

Mr. MACKENZIE KING: If you substitute the word "designed" you will have one of the most difficult of legal proofs to establish. To that extent you practically destroy one of the essential features of the measure. That ought to be looked into.

Mr. BENNETT: We will let that stand. The next is on page 2 and deals with subsection 4. A new definition is inserted which reads:

(4) "Merger, trust or monopoly" means one or more persons

(a) who has or have purchased, leased or otherwise acquired any control over or interest in the whole or part of the business of another; or

(b) who either substantially or completely control, throughout any particular area or district in Canada or throughout Canada the class or species of business in which he is or they are engaged,

And extends and applies only to the business of manufacturing, producing, transporting, purchasing, supplying, storing or dealing in commodities which may be the subject of trade or commerce: Provided that this subsection shall not be construed or applied so as to limit or impair any right or interest derived under The Patent Act, 1935, or any other statute of Canada.

Mr. MACKENZIE KING: When the bill was before the house the Minister of Justice (Mr. Guthrie) brought this amendment to the attention of the house but he said he would not press it. I took exception to it on the ground that a patent might be used for the purpose of creating a monopoly; I thought the public interest was more important than the interest of any person holding a patent right, and that the restricting of the definition in that way was a mistake.

Mr. BENNETT: We have an international convention with respect to patents which was signed in 1926 or 1928, and I am speaking subject to correction when I say that this merely gives effect to a provision in the international agreement signed at The Hague.

Mr. MACKENZIE KING: Patent law is a very special branch of the law, and I shall not venture to give a legal opinion upon this. But if this amendment is to permit the overriding of the public interest by virtue of a right under some patent held by a company, it should not be permitted.

Mr. BENNETT: Mr. Speaker, I hope you will excuse our dealing with this matter in this way rather than in committee. The right hon. gentleman will remember that I pointed out that the Patent Act contains provisions for the protection of the public interest where the patent is not worked or under various other contingencies. Our patent act largely follows

the English act, which was predicated upon the convention signed at The Hague. So far as this amendment is concerned I submit—again speaking subject to correction—that it is made to give effect to our international obligations and the public interests are amply protected by the provisions of the Patent Act. However, I shall look into the matter. The next amendment is to insert a new paragraph (b) reading as follows:

(b) to bring at once to the minister's attention every such application;

I think that is desirable. The next provides for the re-lettering of the paragraphs, and I do not believe there will be any objection to that. The next deals with line 32 and deletes the words "or is being formed." I think that amendment is proper. The same amendment is made in connection with lines 40 and 41 and lines 44 and 45. The next refers to page 4, line 8, and substitutes the word "therefor" for the word "thereof." The same amendment is made in line 11. I think those are proper. The next deals with line 37 and inserts the words "by the commission" after the word "believed."

Mr. MACKENZIE KING: As I read that section it would mean that there could be no investigation until the commission in the first instance had made up its mind that there was a combine. As a matter of fact, the purpose of an investigation would be partly to establish whether or not there was a combine. As I read the section the commission would have to declare its belief before an investigation could take place, and it might be possible to defeat any inquiry at all.

Mr. BENNETT: The right hon. gentleman will remember that under the existing combines act there has to be some belief.

Mr. MACKENZIE KING: A prima facie case.

Mr. BENNETT: Exactly. I think the extraordinary powers given to the commission would not make it unreasonable that it should authorize an inquiry.

Mr. MACKENZIE KING: It will be interesting to see how it works out.

Mr. BENNETT: The next amendment deals with line 24 on page 5 and substitutes the word "directs" for "allows." I think that is correct.

Mr. MACKENZIE KING: As I understand that section it will prevent documentary evidence which has been filed with the commission from being used against the persons who file the evidence at any trial which may ensue.