

which combination, merger, trust or monopoly has operated or is likely to operate to the detriment or against the interest of the public, whether consumers, producers or others.

It will be noticed that the words "merger, trust or monopoly" in clause (f) of section 1 of the existing law, which is now to be repealed, were qualified by the words "having or designed to have the effect of" clauses (a), (b), (c), (d), and (e) and they were also qualified by the words "has operated or is likely to operate to the detriment or against the interests of the public." In other words, in constituting a crime under the existing act the combination formed or organized must have been designed to have the effect of violating the material provisions of section 498 of the criminal code, and it must have operated or be likely to operate to the detriment or against the interest of the public. There was not only a criminal intent implied in its being designed to have a certain effect which would be a violation of section 498 of the criminal code, but it must also have operated or have been likely to operate to the detriment or against the interest of the public. In the present bill the words "merger, trust or monopoly" are no longer qualified by the clauses of section 2, subsection 1 of the existing act which I have just read. The merger, trust or monopoly, which is declared by this bill to be criminal, is not defined as it is in the existing law, nor are the provisions relating to criminality expressed in the same terms. The definition of "merger" is also changed substantially in subsection 4 of section 2.

Mr. THORSON: Will the hon. member elaborate further?

Mr. CAHAN: Perhaps the hon. gentleman will permit me to proceed; we will have the whole forenoon for elaboration. Subsection 4 of section 2 of the existing act provides:

(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 under any other statute of Canada.

The words which limit the extension and application of this definition and which appear in the existing act, are eliminated from the present bill, as is the provision that subsection 4 shall not limit or impair any right or interest derived under the Patent Act, 1935. To the last mentioned elimination I shall refer later.

The definitions of "trust" and "monopoly" in subsection 7 of section 2 are changed materially by the addition of paragraph (b). The subsection in the present bill provides:

(7) "trust" and "monopoly" mean one or more persons who, within any particular area or district or generally,

(a) substantially control any class or species of business, or

(b) have such control over the supply or distribution of or the demand for products of any class or species of business as to enable such person or persons to maintain, enhance or substantially modify or control prices of such products.

In my judgment that change is not in accord with sound public policy. Is the producer a criminal because he alone has scientific knowledge or practical experience to enable him to produce a certain commodity, and because he alone is qualified to produce that commodity? Should he be stigmatized in a statute of this kind with criminality?

Mr. ROGERS: Is this not solely a definition? Is my hon. friend not dealing at this time with the definition of "trust" and "monopoly"?

Mr. CAHAN: Quite so, and this bill is to extend crime by definition—that is exactly what it does.

Mr. ROGERS: Only if the operation is against the public interest.

Mr. CAHAN: We will assume, for example, that one or more persons own or control a factory for producing and refining sugar from beets which are produced by farmers in the district in which the factory is located, and that the factory so located is the sole market for sugar beets in that district. This factory was admittedly designed to operate; but it was never designed to operate and never has operated to the detriment or against the interests of the public, whether producers of beets, or consumers of sugar, or any other persons whomsoever. Yet, I suggest, if it is conceived that this factory is likely at some future time to operate against the interests of the public, whether consumers of beet sugar or producers of sugar beets, that mere likelihood constitutes the factory a monopoly within the meaning of this clause, and its owners, who are privy to the establishment of the factory, are liable to a fine of \$25,000 and imprison-