

for the same goods, without performing any other commercial requirements of a supplier, such as the after-sales service function to satisfy the consumer, then it would be chaotic for the existing local retail entrepreneur, because he would be forced to compete with somebody who did not have to adhere to the same reasonable standards of retailing a product. The small retailer would suffer, and suffer immeasurably. As Mr. Bruce indicated, this apparently is the situation that is designed by the concentration of price competition.

**Senator Cook:** I do not quite understand why you say no order should be possible against only one company. If I complain that I cannot get goods from a company, what is the implication of that statement that no order should be possible against only one company?

**Mr. Hemens:** Let us take Mr. Bruce's industry as an example. There are a number of suppliers in that industry. Let us assume this particular situation. Should the commission be permitted to order Westinghouse, as distinct from C.G.E. or the various other producers of television sets, to supply this particular complainant, or should not the order, if it is to be made at all, be made to the totality of suppliers, and let them come to some arrangement as to who should be the supplier or how this distributor is going to be dealt with?

**Senator Cook:** Take a practical case. I complain that I cannot buy Mr. Bruce's refrigerators. Say the commission agrees that there is merit to my case and an order is going to be made. What is the form of the order?

**Mr. Hemens:** Let me take that in two parts. First of all, we suggest to you that the commission should not be able to say that you can get Westinghouse refrigerators, but simply that you can get refrigerators. You see, you are defining a product very narrowly as a Westinghouse refrigerator. That is too narrow.

**Mr. Bruce:** I think the premise of the senator's question is really this. I do not think that particular problem would arise except in the case of an individual who, say, wanted to be a refrigerator dealer; he did not have any particular thrust towards one brand or another; he scouted the market and found that for various reasons he could not get refrigerators from any of them. Let us assume this is not the result of a conspiracy, but it is just that each individual had some reason for not wanting to supply. At that point the unfairness is that the commission becomes the agent that makes the business decision as to who out of all this industry is going to supply this character, whom none of them wants to supply.

**The Chairman:** Mr. Bruce, have you thought of the effects of the language in section 31.2 following paragraph (d), saying what the commission may do when the director makes a complaint? It says:

the Commission may, after affording to the supplier or suppliers of such product in the market a reasonable opportunity to be heard,

do certain things. Does that not seem to suggest that even though the director files a complaint in respect of a product, which may be a refrigerator, and perhaps a Westinghouse, when it comes to the stage of the commission dealing with it the commission has to look at the whole range of suppliers?

**Mr. Hemens:** Paragraph (f) says the commission may:

order that one or more suppliers of the product accept the person as a customer.

We complain that in that case it can be directed to one.

**The Chairman:** Yes, the order can be directed to one, and this is the fault you find, the possibility that the commission can make the order in respect of one supplier only.

**Mr. Bruce:** Yes. Suppose you happen to be the one who gets "caught." Let us say this is in the metropolitan Toronto area. Suppose there are now 20 dealers whom you had considered adequate; you are sure that they can make a good living and therefore would be good dealers. To have this twenty-first one thrust at you is the unfairness.

**Senator Cook:** And yet the complainant may be only interested in that particular refrigerator.

**The Chairman:** Senator Cook, in looking at this clause, all you would have to do is strike out the words "one or more" so that the authority of the commission would be to order the suppliers of the product. That would meet your objection, Mr. Bruce?

**Mr. Bruce:** Well, it might. I would not be sure.

**The Chairman:** I can only look at your objection as it is in your brief.

**Senator Connolly:** Should we not ask ourselves, on that specific point, if an order were made that suppliers of the product provide the article in question; and then is that an order that can be carried out?

Surely, something else has to be done somewhere along the line? If you are going to make an order, for example, that is going to cover Westinghouse, General Electric, and all the other manufacturers of television sets, and if it affects them all but does not affect any specifically, then I think you take the teeth out of the thing and make it impossible for the order to be carried out.

**The Chairman:** Senator Connolly, one thought that occurs to me is, if you had such an order by the commission, addressed to all the suppliers of that product, they would have to get together, as you are indicating, in order to agree on how they were going to ration the supply. Would the director then decide that that was a conspiracy?

**Mr. Bruce:** It seems to me that this points up the dilemma you are in when you try to transfer a business decision to a government agency.

**Senator Cook:** Also, is there not the dilemma that the commission makes an order against people who do not appear, say, Westinghouse, and argue the case, and the commission do not agree with them. Now General Electric and everybody else has to suffer.

**Mr. Bruce:** That is right. I would like to point out something, if I may, but I do not know how reluctant you are to learn lessons from the United States.