

*Combines Investigation Act*

prices, and that that is a dangerous thing. We say it is an improper thing, and we say there should be some way by which the possibility of smaller businessmen being driven to the wall can be obviated in any legislation that is put before us. In that respect I am not forgetting at all that there was a recommendation by the committee that if, as a result of the passing of this measure, abuses followed in the form of loss-leader activities or improper price cutting the government should vigorously enforce section 498A of the Criminal Code. I would have liked to hear more about the reason for the inclusion of that recommendation. It is a recommendation that the government do something it should be doing anyway.

This government should not require advice that it should enforce the criminal law or any section thereof. Of course we must remember that the committee was doubtless aware of the fact that the minister now in charge of enforcement had failed to deal with the requirements of the Combines Investigation Act which we now have under consideration. Doubtless they were somewhat worried that his sympathy with big business on that occasion would be reflected in his attitude toward big business in the future, and that he would not likely do anything that would interfere with big business inasmuch as he protected the flour milling combine by actually withholding publication of the report to the stage where prosecution became impossible. Perhaps that is the explanation of that recommendation.

**Mr. Fulton:** It is the only reason.

**Mr. Drew:** I should think it is the only reason that is discernible. But surely that is rather blissful optimism on the part of the committee or anyone else—and of course when I say the committee I mean the directed majority which really put forward the report, because it was not unanimous—when we remember the length of time section 498A has been in the Criminal Code, and that there has not been a single prosecution by this government thereunder. Are we to believe that never in all these years has there been a single case where loss-leader practices, unfair price cutting or any of the things covered by section 498A has occurred? If business transactions in this country are being conducted on a basis as pure as that, why then are we being asked to take an axe to the whole commercial structure that has been built up? In effect we are told on the one hand that Canadian trade practices are so good that there has been no need to employ section 498A, and on the other hand we are

[Mr. Drew.]

told that we simply must ban this practice which has become so much a part of our commercial structure. Granted they are not related to the same thing, but they are two parts of the same problem. No; it would certainly be a great optimist who would think that at this stage we could suddenly hope for great results from section 498A under this government. I am satisfied that section 498A has all the power necessary to deal with this problem if there is abuse of the public interest. I am satisfied that section 498A could have been used with great benefit in many cases where it has not been employed. But there again we have evidence that this government has obviously no faith in its use.

There is another aspect of section 498A which I would point out. In that section there is no unqualified provision that certain things cannot be done, of the nature contemplated in the legislation now before us. It would seem to me that part of section 498 which precedes 498A provides that nothing shall be done to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity or in the price of insurance upon a person or property. Those are related sections. On the one hand there is a section that prohibits certain practices, and on the other hand the section dealing with price discrimination. Surely between section 498 and 498A there was ample power to deal with any arrangement under which there would be price discrimination or agreement in regard to price that would be injurious to the public.

In any event the fact remains that section 498A, which is the section concerning price discrimination, has never been enforced at any time by this government. Consequently it cannot, by itself, be regarded as an adequate safeguard for the small merchant who would be affected by the legislation now before us. This is simply a bald statement that practices which have been in vogue for fifty years or more shall be discontinued, and that failure to discontinue those practices shall, in itself, constitute an offence punishable by the courts. If some dangerous growth threatens the human body there is always one simple way the doctor can end the threat that the offending growth will extend to other areas; he can shoot the patient.

**Mr. McCann:** That is not common practice.

**Mr. Drew:** That will cure it for all time. As the Minister of National Revenue (Mr. McCann) has said, that is not common practice. It is usually regarded as unethical for the doctor to take such a drastic course to