

The maintenance of a competitive economy in Canada as a matter of public policy was reaffirmed by Parliament in amendments made to the Combines Investigation Act in 1946, whereby some of the recommendations made in the report "Canada and International Cartels" were given legislative form. This legislation of 1946 authorized the Commissioner to receive and investigate complaints respecting practices alleged under Section 498 and 498A of the Criminal Code to be offences related to those covered by the Combines Investigation Act. It also authorized the Commissioner to proceed on his own initiative with an inquiry to determine whether a combine exists or is being formed. A similar provision had been contained in the legislation from 1923 to 1937. The amending Act of 1946 also empowered the Exchequer Court to prevent by court order certain uses of patents or trade marks in undue restraint of trade.

An alleged combine in the manufacture and sale of dental supplies was reported by the Commissioner in July, 1947. Eighteen member companies were indicted by a Grand Jury at Toronto, Ont., for conspiracy in undue restraint of trade. A verdict of not guilty was brought in on Mar. 18, 1948, on the ground that the evidence submitted by the Crown had not been adequately authenticated. The Crown appealed from this verdict to the Ontario Court of Appeal which dismissed the appeal on technical grounds in a judgment delivered on Feb. 28, 1949. In sustaining the ruling of the trial judge the Appeal Court held, among other things, that where no one else but companies are charged, the criminal acts charged must be brought home to the companies as their acts. The proof required in the case of companies, the Court ruled, differs somewhat from that required in the case of individuals and there must be evidence when an act by an officer, servant or agent of a company is relied on that he had authority from the company to act. As the judgment of the Ontario Court of Appeal raised very serious problems in the matter of proof of offences in undue restraint of trade the Minister of Justice directed that consideration be given to its effects by officials of the Department and Crown Counsel. It was subsequently announced that the Government was giving consideration to a draft Bill to amend the statute.

An investigation into the manufacture and sale of optical goods resulted in a finding in April, 1948, that a combine existed among certain manufacturers and wholesalers of optical goods, whereby a system of patent licensing had been instituted by the principal manufacturer under which minimum resale prices were established at each stage of distribution for all but a small proportion of the types of spectacles and their parts in popular demand. Other arrangements were entered into by the parties to the alleged combine to eliminate competition in other ways. Of the seven basic patents involved one has expired, four were held invalid and judgment in respect of two others had not been delivered at the end of September, 1949. The restrictive licensing arrangements described in the Commissioner's report as affecting retailers and manufacturers of optical goods, and some of those affecting wholesalers, were cancelled before the investigation was concluded. Immediately after publication of the report, all remaining licensing restrictions complained of were withdrawn by the companies concerned. The use of the trade marks also has been so modified as to remove the restrictive features.

A special commissioner was appointed to conduct an investigation into an alleged combine in the bread-baking industry in the Provinces of Saskatchewan, Alberta and British Columbia and a report submitted in November, 1948, stated that, in his opinion, five bread-baking companies operating in these Provinces and