

Combines Investigation Act

they do not service the goods. The purchaser from them comes back and says, "My appliance has broken down will you come and repair it?" And only then finds this merchant saying, "We do not have a policy of servicing these goods". The effect of this section is to say that anyone who holds himself out as giving service with respect to goods that he sells, and who then does not give the service which the purchasers from him are entitled to expect on the basis of that holding out may have his supplies discontinued without the person discontinuing the supplies being interpreted necessarily as having attempted the practice of resale price maintenance.

Hence every one of these circumstances outlined here under which supplies may be discontinued without that necessarily being held to be part of a resale price maintenance policy, are circumstances in which the consumer has a definite interest in seeing that that policy of discontinuing supplies would be followed; because every one of the practices justifying a discontinuance of supply is a practice that works against the interests of the consumer. I make that statement without hesitation or equivocation.

Having analysed the basis upon which this legislation proceeds, the basis upon which it says that discontinuance of supply under these circumstances shall not be taken *ipso facto* as evidence of a desire to maintain resale prices, let me turn to the next criticism that my hon. friends make.

"Oh," they say, "but the decision whether or not to discontinue supplying is a sort of private law". Somehow or another they suggest that this matter is placed entirely beyond the reach of the administration of the combines legislation. They say that we are placing the power in the hands of suppliers and thus of manufacturers, of administering private law, and they suggest that the combines branch will not be able to look at it any more and that the courts will not be able to deal with it.

This also is an argument *ad absurdum*. This can be demonstrated if we go back to review the course of an inquiry that would be made if a complaint was laid by a merchant whose supplies had been discontinued. Let us suppose the case of a retailer whose supplies had been cut off and who got in touch with the director and said, "My supplies have been cut off and I say it is because I refused to maintain a resale price which the manufacturer or supplier asked me to maintain". The director would make an inquiry. The director would examine the suppliers in order to ascertain what was the reason for which the supplies had been

discontinued. He would examine into the situation in order to see whether in fact any attempt had been made to practice a resale price maintenance policy.

My hon. friend says, but all that the person then investigated would have to do would be to say, "Oh, somebody told me that the merchant whose supplies are discontinued was carrying on a practice under one of the clauses (a), (b), (c) or (d)". This, of course, would not be by any means an answer to the inquiry into the question of whether there was resale price maintenance, because not only would the supplier who discontinued supplies be obliged to satisfy the director that he did believe that one of these practices was being engaged in, but he would be obliged to show that he had reasonable cause to believe it; and he would not be able to rely upon the suggestion made by my friends in the opposition that somebody had told him and therefore he had reasonable cause to believe. It would then have to be proved that the person who told him also had "reasonable cause to believe".

Are we to assume that just because this legislative amendment is made, the director, the restrictive trade practices commission and in the ultimate analysis the minister and the courts are going to take leave of their common sense and not require the persons who are being investigated to show them positively that they had "reasonable cause to believe" that one of these things were taking place which alone is the justification for the discontinuance of supply?

It is apparent that hon. gentlemen opposite have simply closed their eyes to the real meaning and to the obvious meaning of the provision we have placed before parliament. The director is not going to be hoodwinked, the restrictive trade practices commission is not going to be hoodwinked; they are not going to allow someone to say to them "I have simply formed a belief" without asking why he had formed that belief and whether there were reasonable grounds for it.

Mr. McIlraith: Does the minister not realize that the supplier will have cut off supplies and inflicted a penalty before the director is called upon to intervene, and suppose the director finds there is no defence—

Mr. Fulton: That is a completely irrelevant question.

Mr. Pickersgill: —after he has been put out of business?

Mr. Fulton: There is no change at all. Right now if a manufacturer were to cut off supplies by reason of a policy of resale price maintenance we could not restore that situation until there had been a complaint and