section will create a loophole which will permit a greater defence for those who might use this section not for the purpose of just helping to exchange statistics and product standards and other things, but to use these things in order to control or organize mergers outside the law, to organize certain monopolies outside the law and more especially to engage in price fixing.

This is not new. It was raised in 1950 before the MacQuarrie committee. The Canadian Manufacturers' Association at that time, in their brief at page 5, stated as follows:

It is submitted that it should be possible to specify a number of things which are not to the detriment of the public and which businessmen may consequently do without being liable to prosecution under the act.

The only thing they seemed to be afraid of were prosecutions.

To the extent that this could be done, it would reduce the area of uncertainty which at present covers practically the whole field, so far as joint action with competitors is concerned and would be a real forward step.

This matter was brought forward and their brief was most generally dealing with this matter. But at the time there was a book entitled "Monopoly and Free Enterprise" by George W. Stocking and Myron W. Watkins, in which they describe exactly the dangers of the proposed amendment. They say this:

Trade associations frequently engage in a variety of activities some of which are perhaps innocent or even wholesome when considered separately but which together tend to curb competition and restrain trade. Standardization of products and cost accounting methods, for example, may eliminate waste and lower costs, but it also helps insure uniform prices among trade rivals. Exchange of information on the credit of customers may help reduce bad debts, but it may also serve as a basis for boycotting "undesirable" customers. Statistical reporting on prices, output, sales, shipment, stocks and the like may aid producers in independently formulating sound price and production policies, but it may also afford a basis for a tacit understanding to stabilize prices and curtail output. The compiling of freight rates from basing points to shipping destinations may serve the convenience of producers who customarily sell at delivered prices. But it is also an important, if not an essential, element in any plan to stabilize prices among widely scattered producers turning out standardized products with an inelastic demand, heavy transportation charges, large fixed costs of manufacture and relatively constant variable costs when operating below capacity.

It goes on in this vein at considerable length. I will spare the committee the reading of that portion and will go on to another matter, namely the existence of an agreement and the degree of control. With the new bill the task of our courts will become much more complicated. They will have, as in the