

Combines Investigation Act

had enough of such amendments, and I trust that the next time an amendment is brought in it will at least attempt to do something, and that if the hon. member for Bonavista-Twillingate thinks that people are hanging on his every word and reading all his speeches he will not so much further insult the intelligence of members of the house as well as the people of the country by making it obvious that they really do not intend any harm to loss leader selling.

Mr. Pickersgill: Mr. Chairman, before the vote is taken, may I say I do not think I can let that savage attack by the hon. member for Edmonton-Strathcona pass without pointing out that our amendment does create a very clearly defined offence, an offence which is precisely of the character that the star witness for the government, Mr. Gilbert, said he wanted, that is to say, that nobody should be allowed to make a practice of selling things below the cost of acquisition. It is a clear and definite offence.

We recognize the practicalities of the situation, that there are certain circumstances in which people should be allowed to sell things below the cost of acquisition, as I am sure the hon. member for Edmonton-Strathcona and every other hon. member on the other side recognizes, but we take the view that if there is a problem and something is to be done about it then this amendment would be effective. If there is no problem, then of course the amendment could not be effective, but there are those who allege there is a problem. At any rate, we would see this happen directly and clearly. There would be prosecutions in the courts of the persons who were guilty of using loss leaders and they would not be subject to punitive action by manufacturers who could get around the existing law by reason of the loopholes provided in the legislation that the government is putting forward.

I repeat that the best thing of all would be to leave section 34 alone until something really thoroughly satisfactory can be devised, but since the government will not do that, since the government is putting forward something that we think is completely objectionable, we feel it is our duty as legislators to try as far as we can within the rules of the house to put something forward that is at least somewhat better, and that is what we are trying to do.

Mr. Nugent: Mr. Chairman, I do not want to be repetitious but I am afraid the hon. member has missed the gist of my argument against his leader's amendment. It is true they have purported to create an offence but the only manner in which the offence could

[Mr. Nugent.]

be committed has been so covered up by their definitions that it would be impossible to convict anyone of such an offence.

Mr. Pickersgill: I should like to ask the hon. member a question. Would he say which of the exceptions he would take out if he were drafting the legislation?

Mr. Nugent: Which of the exceptions in the bill?

Mr. Pickersgill: No, which of the exceptions in my leader's amendment?

Mr. Nugent: I do not have a copy of it in front of me but it seems to me that most of the exceptions are covered by the remarks I have made. The amendment refers to seasonal clearances. Who is to say what is a seasonal clearance except the storekeeper? It is impossible of true definition or to get it down fine enough so that any crown prosecutor I am acquainted with would care to stick his neck out and try to get a conviction. Certainly one particular clause to which I object most strongly and which I think is most obvious has to do with sales of an over-stocked article. As I have pointed out, the essence of loss leader selling is that the merchant always uses an article on which he was probably going to take a loss anyway, and in order to get his value out of it he uses it as an advertising gimmick or loss leader. I think that is very obvious.

Mr. Fulton: I think before the committee votes on the amendment moved by the Leader of the Opposition I should endeavour to place it in its proper perspective by comparing it with the proposal put forward by the government, which this amendment would delete. I referred this afternoon to some of the objections to the amendment which I saw upon an immediate examination, and upon reflection have not been removed. Indeed, they have been reinforced by what I have been able to perceive as I studied the amendment. I think a brief survey of what would be done by the amendment, as contrasted with what would be done by the government's proposal, would be helpful.

I indicated that one of the reasons I could not accept the amendment was that I felt it was not possible to place in the criminal law a section defining loss leader selling in a way that should make that practice the subject of a criminal prosecution and conviction. I pointed out just how open to objection the amendment is on that point. Since that time I have been looking at the report of the restrictive trade practices commission on its inquiry into loss leader selling, and refreshing my memory about what they had found with respect to this matter of defining loss leader selling. I find that they made