vicinity and yet, so far as Canada is concerned, it in fact would not be a monopoly. Apart from that, it would appear to me that even though it is implicit that a merger means the acquisition by one or more persons, and so on, whereby competition is or is likely to be lessened, for clarity's sake there should be some general reference to a merger taking place throughout Canada or in any part thereof, without at the same time admitting that the effect of the merger or monopoly should be contained in the definition section. I am getting away from what I initially started to talk about, and that is that there should be no reference in the definition section to anything else except the definition or defining what the circumstances of the situation are, and the effects arising from that circumstance or situation should be dealt with in another part of the bill. Perhaps the minister would indicate what the difference would be if we were to make the definition of "merger" end with the word "person" in line 18 and the definition of "monopoly" end with the word "engaged" in line 29 and place the provisions as to the effects of the merger or monopoly in section 33 so that they would be tied in with the penalty provision. Section 33 is in these words:

> Every person who is a party or privy to or knowingly assists in, or in the formation of, a merger or monopoly is guilty of an indictable offence—

Would it not be better draftsmanship to put those parts to which I have made reference, the detriment or effect provisions, in section 33 rather than obscure the clarity of the definition?

Mr. Fulton: I think the answer to that is that it is considered to be a better drafting principle to define your offence and say what constitutes the offence and then to provide a penalty clause rather than to put in the penalty clause the offence with which you are dealing and to which the penalty is applicable. The classic tradition of drafting is to have your definition complete and then have the penalty provision applicable to one who commits that offence.

Mr. Howard: Perhaps I was not able to follow fully what the minister said. It seems to me what he said is inconsistent with what he is proposing with respect to section 32 because section 32 reads as follows:

> Every one who conspires, combines, agrees or arranges with another person ... is guilty of an indictable offence.

If he conspires, combines, agrees or arranges with another person to do certain things as set out here he is guilty of an indictable offence and a penalty is provided. There you have the effect and the penalty all wrapped up in one clause. Yet the minister says that in so far as mergers are concerned you must divorce the two.

Mr. Fulton: Of course, you have the very short word "unduly" here which makes it easy to say what is the offence there, and I think it is also a fact that we have roughly followed the scheme of the present act. The only thing we have done is to separate the definition of combinations.

Mr. Howard: Such being the case does not make the minister's argument sound. If he says that good draftsmanship demands a thing in one instance perhaps it should also demand it in the other. That is all I am getting at. For the sake of clarity I think what should be done is to follow the proposal already made by the minister with respect to section 32 (1) where he has the effect and the penalty combined and also in section 33A where he has the effect, price discrimination, and the penalty combined in the same clause. As I recall, section 34 of the act contains the same thing except that in that section the definition of "dealer" is contained in the middle of the act rather than in the definition section where it should be. The effect of the activity of a supplier or dealer is combined here with the penalty and for clarity's sake I think this practice should be followed all the way through.

Perhaps I might move an amendment at this stage which will give us some basis on which to discuss the matter. The amendment will apply only to monopolies and I realize that it may appear to be inconsistent to deal only with the definition of a monopoly and not with the definition of a merger. However, one amendment has already been defeated and one has been accepted with respect to the merger section and there is some doubt whether, except by unanimous consent, we can have additional amendments to the merger section. I will leave that alone and deal only with monopolies. I move:

> That paragraph (f) of subclause 2 of clause 1 be deleted and the following substituted therefor:
> "(f) 'monopoly' means a situation where one or more persons either substantially or completely control throughout Canada or any area thereof the class or species of business in which they are engaged."

This is in line with the suggestions I made earlier and would, of course, necessitate the relocation of the words themselves or a slight variation thereof, if not the actual words, having to do with the operation of such monopoly where it is likely to operate to the detriment or against the interests of the public, whether consumers, producers or others. Similarly the provision respecting the effect of a merger would have to be transferred to section 33. I think this would