principle was again affirmed by the Supreme Court the following year, in *Hollester* v. *City of Montreal,* (1898) 29 S.C.R. 402.

Did the acts of the trade union favour a free economy or did they prevent competition from non-union men? Although they were clearly in restraint of trade, the Supreme Court held that such acts were not unlawful and were for the reasonable protection of the workmen in question.

A decision to the same effect, was given in the case of *King* v. *Day,* (1905), 17 C.C.C. 403.

The three labour cases which I have just cited show clearly that a labour combination is

> . . . in a somewhat more favourable position than an organization which is not a trade union.

That is precisely the view expressed by the Supreme Court of Canada in *Starr* v. *Chase,* (1924) 4 D.L.R., at 55:

> A trade union is not *ipso facto* criminal because its activities are in restraint of trade.

Thus, labour organizations are not considered to be either unlawful or detrimental to public interest, although many of their activities amount to what I should call legitimate restraint of trade.

I want to make quite clear that I do not in any way criticize the privilege expressly granted to trade unions. I consider that they are fully entitled to such special protection because they play an essential part in our economic and social life. Far from me is any thought of curtailing any of the rights of organized labour. But, honourable senators, all men are equal before the law. I affirm that an agreement by which a manufacturer fixes the sale price of his own goods is in itself as lawful as the collective agreement which fixes the price of labour in his own plant, recognizes that a certain scale of wages is binding upon everyone, and provides for the deduction of union dues in the closed or union shops. I insist that it is grossly unfair to discriminate against manufacturers and distributors by, in their case, outlawing practices which, although they are restraints of trade, are in the case of labour organizations legal. In the past class privileges were justly denounced and finally abolished. Equality for all was proclaimed, and we have marched on steadily towards a fuller measure of happiness and justice for all.

The question before us today, in my opinion, is: Do we want to continue to progress and to go forward to better days, or do we want to halt or even to turn backward, to suppress the right to contract freely—yes, to discard our century-old principle of liberty to contract—and to condemn, as criminal offences, long-established practices that are not detrimental to the public?

The only justification for the creation of new crimes—and we already have a formidable list of crimes—is to make illegal those acts which, though never before prohibited, are against the public interest. It would be reasonable to ask us to codemn vertical price fixing in any case where it has been proved to operate, or to be likely to operate, against public interest; but, as honourable senators know, the present bill makes price fixing by individual suppliers an offence in itself, whether or not it be established that it is to the detriment of public interest. I for one would be willing to vote in favour of a bill which would put the so-called vertical combines upon exactly the same footing as the so-called horizontal combines.

At this stage of the session it would be useless for me to move any amendment. I remain convinced, however, that sooner or later, when experience has shown the effect of the present bill, it will be necessary to amend it somewhat along the following lines, namely, by the insertion on page 2, after line 22, of the following as subsection (4) of section 37A:

> (4) Subsections (2) and (3) shall be construed to apply to agreements, threats, promises, refusals or other means made or used by any dealer for his reasonable protection and that of the goodwill resulting from any article or commodity manufactured, supplied or sold by such dealer only if any such agreement, threat, promise, refusal or other means has operated or is likely to operate to the detriment or against the interests of the public, whether consumers, producers or others.

The suggestion which I have just made is exactly on the lines of section 2 of the Combines Investigation Act, relating to the horizontal type of combine. It is a very dangerous course to condemn practices which are not against the public interest, or to make a crime of a commercial custom merely because it is opposed to the opinions of some commissioners or other officers. I do not want to exaggerate, but it seems to me that we may be thereby committing ourselves to a course which could ultimately lead to a revival in modified form of the Star Chamber. That court, until its abolition in 1640, heard all cases of conspiracy in England. The jurisprudence of the Star Chamber is classically described as "a loose variety of criminal equity." I invite honourable senators to meditate on the following sentence from Professor Kenny's *Criminal Law,* 13 th edition, page 29, with reference to the Star Chamber:

> The interpretation placed by judges on the purpose of the combinations made it possible for judges to treat all combinations to effect any purpose