

*Combines Investigation Act*

the lines of this draft and went on to make some comments on the question of loss-leader selling to which, as I have already said, I shall refer later.

This completes this short review of what has led up to the introduction of the bill now before hon. members. It indicates that this matter has been under periodic consideration ever since 1949.

I should like next to deal with the substance of the bill before us and to indicate what in my opinion are the principles involved. First of all, however, I should like to refer to the principles upon which the MacQuarrie committee based its conclusions that resale price maintenance should be forbidden. These were as follows:

1. That the direct and immediate effect of resale price maintenance is the elimination of price competition among retailers in price-maintained goods, this being one of the main objectives of the practice.

2. That resale price maintenance facilitates and makes more effective the formation of combines among manufacturers.

3. That the practice of resale price maintenance establishes a private system of law under which the business of a non-conforming retailer or of a retailer who is merely believed to be non-conforming may be seriously prejudiced without that retailer having any recourse to the courts of justice.

4. That the tendency of the practice is to maintain prices at a higher level than would be the case under competitive conditions.

5. That to the extent resale price maintenance stabilizes prices it contributes to the instability of production and the reduction of sales, results which serve neither the interests of manufacturers nor the general welfare.

The MacQuarrie committee also dealt with certain arguments in favour of resale price maintenance. As to the fact that resale price maintenance prevents a retailer from taking advantage of his geographical position or of a temporary scarcity of the article in question to charge excessive prices, the MacQuarrie committee pointed out that the authority to fix and enforce maximum prices which this new legislation will permit would be adequate to prevent this. In other words, if merchant men up in, say, the Peace river area wanted to charge more than this maximum price for a certain article of merchandise and the manufacturer of that article were desirous that he should not do so the manufacturer would have power under the legislation to prevent it.

[Mr. Garson.]

As to the argument that resale price maintenance prevents loss leaders, the MacQuarrie committee stated that more direct and desirable weapons could be found to curb loss leaders, which they did not believe to be an immediate problem at the present time.

As to the contention that resale price maintenance encourages the operation of more retail outlets and the view that it affords a measure of protection to the small retailer, the committee pointed out that this protection was likely to be illusory because

(a) the high margins fixed by resale price maintenance can be used by large stores to expose the small retailer to a more acute form of competition in the field where prices are not maintained. In other words, they can take the profits they make on the maintained prices and use them to cut the prices of goods which are not maintained.

(b) High margins, below which the retailer cannot go, merely transfer competition—and even the supporters of resale price maintenance argue this as part of their case—from the field of prices into the field of services and as a result wasteful forms of competition in services are thereby created, increasing the costs of the retailer to some appreciable part of the amount that he might conceivably have saved by having his prices maintained.

(c) Fixed margins provide an inducement to newcomers to enter into the retail field so that too great a number of outlets with consequent reduction in individual volume may result. This has been the experience, for example, in the drug trade in Great Britain, where under the umbrella of resale price maintenance there have been increases of the order of 8,000 or 9,000 newcomers into the trade each year to take advantage of what seemed to be a superficially favourable situation created by this practice.

The MacQuarrie committee believed that there would always be a place for small dealers in retailing but considered that resale price maintenance contributed more to discourage individual efficiency than to protect the small business. That is to say, if it did in any respect protect small business—and I will argue later that it does not—any merit it might possess in that respect was much more than offset by its discouragement to individual efficiency.

In reply to the argument that resale price maintenance was necessary to protect the reputation of branded goods—we were told that it was not fair to the manufacturer who has spent hundreds of thousands of dollars to build up prestige for his brands to have them made subject to any kind of price