

person cannot be punished for what may likely happen as a result of his action, unless his objective is the commission of a crime. The word "designed" is used everywhere else when we are dealing with criminal matters, and I have no doubt at all that it is the proper word here. But the matter is not of first-rate importance, and for my part I am prepared to yield to the other House in this regard.

The other amendment is of a different character. It is not correct to say that it is the intent of the Combines Investigation Act to prevent combines other than those in respect of trade and commerce. There is a complete misapprehension behind the message. On looking at the Act you will see it is based on our authority in respect of trade and commerce. That is the constitutional rock upon which we place our feet when we are dealing with this matter. The various sections of the Act are tied in with trade and commerce and commodities. For example, it never was intended to make it possible to deal with a combine of the medical or the legal fraternity in respect of their services.

Hon. Mr. MURDOCK: Plumbing?

Right Hon. Mr. MEIGHEN: Nor with plumbers in respect of their services. It had jurisdiction over plumbing because plumbing supplies come under trade and commerce. There is a fundamental error behind the message of the other House, and therefore I move:

That the Senate do not insist on the second, but do insist on the first amendment.

Hon. Mr. DANDURAND: I have not the Act before me, but I am disposed to agree with my right honourable friend's interpretation. I suppose the reasons which he has given will be contained in the message to be sent to the House of Commons.

Right Hon. Mr. MEIGHEN: I should like to hear from the honourable senator from Parkdale (Hon. Mr. Murdock). He is closer to the Act than any of us.

Hon. Mr. MURDOCK: As far as the word "designed" is concerned, as a layman I cannot imagine how it could ever be proven before the courts that certain persons, by entering into an arrangement which might result in a merger or combine or monopoly, designed to do certain things detrimental to the public interest. Before I entered the Chamber Mr. O'Connor, who has been our legal adviser on most of these matters, explained the position to me. I assume he is right and that the word "designed" would be

the better word. But personally it seems to me we should bear in mind what is likely to happen as a result of any combination or merger.

Hon. Mr. DANDURAND: That is, what will be the effect?

Hon. Mr. MURDOCK: Yes; what will be the culmination of the arrangement entered into by certain persons. I repeat, I could never understand how you could prove in court that Tom, Dick or Harry, by entering into a certain arrangement, designed to do this, that or the other thing detrimental to the public interest. But of course I would not set my judgment against that of legal gentlemen.

I agree absolutely with the position taken by the right honourable leader of the House with regard to the first amendment rejected by the other House. To my mind it is nonsense to say that the Parliament of Canada has no business to deal with the plumbing industry. True, Parliament cannot restrict plumbers, but, as part of their general arrangement or combination with one another, plumbers use products that come within the meaning of trade and commerce, and therefore they must come under the provisions of the Combines Investigation Act.

The motion was agreed to.

Right Hon. Mr. MEIGHEN: The reason for our insistence on the first amendment might be expressed in this form: that the whole purpose of the Combines Investigation Act relates to the restriction of trade and commerce, and that the wording of the Bill in many other particulars shows that that purpose is carefully and strictly followed out. The wording deviated only on this one point.

The Senate adjourned during pleasure.

After some time the sitting of the Senate was resumed.

LAW CLERK OF THE SENATE

APPOINTMENT OF W. F. O'CONNOR, K.C.

The Hon. the SPEAKER informed the Senate that he had received a message from the Civil Service Commission reading as follows:

The Honourable the Speaker of the Senate, in accordance with a resolution of the Senate adopted on July 4, 1935, has submitted to the Civil Service Commission, through the Clerk of the Senate, a request that the position of Law Clerk and Parliamentary Counsel of the Senate should be exempted from the operation of the Civil Service Act, and the Civil Service Commission having, upon a previous occasion, adopted the principle that it seemed fitting