

Mr. KINLEY: They were insurance people.

The WITNESS: Certainly they were not for any of the companies whose names I gave to the chairman.

*By the Chairman:*

Q. What is the business of Massey and Renwick?—A. They are insurance people. I did not represent them in those proceedings. Colonel Biggar represented them.

Q. They are insurance brokers?—A. They are insurance brokers and managers.

*By Mr. McGeer:*

Q. In any event, that decision precludes the non-tariff companies from doing the same thing.—A. Oh, certainly, sir.

Q. And this bill, if you could get a favourable decision under it, would give you access to those plans, or plans in an analogous relationship to them, would it not?

Mr. MARTIN: That is right.

The WITNESS: Upon paying for them.

*By Mr. McGeer:*

Q. So that this legislation is intended to cure the decision of the Exchequer Court, or to relieve you of the limitations imposed by that judgment as non-tariff companies?—A. I must confess I cannot see it that way. If you let me explain, for a minute, I think I can satisfy you that that is not so. The application to the Secretary of State was refused, first, on the ground that under the present section 14, these copies of these plans had not been issued to the public within the sense defined by the Act; and, in the second place, that even if they were issued or published and a compulsory licence could be ordered, the present section 14 provides for not less than 1,000 copies of any work or reproduction under a compulsory licence irrespective of the relation 1,000 copies bears to the needs or demands of the Canadian market for that work.

You will understand, Mr. Chairman, of course, that "book" under the Act is defined to include maps, plans, and so forth.

Q. The point I was making was this: supposing that the amendment as you propose it had been in effect and Massey and Renwick had succeeded on an application to have access to those plans of which they used photostatic copies, there never could have been an action in the Exchequer Court because the Exchequer Court would have had no jurisdiction over the authority given under this proposed amendment?—A. My friend, Mr. Scott, points out that Massey and Renwick had not applied for a licence and offered to pay a royalty.

Q. Quite true, because there was no legal power; but had this amendment that you propose been in effect they would have done that, would they not?—A. If parliament saw fit to pass this amendment, and if upon making out a proper case before the Commissioner of Patents. We are going to propose that the Commissioner of Patents be substituted for the minister, and that there be an appeal to the court. And if the final court, the Privy Council or the Supreme Court finally decided that under the circumstances existing in Canada attaching to the use of these fire insurance plans which have been in general use by everybody for fifty-eight years, there was an abuse by the publishing company which had gradually acquired plans which had been in open sale for thirty years and made by Goad and not made by them,—if the court should decide that that was abuse, then under this bill as amended it would be possible for a person to apply for those plans and upon paying the same market price at which they are supplied to members—

[Mr. W. B. Scott, K.C.]