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REFLECTIONS

By THE EDITOR

MR. FIELDING is a conservative statesman. For more than ten years he has known that there was a serious defect in the anti-combine clause of the Tariff Act of 1897, and more than ten years he has hesitated about making the necessary improvement. The defect in this clause, which provides for a Royal Commission to investigate cases where manufacturers have combined to "unduly enhance prices," is its failure to say who would bear the cost of the investigation. When the first case appeared, Mr. Fielding said the appellants should bear the costs and the persons concerned looked up in amazement. Here was a clause, intended to provide against combines, and the Finance Minister ruled that any investigations under it should be borne by the consumer! If a retail merchant was ostracised and put out of business by a combine, he must pay the expenses of a Royal Commission to investigate his case—surely not, Mr. Fielding? "Yes" was the answer—and the answer has ever since held good. Hence the anti-combine clause became a dead letter, much to the regret of many good, free-trade Liberals.

THE first case under this anti-combine clause arose in 1901. The Canadian Papermakers' Association, about the time the Eddy mills at Hull were destroyed by fire, found the demand for news print to be greater than the supply and they raised the prices very materially. Immediately every publisher of a newspaper in Canada arose in his wrath and declared for a fight. Only two papers refused to join in an appeal to the Government for an investigation. Those papers were the *Montreal Gazette* and the *Montreal Star*—but that is another story which will keep.

The Canadian Press Association, as the older and stronger press body, undertook the task and sent a committee to Ottawa. They were courteously received and attentively listened to. They stated the circumstances and produced their evidence. Mr. Fielding considered them and shortly announced that a Commission would be granted. He selected a Commissioner—Mr. Justice Henri Taschereau of Montreal. He appointed a date for the first meeting. Then arose the question of costs—counsel fees, stenographic reports, witnesses' expenses and other sundries. Mr. Fielding decided that each side should pay its own expenses, no matter how the decision went. The Press Association protested and another committee was sent to Ottawa. Mr. Fielding refused to relent. The Press Association urged that as a matter of principle the Government should pay the chief expenses; that the anti-combine clause was a delusion if this were not done. Mr. Fielding was adamant. The Press Association pointed out that they must send witnesses and solicitors and counsel to Ottawa, Montreal, Toronto and perhaps New York, and that the investigation might last a long time if the papermakers thought it advisable to make a running fight of it. Mr. Fielding would not relent.

THEN occurred one of the most remarkable incidents within the writer's knowledge. The Press Committee having exhausted every effort decided to refuse to appear before the Commission which was announced to meet within a week. They decided to fight the point out before the public. They prepared a memorandum of their views, delivered it to Mr. Fielding by messenger, and took the first train out of Ottawa.

The situation was dramatic. The whole press of Canada was behind this committee, irrespective of politics, and the committee declared that it would not yield. Mr. Fielding was then at the height of his early popularity as a Federal Minister and was undoubtedly supported by the members of the Cabinet. Had the fight occurred it would have been a merry one.

But the battle never took place. About forty-eight hours before the Commission's first sitting, Mr. Fielding wired the secretary of the

Press Association that the expenses of the witnesses on both sides would be paid but that each should pay its own counsel fees. The compromise was accepted and the investigation went

on. The present Minister of Justice was the counsel for the Press Association and he scored a complete victory. Judge Taschereau found the papermakers had formed a combine to unduly enhance prices. No one was punished, but the papermakers lowered the price of news print and have since acted reasonably.

AFTER the case was closed and the verdict given, the Press Association presented a bill of \$2,000 to the Government and asked that it should be paid. This represented the outlay to which the Press had been put for proving that in one instance at least, the manufacturers had taken advantage of the tariff to "boost" prices. This bill was sent in as a further protest against Mr. Fielding's decision and in the hope that the protest would lead the Government to provide better facilities for the next complainant. The bill was never paid, and the rule was never altered.

Now after ten years, Mr. Fielding admits that his decisions were wrong and that the Press Association was right. He announces that a measure will shortly be introduced to provide that, when any claimant has made a prima facie case, all expenses of the investigation will be borne by the Government, including the fees of counsel. This decision is to be commended, even if it comes late. It should commend itself to both consumer and manufacturer. To the consumer, because it will enable any man with a good case to start an investigation which will render justice and settle disputes. To the manufacturer, because it will be a warning to greedy members of that fraternity that unfair combination will be punished. The tariff which does not oppress will last longer and arouse less opposition than the tariff which is made the instrument for extorting undue profits.

NEVERTHELESS the *Toronto Star* is not satisfied with Mr. Fielding's amendment. It says "the announcement is disappointing" because it does not go far enough.

"The alleged remedy does not go to the root of the wrong, which is that the Government provides no machinery for the enforcement of its own law. It does not take the initiative. It provides a court. It leaves the complainant to collect the evidence, engage counsel, assume all the responsibilities and anxieties that are assumed by a private litigant. All it promises is that under certain conditions he will be reimbursed.

"This is not the procedure adopted in the case of other offences against the Customs law—smuggling, undervaluing, or dumping. These laws are enforced by Dominion Government officials. The person who believes that goods are being smuggled or undervalued is not required to collect evidence, hire counsel, and prosecute the offenders. He simply states his case to a Government official—imparts his information, perhaps his suspicions. He touches the button, the official does the rest. The Government takes the initiative."

Perhaps the amendment does recognise the injustice without providing an adequate remedy, but Mr. Fielding must be given credit for a decided improvement. If the improvement is not sufficient, a further agitation will probably secure what the *Star* desires—a prosecuting and investigating official. There is little evidence to show that such an official is necessary, as the manufacturers are not apparently making any greater profits than any other class of merchants or financiers.

A RATHER strange incident occurred at the Board of Education meeting in Toronto the other day. Trustee Simpson, a socialistic labour representative, argued against flying the flag on anniversaries of battles and said that it would be better to fly the flag every day