

I would like to point out to the committee that in our research we did a search of bank names in the United States, and according to the Rand McNally International Bank Directory of 1975, in the United States there are 12 banks which have the words "Continental Bank" in their names, and they are not associated with the bank we represent. These banks are mainly state banks. I wish to point out also that in the United States there are 13 thousand or 14 thousand banks, while in Canada we have a dozen; so the significance of a bank's name is far more relevant and visible in Canada than in the United States.

In the United States the incorporation of banks requires a very different procedure from the procedure used in Canada. It can be done nationally, at the national level, or it can be done practically as of right by the states. There are 50 states, and all of them have different rules. I do wish to bring this matter to the attention of the committee.

I just have a few more points to make, honourable senators.

Senator Desruisseaux: Before you go on, is the Continental Illinois a state bank?

Mr. O'Boyle: It is a national bank, sir.

Mr. Felkai: It is my understanding that IAC Limited did not consult Continental Bank concerning the use of the proposed name. Secondly, the possible loss of good-will to IAC Limited would be minimal, in our submission. It cannot be significant, as the name first appeared in public, as far as we understand, in the *Globe and Mail* on October 6, 1975, some five weeks ago, and this bill had first reading in the Senate on October 28.

I wish to refer to one precedent, honourable senators. This is the application of the then National Commercial Bank of Canada for incorporation in June of 1975, heard by this committee. At that time two interested parties objected to the use of the word "National" in the name. One of these parties was the Banque Canadienne Nationale, and as I understand their submission, they had three objections. Two of the objections had international implications. It was pointed out firstly to the committee that the Banque Canadienne Nationale has branches in Canada, but has agencies in many countries of the world; and secondly, that the Banque Canadienne Nationale uses the Chargex card. Its name appears on the Chargex card and this card is used in many countries of the world.

I do not wish to take any more time. I could deal with questions of law if the honourable senators wish it. It is our submission that there is a likelihood of confusion here. Banking is an international business. It knows no national boundaries. This committee protects the public interest in this sense. It is our submission that the name proposed by the new bank cannot be accepted. Thank you, Mr. Chairman. Mr. O'Boyle and I are ready to answer any questions.

Senator Beaubien: Mr. Chairman, I do not think the name "Continental" belongs to anybody. As I look through this document, I see that all these banks seem to be doing business across the world, and are all called "Continental Illinois National Bank". The fact is that it is known as "the Continental Bank" in lots of places. It could be that in the States, where there is only one bank that is allowed in a state, the bank there is called "The Bank", and that is it. I do not see why there would be any confusion with regard to "Continental Bank of Canada". To me "Continental" is a name which is used in lots and lots of businesses. I do not see that anybody owns the name "Continental", and I

cannot see how there could be any confusion if there were a chartered bank here called "Continental Bank of Canada".

Senator Laird: Could I follow the same line of thinking, Mr. Chairman? Probably you may have a memory of this, and perhaps Mr. Felkai may have done some research in this connection. I recall quite some time ago that a company was incorporated here, presumably by act of Parliament, called the "Guaranty Trust Company of Canada", and it is still in existence. At that time there was a financial institution of some considerable importance, I believe, in New York City, which was called, "Guaranty Trust Bank", or some similar name. Now, I am wondering if either you remember, Mr. Chairman, or if Mr. Felkai has done any research which would show this as having caused confusion. All Mr. Felkai has said so far, you see, is that there is a likelihood of confusion. If we had an actual case history it would help us.

The Chairman: Well, of course, I do not know how we could go further than that at this stage, because the bank being created under S-30 is not operating yet, and therefore you cannot test it on the basis of confusion with an existing bank. Rather, the question might be, in view of how the Continental Bank of Illinois operates, is confusion likely to develop? Because on the material before us the Continental Bank of Illinois does have, indirectly, operations in Canada. I am sure it also has a subsidiary company in Canada, incorporated in Ontario. Is the attraction for the people it has joined within Canada because of the subsidiary company or is the attraction because of the parent company, the Continental Bank, and, if there is an attraction, will it make any difference whether this new bank comes into operation under the name "Continental Bank of Canada"? The risk that I see is that in the course of time "Continental Bank of Canada" may begin to be known simply as "Continental Bank" and it will drop the words "of Canada". Will that then be a situation likely to give rise to confusion?

Senator Lang: Is there not another point there, Mr. Chairman? Would a reasonable Canadian who is carrying on business in banking fields in Canada be likely to assume that the Continental Bank of Canada Ltd., was a subsidiary of the Continental Bank of Illinois?

The Chairman: I suppose it is difficult to put yourself into the mind or into the imaginative processes of another person. But there is, I suppose, the possibility.

Mr. Felkai: Mr. Chairman, I was not given a chance to reply to the first question, but what Senator Lang has said would be one of my answers. We would anticipate that at some time there could be confusion in that the new bank could be taken as being a subsidiary of the bank we represent. That is a ground for finding that there could be a likelihood of confusion. Secondly, I wish to point out that the bank we represent has, according to the exhibit, a bank in Belgium called "Continental Bank" and in Bahrein as well.

Senator Walker: But the fact is that as far as Canada is concerned you have no bank with the word "continental" in it, have you? You have no headquarters here and you have no similarity in names so far as any of your institutions are concerned which could be said to be banks? Correct?

Mr. Felkai: Yes.