

*Combines Investigation Act*

which has come to be known as the MacQuarrie report, recommended against the practice of resale price maintenance, and in particular, recommended that it should be an offence for a manufacturer, first, to recommend or prescribe minimum resale prices for his products and, second, to refuse to sell, to withdraw a franchise or to take any form of action as a means of enforcing minimum resale prices.

The committee did not recommend that it be made an offence to prescribe resale prices which are not specific or minimum prices, from which it follows that suppliers would be free to fix and to enforce maximum prices. Nor did the committee recommend against the right of a manufacturer to indicate a resale price as long as such price was not recommended or prescribed as a minimum. In addition, the MacQuarrie committee went on to make some observations on the subject of loss-leader selling, a subject with which I shall deal later.

Perhaps at this point I should define resale price maintenance. It is most important in dealing with this whole subject that we should have a clear understanding as to just what type of resale price maintenance we are dealing with in the context of this bill. There are two kinds of resale price maintenance. First, rival suppliers, whether manufacturers or distributors, may agree among themselves to maintain prices of comparable articles at agreed levels at various stages of distribution. This is commonly referred to as horizontal resale price maintenance and, generally speaking, it is already an offence under the Combines Investigation Act. That is to say, it takes place largely horizontally, as it were, among all the dealers in a certain trade.

The second kind takes place when a single manufacturer prescribes the prices at which his goods are to be sold or resold at the various stages of distribution. That is, he steps down out of his own level to suggest to those at either a lower or higher level, depending on one's viewpoint, the basis at which they can sell or resell his goods. Therefore this type of resale price maintenance is commonly referred to as vertical resale price maintenance, as distinguished from the horizontal type to which I referred a moment ago.

This vertical resale price maintenance may or may not be forbidden by the present terms of the Combines Investigation Act, depending upon the particular circumstances of the case which comes before the courts. In most cases, however, it will not be illegal under the act as it now stands. It is this latter type

of vertical resale price maintenance which the MacQuarrie committee studied and reported against, and with which the bill now before us is concerned.

The interim report of the MacQuarrie committee on resale price maintenance was made, as I have said, early in the month of October. The speech from the throne delivered on October 9 contained the following paragraph:

The government has received an interim report from the committee studying the combines legislation recommending that suppliers of goods should be prohibited from requiring or inducing distributors to resell such goods at fixed or maximum resale prices. You will be asked to consider legislation arising out of the committee's interim report.

The speech by the Prime Minister (Mr. St. Laurent) on the address in reply to the speech from the throne and the radio broadcast I made over a coast to coast hook-up also made it clear that we accepted this report and were prepared to act upon it. I maintain, in the face of some of the contentions which have been made to the contrary, that the position of the government has been crystal clear at all stages of this matter. We accepted the MacQuarrie report and proposed to act upon it at this session.

It is quite true, of course, that following these announcements representations were received from a large number of trade associations as well as from individual manufacturers and merchants all across Canada, large and small, to the effect that in their opinion the prohibition of resale price maintenance would very seriously affect their businesses. They felt that it would be most unfair to proceed with this prohibition of resale price maintenance until they had an opportunity to be heard before the bar of public opinion.

We decided to accede to their requests. On November 6, as hon. members will recall, I introduced a resolution for the establishment of a joint committee of the Senate and House of Commons, and I quote:

—to consider the interim report of the committee appointed to study combines legislation tabled in the House of Commons, Friday, October 12, 1951, and to consider appropriate amendments to the Combines Investigation Act based thereon.

The joint committee was duly constituted; it commenced its sittings on Tuesday, November 13, and concluded them on Friday, December 7. During the course of the committee's sittings there had been placed before it by the combines commissioner a draft amendment to the Combines Investigation Act which translated into legislative form the recommendations of the MacQuarrie committee. The joint committee in its report which was tabled in this house on Friday, December 7, recommended legislation along