

Section 2.—Combinations in Restraint of Trade*

Federal legislative measures for aiding and regulating trade include specific prohibitions of operation against the public interest by monopolies and similar commercial combinations. Monopolistic trade arrangements tending to eliminate competition in price, supply or quality of goods, and thereby to restrain trade unduly, are illegal under the Combined Investigation Act and Sect. 498 of the Criminal Code. These laws are designed to promote reasonable competitive opportunities for the expansion of production, distribution and employment.

The first federal legislation in this field was enacted in 1889 and is still effective in amended form as Sect. 498 of the Criminal Code. Legislation providing for investigation of trusts or combines was first enacted in 1897 as part of the Customs Tariff Act. In 1910 a separate Combines Investigation Act was passed and further legislation was enacted in 1919 and 1923.

The Combines Investigation Act.—The Combines Investigation Act (R.S.C., 1927, c. 26), which was enacted in 1923 and amended in 1935, 1937, 1946 and 1949, provides for the investigation of trade combinations, monopolies, trusts or mergers alleged to have operated to the detriment of the public through limiting production, fixing or enhancing prices, limiting competition or otherwise restraining trade. Organizations of this nature are defined by the Act as “combines”, and participation in the formation or operation of a combine is an indictable offence. Investigations of alleged combines under the Act are conducted under the direction of the Combines Investigation Commissioner who reports to the Minister of Justice. The Commissioner may also receive and investigate complaints respecting practices alleged to be offences under Sects. 498 and 498A of the Criminal Code which concern offences related to those covered by the Combines Investigation Act. Amendments made to the Combines Investigation Act in 1949 were intended to remove certain procedural and evidentiary difficulties that had been encountered in combines proceedings and, in particular, to deal with certain difficulties with respect to the proof of documentary evidence that had arisen in the dental supplies case. Consultations are held with individuals and representatives of business groups interested in discussing the possible application of the Act to conditions encountered or to arrangements being considered.

The report of the Commissioner of an investigation into the distribution and sale of flat glass in Ontario and Quebec, submitted in December, 1949, alleged the existence of a combine among members of an association of glass jobbers which had unduly lessened competition in the glass-jobbing trade through agreements on prices, terms and conditions of sale. In April, 1950, eight corporations and one individual carrying on an unincorporated business were indicted by a Grand Jury at Toronto, Ont., under Sect. 498(d) of the Criminal Code. Pleas of guilty were entered on behalf of all the accused when they appeared for trial before Mr. Justice Treleaven in the Supreme Court of Ontario at Toronto on Sept. 25. Sentence was deferred until Oct. 6, when the maximum penalty of \$10,000 was imposed on each of three larger corporations while fines of \$2,500 were imposed on five smaller corporations and a fine of \$1,500 on one individual. The accused were ordered to pay costs of the prosecution in proportion to the penalties imposed.

Following an investigation into the manufacture, distribution and sale of matches, a report was submitted by the Commissioner on Dec. 27, 1949, in which it

* Revised by T. D. MacDonald, K.C., Commissioner, Combines Investigation Act, Department of Justice.