That could not be accepted as a judicial definition of banking, but certainly any institution whose deposits or liabilities enter the stream of credit or as a form of exchange is engaged in banking.

What actually forms the basis for a definition of banks and banking institutions? Regardless of parentage, if institutions engage in the practices of banking then they must conform to federal regulations in the same way that broadcasting companies and air line companies must conform to federal regulations. Air line companies may have provincial charters but they cannot purchase aircraft unless they have a certificate of airworthiness from the federal authority. They cannot put a radio in an aircraft unless they have a licence from the federal authority. They cannot fly the aircraft unless they conform to federal regulations. There are no provincial regulations of any kind in this regard. I submit to the committee that the argument that because trust companies or other companies have provincial charters they are ipso facto under the full control of the provincial authority thus falls to the ground.

• (4:50 p.m.)

Let us look at some of the traditional definitions of banking. Going back some distance in time, Halsbury's Laws of England, third edition, page 151, defines the business of banking as the receipt of money on current or deposit accounts and the payment of cheques drawn by, and the collection of cheques paid in by, a customer. Then let us look at the definition by the appeal court in a Canadian case. The Privy Council stated:

> The legislative authority conferred by these words—

They were referring to the words of section 91 of the British North America Act concerning banking.

> —is not confined to the mere constitution of corporate bodies with the privilege of carrying on the business of bankers. It extends to the issue of paper currency, which necessarily means the creation of a species of personal property carrying with it rights and privileges which the law of the province does not, and cannot, attach to it. It also comprehends "banking" an expression which is wide enough to embrace every transaction coming within the legitimate business of banker.

This definition was given in the case of Tennant *v.* The Union Bank of Canada (1894) Appeal Cases, at page 31. I have quoted this definition given in 1894 to deal with the argument that a definition shall fix the entire ambit of banking. Let us consider another case much closer in time which was heard in the late 1930's. This was the reference on the

Alberta statutes, reported in Supreme Court Reports (1938), at page 100, and affirmed by the Privy Council in Appeal Cases (1939), at page 117. In the judgment of the Supreme Court of Canada Mr. Justice Duff said:

> First, as to banking. A banker has been defined as "a dealer in credit". True, in ordinary speech, bank credit implies a credit which is convertible into money. But money as commonly understood is not necessarily legal tender. Any medium which by practice fulfils the function of money and which everybody will accept in payment of a debt is money in the ordinary sense of the words even although it may not be legal tender; and this statute envisages a form of credit which will ultimately, in Alberta, acquire such a degree of confidence as to be generally acceptable, in the sense that bank credit is now acceptable; and will serve as a substitute therefor.

There is a further case on this point, the Attorney General for Canada *v.* the Attorney General for the province of Quebec. It was heard in 1947 and was one of the last references placed before the Privy Council. It is interesting to note that in 1947 the province of Quebec purported to legislate an act respecting certain vacant property without owner. The purpose was to deal with deposits with the chartered banks which had been untouched, unreferred to and were really considered to be abandoned after a period of 30 years of inactivity. The province of Quebec legislated to the effect that they should now become vacant and fall to His Majesty the King in right of the province of Quebec. The provincial act provided that whenever deposits of money and of securities and all credits in specie or in securities in credit institutions and all other establishments which receive funds or securities on deposit have not been for 30 years or more the subject of any operation or claim by the persons entitled thereto, they, with the fruits thereof, are to be deemed to be vacant property and without an owner, belonging to His Majesty in right of the province. This is what the court said:

> The matter which their lordships have to determine is accordingly whether the transaction of receiving from depositors bank deposits and repaying those deposits to the depositors, comes within the legitimate business of a banker. Prima facie it does—

The judgment continues as follows:

> In their view, a provincial legislature enters on the field of banking when it interferes with the right of depositors to receive payment of their deposits, as in their view it would if it confiscated loans made by a bank to its customers.

Here their lordships were citing the former Alberta case.

> Both are in a sense matters of property and civil rights, but in essence they are included within the category of banking.