

*By Mr. Cannon:*

Q. I have had some experience with trade marks, and it seems to me that if we say that purely laudatory words or adjectives can be adapted to serve as trade marks it is going very far, because jurisprudence always so far has been that you cannot take these words out of general use. They are words that belong to the public, and that anyone should be allowed to say his product is best, and to register that as a trade mark, seems to me to be going very far.—A. I entirely agree with you, sir. May I point out with great respect the safeguards that are in this bill on that particular point. I agree with Mr. Cannon that if a person could extract a word from the general field of descriptive words, and immediately register it as a trade mark, it would be going much too far. But when a man has extracted that word, let us say 20 or 25 years ago, and has been the sole person to use that word—and I must emphasize that—because he must have been the sole person to have used that word applied to that type of ware or the mark is not distinctive, then we think he ought to be able to register it. None of these words that I am talking about, such as “Superweave”, can ever be registered, according to this bill, except upon proof that it has been so used as to become distinctive, in fact, to mean that particular traders’ goods, and nobody else’s, so that the word itself would be impossible to refer, as a trade mark to anybody else’s goods.

Q. In others words there is a heavy burden of proof on the applicant?—A. A very heavy burden of proof, and the Act is designed to protect the availability for general use of words of that type. For instance, you will find that, despite the fact of registration of a descriptive word as a trade mark, there is a provision—if I may take a moment to find it—if I may read the limited protection that is given to such a registered trade mark. You will find it in clause 20 of the bill, and you will note that the owner of a trade mark when registered has a right to its exclusive use, subject to this, that no registration of a trade mark prevents a person from making any bona fide use of his personal name as a trade name, or, any bona fide use, other than as a trade mark, of the geographical name of his place of business, or, of any accurate description of the character or quality of his wares or services in such a manner as is not likely to have the effect of depreciating the value of the goodwill attaching to the trade mark.

*By Mr. Richard:*

Q. Does that mean that if someone had registered after long use a word like “superfine” that someone else, in his descriptive advertising, could say “we have a very superfine type of linen?”—A. That is right. Anybody is entitled to do that. May I point out this, in regard to that point, that the extension that we propose under this Act is very little, because you can get registration of all these descriptive words now under the procedure I have outlined. It is only this very, very limited class that fall within the doctrine of the “Perfection” case of the “superweave” case, and the step parliament is being asked to take is a very, very small one. It is not designed to cover all descriptive words by any means, because they are registerable now in substantially the same way as proposed in the bill.

Mr. MACDONNELL: Does that go into the wording of the sections now.

The CHAIRMAN: I think it would be just as well to go into the wording of the sections.

*By Mr. Macdonnell:*

Q. As I understand it you are proposing to make a change whereby, to take the English illustration, the word “perfection” may be used, provided