some very interesting observations in the section of their report dealing with this subject. I direct the attention of the committee particularly to the passage beginning on page 230, where it states:

> It has already been indicated that, in the case of practically all those appearing before the commission, whether representatives of manufacturing or trade groups, or of consumer, farmer or co-operative associations, the view was generally held that it would be undesirable to have legislation which would attempt to define loss leader selling. In some cases the objections were directed specifically to legislation which would establish a minimum mark-up over cost in the sale of any article. While this was the position most commonly taken, the Retail Merchants Association of Canada Inc. did make a suggestion for amendment to the Criminal Code to make it an offence to sell merchandise below a stated cost.

Having noted that the retail merchants association had submitted a draft in this respect they went on to deal with it and to point out the objections that they felt concerning it. In this context, and at this moment, I should like to say we have also made it quite clear to the retail merchants association from the inception of our discussions with them as a government that we doubted very much the feasibility of their proposal; then later, in the course of the discussion we indicated that our doubts had been resolved and that we were certain we could not create a definition of loss leader selling which would be appropriate to insert in this bill to make it a criminal offence. We came to that conclusion on much the same reasoning as is given in the report of the restrictive trade practices commission, because they go on to say, as reported at the bottom of page 231, after having dealt with the suggestion of the retail merchants association:

> The necessity, which the Retail Merchants Association of Canada Inc. clearly recognized, of guarding against the use of any formula or definition in a way which would interfere with the normal competitive conduct of business, is pointed up by the fact that those who made the proposal immediately saw that exceptions and qualifications were required. This emphasizes the views of many others appearing before the commission, to which reference has already been made, that any attempt to define sales below some stated level of costs as loss leader selling would have to provide for so many exceptions that practical working of the measure would be impossible. It will be noted that in the definition proposed by the Retail Merchants Association of Canada Inc. an attempt was made to get away from the actual acquisition cost to an individual retailer and use instead "the manufacturer's lowest selling invoice price" to any member of the trade.

Then they go on to point out how impossible it is, how undesirable it is to resort to this method of giving protection to the independent merchant against whom the practice is used. So, Mr. Chairman, it is a fact that the restrictive trade practices commission, while recognizing as they do the undesirability of the loss leader device, and in this field of course they are reinforced by the findings of the MacQuarrie committee itself, have nevertheless concluded that making it a criminal offence is not a practical method of dealing with this problem. I refer to the attempt to define it and to write that definition into the Criminal Code, because of the multiplicity of exceptions which would have to be introduced in such a provision.

On the basis of that conclusion, which this government shares, one is then faced with the necessity of finding some other method of meeting the problem confronting independent merchants, and it is our view that we have resolved that problem satisfactorily and in the only method possible by the amendment suggested in clause 14 of this bill. At this point I have to remind the committee that the amendment suggested by the Leader of the Opposition would completely delete our proposal. When members of the opposition say that their proposal is desirable as against the undesirable government proposal—I will not attempt to review all the opprobrious terms they have applied to it—let us look at what this government's proposal does.

I should like to examine our proposal in the light of what they say, and in the light of what would still be open to be done by way of an inquiry if a charge or complaint is made that resale price maintenance has been introduced by the back door, as my hon. friends say would be the case under our amendment. Starting on the basis that resale price maintenance is made illegal and is an offence under the act, we have not in any sense weakened or amended the operative portions of section 34 which have that result. But we do say that there are certain practices carried on by some large retailers which are damaging to the interests not only of other merchants but of consumers. We say that no one in his right senses would argue that if these practices could be defined and isolated a supplier should not have the right to discontinue supplies because of these practices. Let us look at what our amendment says. It reads:

> Where, in a prosecution under this section, it is proved that the person charged refused or counselled the refusal to sell or supply an article to any other person, no inference unfavourable to the person charged shall be drawn from such evidence if he satisfies the court that he and anyone upon whose report he depended had reasonable cause to believe and did believe—

Let me remind you, Mr. Chairman, that the supplier has to have reasonable cause to believe and has to believe, first:

> —that the other person was making a practice of using articles supplied by the person charged