

**The Chairman:** Mr. Lazar, the thing that bothers me is how you can say that there is an acquisition of control in a certain transaction, and immediately follow that by saying that the transaction involves no change of control. Is there some legerdemain or something mysterious which enables you to have those two things existing side by side?

**Mr. Lazar:** I think that is the technical point at issue, sir.

**Senator Cook:** Mr. Chairman, if the recommendations are right, does it matter if only one company has made them?

**Senator Connolly:** That is true. In fact, I was going to say the same thing. The fact that Mr. Macdonald's firm is the only one which has come forward with recommendations does not mean that they are not valid. They are still quite valid.

**Senator Cook:** If they are right, they are right.

**Senator Martin:** The witness did not say that they were not right; he said there was only one firm which had brought recommendations forward.

**The Chairman:** Are there any other questions?

**Senator Buckwold:** I would like to pin this down a little more because it worries me. Mr. Macdonald's first question concerned internal reorganization, that is, reorganization inside Canada where there is no change in control. That can happen easily. Suppose, however, there is some change, how do they prove "significant benefit" to the change?

**Mr. Lazar:** Mr. Macdonald talked in terms of four points.

**Senator Buckwold:** That was the first point.

**Mr. Lazar:** Actually, the first three of the four points are all variations on the same theme. I do not think I am misrepresenting Mr. Macdonald on that score. On all three points I think the answer would be the same; namely, that in introducing the amendment in the other place we followed the advice of the Bar Association, but that we were not aware at the time that there were likely to be inconveniences to business firms involved. We have seen little evidence thus far that there would be; but, in fact, if we are wrong on that point, the minister is prepared to introduce amendments.

I might add one other small point here: I am not convinced that businesses enter reorganizations just because the thought occurs to them one morning; they usually have economic and business objectives in mind. I am not convinced, therefore, that in all cases the transaction is necessarily neutral or that the reorganization is necessarily neutral. I can see where it would be, in some instances, but I suspect that they usually have some pretty important business objectives in mind.

**Senator Connolly:** And you might thereby meet the terms contained in clause 2(2).

**Mr. Lazar:** In some cases, yes.

**Senator Connolly:** Where you raise the economic level, or provide employment, or better efficiency, or more technology, and so on—these economic tests that are contained in clause 2(2).

**Mr. Lazar:** Yes, sir, I agree with you. I am suggesting that this would arise in some cases, but not necessarily in all.

**Senator Connolly:** Mr. Macdonald would agree on that, too, I am sure.

**Senator Godfrey:** Just to get it straight, I understand the minister is prepared to accept a recommendation so that the word "amalgamation" is defined to mean "other than statutory amalgamation".

**Mr. Lazar:** I do not believe I said that, sir. I intended to state that if, in the course of administering the bill, the minister finds that there are practical problems, and that the bill is having an effect which was not intended, as I understand it, he would be prepared to introduce amendments. Thus far he is not convinced that there is a practical problem, but if he is wrong in this, that is my understanding of his position.

**Senator Godfrey:** Any lawyer, when he talks about an amalgamation, thinks of three things: either statutory amalgamation; or amalgamation by means of winding up one company into another; or amalgamation by the purchase of assets of another company. The minister himself, when he gave evidence—

**The Chairman:** There used to be another way. There used to be the merger.

**Senator Godfrey:** Yes. They call it "amalgamation" or "merger".

**The Chairman:** They did not call it that. If you were operating in the days when you had, say, an Ontario act and a federal act, or an Ontario company and a dominion company, and you did not have amalgamation proceedings, you only got them in the federal act some years ago—and therefore the design was to call it a merger, and that presents another problem in looking at this. If the courts were interpreting this section, since the word "statutory" is not used—I know what Mr. Macdonald's point has been, namely, that the fact that they say there is a resulting, single corporation points to a statutory amalgamation—I do not know what interpretation the courts might make. They might say that this is a broader term than a statutory amalgamation.

**Senator Godfrey:** But if you wind up a corporation, after selling all of the assets, the argument comes up; but I do not know just why you would not put in a definition to include what lawyers think of as "amalgamation," and what the minister thinks of in that way, because he used the word "amalgamation" this morning—he did not say "statutory amalgamation." Why would he not include these other things? They are all equally amalgamations.

**The Chairman:** The minister, under the bill as it now stands, might get legal advice where there is something short of a statutory amalgamation covered within the bill.

**Senator Godfrey:** Why do we not have just the definitions section the way you pointed out—the one I had overlooked in the Federal Court Act—and why do we not just have a definitions section saying what "amalgamation" means?

**The Chairman:** Well, that is where we may have to come to, but as I understood Mr. Lazar—the minister will be here this afternoon and we can ask him—the minister is not so satisfied on this point that he is prepared to say now, "Yes, I will amend." But, as I understood what Mr.