

only the problem of IATA or the Air Transport Association.

**The Chairman:** Well, I would certainly be in favour of solving the whole problem. However, the method that has been followed by the government has been one of a piecemeal solving of the problems. It dealt with the problem of the Shipping Conferences by a special act of parliament proclaimed in 1971. It dealt with the railway industry at a different time in the Railway Act. That leaves, in the field of transportation, air travel, and that is why these people came to us. I suppose they felt that because special exempting legislation was accorded to the Shipping Conferences and to the railways, then that is what they should seek.

**Senator Flynn:** Separate legislation outside of this act?

**The Chairman:** Yes.

**Mr. Cowling:** I think it arises in respect of the airline industry now because of services being brought under the act by this bill.

**The Chairman:** I am sure the minister is familiar with the Shipping Conferences Exemption Act and what preceded it. The Director of Exemptions conducted a full-scale investigation into the Shipping Conference and the way in which it operated, following which he prepared a report on the analysis of the evidence, and, in his opinion, the way in which it operated constituted a violation of the Combines Investigation Act, even before services were brought under the Act. This was in 1965.

There was then a full-scale hearing before the Restrictive Trade Practices Commission, which finally issued a report, a copy of which I have, in which it found that there was a cartel in connection with shipping rates determined by the Shipping Conferences; but they concluded that that operated in the public interest.

Their report came out in 1965, and in 1970 Parliament introduced this legislation, the Shipping Conferences Exemption Act, and the minister who gave the explanation on second reading referred to the report of the Restrictive Trade Practices Commission.

True, here we have not had any investigation initiated by the combines people in relation to the manner in which international air travel rates are reached, or in which domestic rates are reached; but these people come to us and they say, "We are worried, because with the inclusion of services as being within the jurisdiction of the combines people under this bill, the method, that is the conferences, by which they reach a decision, might lead to an investigation and charges against the airlines who participate in those conferences."

**Senator Laird:** In spite of the fact, Mr. Chairman, that they are now regulated by the Canadian Transport Commission.

**The Chairman:** That is right. And in spite of the fact, too, that these conferences are preceded by an agreement between two countries, such, for instance, as the agreement between Canada and the United Kingdom. The authority to do the study of rates is put in the hands of IATA under that agreement, country to country. The approval has to be made by the aeronautical authorities, which in Canada would be the Minister of Transport and the Canadian Transport Commission.

**Senator Flynn:** I would like to put a question bluntly to the minister. Why would he not agree to exempt from the

application of this act all trades, industries and professions which are regulated, inasmuch as they are regulated with respect to the problems in the Combines Investigation Act, either under the federal authority or the provincial authority?

**Hon. Mr. Ouellet:** If you will allow me, Mr. Chairman, I would like to deal first with the IATA question, because I have listened to the remarks made by you, and also by some other senators who have views on this question. I would like to single out a few points in it, and then I would like to spend some time in answering Senator Flynn's question on professions or groups that also come under the act.

Dealing with the IATA question, the amendments that the Senate committee, in its second report, put forward recommend in fact that exemptions should be made for agreements and arrangements affecting air transportation, reflected in written contracts as filed—I think it is important to understand the activities of the Canadian Transport Commission. These written contracts, as filed with the Canadian Transport Commission, might, among other things, fix air fares and tariffs.

The difficulty that I have with the current amendment is in fact on two grounds. First of all, we are assuming that the Canadian Transport Commission is really having a hearing, and looking at this, while in fact what happens is that these things are only filed with the Canadian Transport Commission.

Secondly, the agreements that are arrived at by countries, or by governments of countries, have to do with routes, not with fares.

I frankly suggest that no reason has been given why such agreements and arrangements should not abide by the general rule in regard to regulated industry. In my view there is just as strong a need for meaningful scrutiny in the public interest in this particular area as in any other area of regulation.

I have no objection to the activities of IATA, or these contracts or agreements or arrangements, being exempt from the operations of the act. I have no objection to that as long as the Canadian Transport Commission assumes the responsibility for in-depth examination of such fares and tariffs, and direct responsibility for the rates arrived at. The way that the Canadian Transport Commission could do it would be to follow the same procedures as they do with regard to Bell Telephone, for instance. Then we could say that it may be assumed that the public interest is protected, and the Canadian Transport Commission, in its judgment, acting on behalf of the public interest, would be fully regulating these arrangements.

**The Chairman:** Now, Mr. Minister, I can tell you, because I have read, for instance, the agreement between Canada and the United Kingdom, that there is a paragraph in that agreement that deals specifically with tariffs and tolls, in which both countries designate IATA as the vehicle for the determination of rates, tariffs and tolls, and it relates them to the aeronautical authority in each country that must approve these things.

**Mr. Cowling:** It is not just a question of routes. May I quote, Mr. Chairman? I think it is important. It is Article VII of the United Kingdom-Canada agreement.

**Senator Connolly:** What is the date?

**Mr. Cowling:** I do not know. It is quite an old one.