

The Combines Investigation Act.—The Combines Investigation Act (R.S.C. 1927, c. 26) is designed, as its full title indicates “to provide for the investigation of combines, monopolies, trusts and mergers”, and declares to be unlawful only such combines as “have operated or are likely to operate to the detriment or against the interest of the public, whether consumers, producers or others”. The statute provides that a preliminary inquiry shall be made by the Registrar on receipt of an application signed by any six British subjects resident in Canada, or if the Registrar has reason to believe that a combine exists, or if the Minister of Labour so directs. If the preliminary inquiry discloses sufficient evidence to justify further investigation, this may be conducted by the Registrar or by a special Commissioner appointed by the Governor in Council. Full authority is given the Registrar and the Commissioner to examine witnesses on oath and compel the production of records and documents.

The remedies provided by the Act are those of publicity and penalty. The proceedings are conducted in private, unless otherwise ordered by the Minister, but the report of any Commissioner is required to be published within fifteen days of its receipt by the Minister. Any person who is a party or privy to, or knowingly assists in the formation or operation of, a combine is guilty of an indictable offence and liable to a penalty not exceeding \$10,000 or to two years' imprisonment; or, if a corporation, to a fine not exceeding \$25,000. Provision is also made in the Act for the reduction or removal of the customs duty on any article of commerce, among the manufacturers or dealers in which there exists a combine, the operation of which is facilitated by the tariff. Similarly, the Exchequer Court may revoke a patent if there is evidence to show that the holder of such patent has made use of his exclusive rights to limit production or competition unduly, to enhance prices unreasonably, or to restrain or injure trade.

The constitutional validity of the Combines Investigation Act was given final confirmation by the Judicial Committee of the Privy Council in a decision delivered in January, 1931. This judgment confirmed the unanimous decision of the Supreme Court of Canada, given in April, 1929, after a reference for determination of this question had been made to the courts by the Dominion Government. Both courts also upheld the constitutional validity of section 498 of the Criminal Code, relating to combinations in restraint of trade.

An investigation into the Amalgamated Builders' Council and related organizations, a combine of plumbing and heating contractors and others in the province of Ontario, was completed in December, 1929. Prosecutions on charges of violations of the Combines Investigation Act and section 498 of the Criminal Code were commenced by the Dominion Government against about fifty persons and corporations in Windsor, London and Toronto who were connected with the alleged combine. In May and June, 1929, thirteen of these persons and one company pleaded guilty to charges under the Combines Investigation Act and were fined a total of \$26,500, the largest fine being \$10,000 and the smallest \$500. Pleas of guilty to offences under section 444 of the Criminal Code were also entered at the city of London. Sentence was suspended on this charge, relating to conspiracy to defraud. Other prosecution proceedings in cases following this investigation were delayed by the courts and were resumed after the pronouncement of the Privy Council on the constitutional validity of the Combines Investigation Act.