

situation that was warned against actually did not become a problem until 1955 when there was the adverse decision of the Courts in the Honeywell case which led to a long line of cases in the ensuing years.

As the full impact of adverse Court decisions was felt, the banks began to protest the inequities of these trust provisions:

Ontario

The Board of Trade of Metropolitan Toronto convened a conference in Toronto to consider amendments to the Mechanics' Lien Act of Ontario, with particular emphasis on some revision of the trust provisions of this Act. Leading associations involved in the construction industry were represented as was the C.B.A. After two years of deliberations the report of this conference was submitted to the Attorney-General of Ontario, proposing many changes in this Act, including a 60-day time limitation for claiming under these trust provisions.

British Columbia

In 1961 the C.B.A. filed a Brief with the Select Legislative Committee of British Columbia objecting to the trust provisions in the British Columbia Act.

In June last the British Columbia Federation of Construction Associations filed a Brief with the British Columbia Government along similar lines to that submitted in Ontario. The following is an excerpt from that Brief:

The end result of the above Court decision is that lenders can no longer safely rely for the security of their advances on moneys receivable under construction contracts, and as a result this tends to interfere with the normal extension of credit to this industry and to deny assistance by banks to financing a substantial volume of construction by making money less available and inevitably placing the burden of financing this business on the material supplier and sub-contractors.

We emphasize that the view expressed in the foregoing quotation was put forward not on behalf of the banks but on behalf of an organization of contractors.

Saskatchewan

In 1962 the Saskatchewan Government formed a Royal Commission to enquire into the Mechanics' Lien Act. The C.B.A. submitted a Brief opposing trust provisions. The Honourable H. F. Thomson, Q.C., Commissioner, appointed under the Public Inquiries Act to investigate and inquire into the effect and operation of the Mechanics' Lien Act, Saskatchewan, under conditions then (1962) existing in the Province, and other matters made an extensive examination of other Canadian Statutes and Court cases based upon a consideration of them. His report contains the following paragraph recommending against the adoption of trust provisions in Saskatchewan's Mechanics' Lien Legislation:

I have therefore carefully considered all of the arguments submitted on this question and have come to the conclusion that Saskatchewan would be unwise to adopt trust provisions such as presently exist in New Brunswick, Ontario, Manitoba and British Columbia. I am not convinced that the recommendations of the Joint Conference of the Board of Trade of Metropolitan Toronto would provide an acceptable alternative. If Ontario can find a solution which works it can easily be adopted by amendment to our Saskatchewan Act. In the meantime our Act is working very well. It is really surprising how many of