

be determined by the courts. The act does not say it is criminal before either an investigation under this act or proceedings following upon such investigation have declared that such operations are against the public interest or are likely to operate against the public interest.

In speaking of this phase of the question I should like to emphasize that there are various provisions of the criminal code which declare to be illegal acts which of themselves are perfectly innocent, but which create a reasonable inference that if they are committed they will lead to consequences which it is desirable in the public interest to avoid.

Mr. BENNETT: That is too broad a statement.

Mr. ROGERS: I am going to refer to particular sections, and if my statement is too broad perhaps the sections I quote will serve to modify it.

111. Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully causes, by any explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury to person or property is actually caused or not.

I should like to emphasize that phrase, "whether any injury to person or property is actually caused or not."

Mr. BENNETT: That has no relation to this.

Mr. CAHAN: He must at least cause the explosion before he becomes a criminal.

Mr. ROGERS: Section 122:

Everyone who, without lawful excuse, points at another person any firearm or air gun, whether loaded or unloaded—

Mr. CAHAN: That is criminal intimidation.

Mr. ROGERS:

—is guilty of an offence . . .

221. A common nuisance is an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, health, property or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all His Majesty's subjects.

Mr. CAHAN: There it endangers life.

Mr. ROGERS: I have a number of these here which I might read—

Mr. BENNETT: I hope they have more applicability to the case.

Mr. ROGERS: —but I do not know that it is necessary to place them on Hansard. But surely these touch upon the point raised by the hon. member for St. Lawrence-St. George.

We do recognize that there are acts which of themselves are innocent but, due to the special character of those acts, there is a reasonable and probable consequence that if they are committed there will be some further harm to the community. I might even mention something with which we are all familiar, namely the penalties that attach to traffic passing a red light. It does not matter whether the street is clear; if you pass a red light you are doing something which under ordinary circumstances would be harmful to the community.

Mr. CAHAN: You are violating an ordinance of the city.

Mr. ROGERS: Speaking particularly of that expression "likely to operate," it is not new; it does not appear in this bill for the first time. It was in the board of commerce act; it was in the combines act of 1923 and the combines act of 1935. There is nothing new attempted here.

Mr. CAHAN: But in the act of 1935 the corresponding words were "having or designed to have the effect."

Mr. ROGERS: Let me read, if I may, clause (f) of both acts. First, I will read clause (f) of the act of 1935:

(f) otherwise restraining or injuring trade or commerce or a merger—

I should correct that. The latter part of this section applies to all preceding clauses, and it is the latter part of the section that really creates the offence. The first part deals with a combination, and then follow these words:

—or a merger, trust or monopoly, which combination, merger, trust or monopoly has operated or is likely to operate to the detriment or against the interest of the public, whether consumers, producers or others.

I direct attention to the fact that the word "designed" does not appear anywhere in that clause.

Mr. CAHAN: If the minister would permit me to interrupt for a moment, this illustrates the difficulty of discussing in a committee of this house a complicated measure such as this. The minister is dealing with the act of 1935. In that act you have section 1 and then you have clauses (a), (b), (c), (d), and (f) under that section. Under the other provisions of section 1, having relation to any commodity which may be the subject of trade or commerce, these words appear:

—of two or more persons by way of actual or tacit contract, agreement or arrangement having or designed to have the effect of—