

*By Mr. Crestohl:*

Q. Who will be the authority to determine that?—A. You mean to decide whether it is adopted to distinguish?

Q. Yes.—A. In the first case, it will be the registrar, but upon appeal, it will be the court. We feel that the doctrine of being adapted to distinguish is purely an artificial doctrine.

*By Mr. Macdonnell:*

Q. Is it a well accepted doctrine in England?—A. Yes, and over here.

Q. And what about the United States?—A. No, not in the United States. It never did exist in the United States. As long as a mark was descriptive in fact, then it was registrable and protected.

Q. Might I interject one question: Would you also say something about how far it is important to have uniformity? How much confusion or difficulty is caused if you have one law here, and they have another law in England?—A. I think the only thing I can say is that we draw on the experience of our friends in England and in the United States. I do not think there is any clash if you have different laws so long as the procedure under the International Convention is adequately taken care of, which it is by this bill.

Mr. RICHARD: You are not saying that in the United States today you could register the word "perfection" for soap?

The WITNESS: I do not see why not; if it is distinctive you can register it.

*By Mr. Cameron:*

Q. Do you not think that anyone who wanted to use one of those words, which had a primary significance and which now have a secondary significance such as "Ford", would have a great deal of difficulty in getting registration under this Act? Take your "Super weave". Why did you state that it was a good word? Did they have any past history of having used it?—A. "Super weave" had a very long past history.

Q. This may not be good legislation. But suppose some one coins what he thinks is a good word as being descriptive of his product. He would have no past record of having used it.

*By Mr. Jeffery:*

Q. Some mention was made of the fact that it could be registered before use. How will that fit into this question?—A. I did not understand your question.

Q. You mentioned that a word could receive registration before use under this Act. How will that fit in with Mr. Cameron's question?—A. A trade mark statute ought as much as possible to discourage registration of descriptive words which are drawn out of the general pool available to traders—words which are purely descriptive of the character and quality of the goods. A man who merely adopts such a trade mark and now applies to register it ought not to have the right to register it. That is what we are trying to do in this bill. It is the same as the law which has always existed and which exists in the United Kingdom and in the United States. No one should be able to extract merely descriptive words from the general pool which is available to traders to describe their goods. But these things do happen. Traders do adopt descriptive words and they go on for years and years using them, and nobody else seems to bother or wants to use the same word. But after 10, 15, or 25 years the particular trader who has selected that word knows that, if anybody else were to use that word as a trade mark for his similar wares, it would be a fraud on the public as well as upon the first trader himself.