

*Combines Investigation Act*

price maintenance such horizontal price agreements will be very hard to detect and prosecute.

My next submission is that price maintenance may provide an effective substitute for combines. If a group of distributors, we will say in the X trade, agree among themselves and with the manufacturers to maintain prices on the goods in that trade, that would be a combine unlawful under the Combines Investigation Act. But suppose that, instead of agreeing among themselves to fix prices, they go separately to all the manufacturers who produce for that trade and persuade them to introduce resale price maintenance on their products, then I suggest that virtually the same results will be achieved and within the law as it now stands, but with all the harmful effects so far as stifling competition is concerned as would be present in a combine itself.

Evidence submitted to the joint parliamentary committee was rather illuminating on this subject. The evidence submitted indicated that the movement toward resale price maintenance came as often from the retail trade as from manufacturers, and its purpose was to achieve by indirect means that which is achieved by horizontal price fixing agreement would have constituted an indictable offence under the Criminal Code and the Combines Investigation Act.

There was a tendency on the part of some witnesses before the joint parliamentary committee to minimize the extent of resale price maintenance in the distributive trades as a whole. As I understood it, the argument was: "Well, after all, it is only a small segment of the entire picture that is affected by this practice, so why bother? Why not wait until it becomes a much more serious abuse than it is at the present time before taking cognizance of it?"

It seems obvious that if the practice affected such a small part of the retail trade as these advocates alleged then such strong efforts to maintain the practice would not have been made before the committee by so many and varied trades. I am sure members of this house would not have received nearly the amount of correspondence and the number of telegrams they have received during the last few weeks if the allegations of those gentlemen had been correct.

I am not going to take up the time of the house with any detailed statistical analysis of the practice. We have done an accurate job, but to outline this in detail would take up a great deal of time which I think could be spent to better purpose. In any event I think we can rely upon the general conclusion of the various inquiries into this subject that

retail price maintenance is now applied widely to a great many lines of commodities and that the practice is increasing. For example, the royal commission on prices in 1949 stated in its report:

Throughout our inquiry we have been impressed by the degree to which individual manufacturers fix the resale prices of their products and so narrow the area in which price competition amongst wholesalers and retailers is operative.

Having read the MacQuarrie report, I am sure hon. members are aware that it referred to the widespread practice of fixing resale prices, and to the growing proportions of the practice. I might supplement this by one or two references to the evidence given before the joint committee. The first trade group to appear were the manufacturers and distributors of that important commodity, beauty supplies. While perhaps not typical of trades generally, its representative estimated that resale price maintenance in his field had increased from about half in 1940 to approximately 90 per cent now. The Canadian association of radio and appliance dealers stated that price maintenance applied to 80 to 90 per cent of the industry. Mention was made before the joint committee of an estimate that over 60 per cent of the volume of trade of a druggist is in price-maintained lines. On the other hand only a very small proportion of the total volume in such lines as groceries and hardware are price maintained. But even in those fields there was evidence that greater emphasis was being placed upon branding and efforts are being made to extend resale price maintenance. I think the most significant statement was that made in the brief of the Canadian Federation of Agriculture to the effect that more than half of all the purchases made by farmers for productive purposes came directly under some form of private resale price fixing, which in itself it seems to me is a pretty serious situation.

The practice therefore certainly does not play an insignificant role in trade in this country, and there is nothing in any evidence that has come before us to suggest that the practice has by any means reached the limits to which it might very easily go if left unchecked. The fact that resale price maintenance has not yet extended over a predominant portion of trade as a whole is not, in my view and in my submission, a reason for refraining from dealing with it. Being convinced as to the undesirability of the practice and the fact that it is growing, it seems clearly preferable to prohibit it in its present stage when any consequent dislocation will be of small order, rather than to deal with it, as the British are now doing, when it has become as widespread as it has in that country.