A certain amount of material was obtained at that time and this led the commission to the conclusion that loss leader selling was not so great a problem as to require any action to be taken. However, the key point is that it was not possible to make a real estimate of the effects of the practice until the extent of the practice was known. This was in 1955, and since then, to the best of my knowledge, there has been no such study made. That is the position, certainly according to the evidence given by one witness who appeared before the committee, Doctor Skeoch, who told me in reply to a question that there had been no comprehensive examination of loss leader selling since those days. We are therefore operating on assumptions.

Evidence was given before the committee that certain things were taking place and that goods were being sold at below what the witnesses considered to be the cost of producing them. We were told that this was upsetting retailers, causing bankruptcies and so on. But once one began to inquire in detail into these allegations, or into this evidence, he found there was not much in the way of concrete details to back them up. In fact, there was no detailed information as to what was happening. We could very well take one or two of the comments of the restrictive trade practices commission in 1955 and correctly apply them to the situation today. Chapter 9 of the summary and conclusions of the restrictive trade practices commission report at page 241 reads in part:

> Throughout the hearings in this inquiry the commission was struck by the failure of many representatives of business to make any clear distinction between competitive pricing by dealers and the more extreme forms of price-cutting which could be regarded as loss leader selling.

They could not come to any conclusion as to the definition of loss leader selling. The same situation exists today. In its 1955 report the commission said it could make no effective appraisal of the effect of loss leader selling or the extent to which it exists. Since then nothing has been introduced to indicate how extensive it is or what effect it has. Despite this we are asked to legislate contrary to the views of the commission and without any analysis of the effects.

A second point made by the commission was that many businessmen fail to make a distinction between competitive selling—that is price reduction because of competition—and loss leader selling or below cost selling. I submit that situation prevails today. The representative of the Canadian association of consumers summed it up succinctly when she said that it was painful competition and not loss leader selling that was being objected to. This problem—call it what you will—arises because of the activities of some industries in the field of price discrimination and not because people are selling below invoice price.

Mr. McIlraith: Mr. Chairman, I want to place paragraph 2 of clause 1 on the record in order to make the point I intend to advance. Clause 2 as amended reads as follows:

> (2) Paragraphs (e) and (f) of section 2 of the said act are repealed and the following substituted therefor";
> (e) "merger" means the acquisition by one or more persons, whether by purchase or lease of shares or assets or otherwise, of any control over or interest in the whole or part of the business of a competitor, supplier, customer or any other person, whereby competition
> (i) in a trade or industry,
> (ii) among the sources of supply of a trade or industry, or
> (iii) among the outlets for sales of a trade or industry is or is likely to be lessened to the detriment or against the interest of the public whether consumers, producers or others;
> (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 and have operated such business or are likely to operate it to the detriment or against the interest of the public, whether consumers, producers or others;

Then the committee added part 2:

> —, but a situation shall not be deemed a monopoly within the meaning of this paragraph by reason only of the exercise of any right or enjoyment of any interest, derived under the Patent Act, or any other act of the parliament of Canada.

The explanatory note indicates that the present paragraphs (e) and (f) of section 2 are as follows. Then they are set out as I placed them on the record:

> (e) "merger, trust or monopoly" means one or more persons
> (i) who has or have purchased, leased or otherwise acquired any control over or interest in the whole or part of the business of another, or
> (ii) who either substantially or completely control throughout any particular area or district in Canada or throughout Canada the class or species of business in which he is or they are engaged, and extends and applies only to the business of manufacturing, producing, transporting, purchasing, supplying, storing or dealing in commodities which may be the subject of trade or commerce; but this paragraph shall not be construed or applied so as to limit or impair any right or interest derived under the Patent Act, or under any other statute of Canada;—

The committee's addition is one which we welcome concerning the reference to the Patent Act. My point is this. This former definition on which any jurisprudence on the subject hinges defines "merger, trust or monopoly" in one definition. The minister made it clear in the committee stage as to why the use of the word "trust" was deleted from the definition. I think there can be no quarrel with the dropping of the word "trust". There does seem to be, however, a