

## 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 Combines 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), enacted in 1923 and amended in 1935, 1937, 1946, 1949, 1950, 1951 and 1952, 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. In line with recommendations contained in a final report by the Committee to Study Combines Legislation, certain amendments effective Nov. 1, 1952, revised the administrative organization by separating into two parts the functions formerly exercised by the Commissioner of the Combines Investigation Act with an agency for investigation and research and a board of three members to appraise the evidence obtained in investigations and report thereon. The former Commissioner of the Combines Investigation Commission became the new Director of Investigation and Research, with authority to initiate investigations respecting practices alleged to be offences under the Combines Investigation Act or under Sect. 498 or 498A of the Criminal Code which concern offences related to those covered by the Combines Investigation Act. The board is known as the Restrictive Trade Practices Commission and the following persons have been appointed as members: C. Rhodes Smith, Q.C., Chairman, formerly Attorney-General of Manitoba; Guy Favreau, a member of the Quebec Bar; and A. S. Whiteley, an economist who served as Deputy Commissioner under the Combines Investigation Act. Other amendments removed limitations on possible fines and permitted the Courts to prohibit continuation or repetition of an offence. Amendments made to the Combines Investigation Act in 1951 adopted recommendations contained in the interim report of the Committee to Study Combines Legislation by prohibiting the practice of resale price maintenance.

The report to the Minister of Justice of an investigation into the manufacture, distribution and sale of matches in Canada, submitted in December 1949, alleged that a combine by way of merger, trust or monopoly existed in the wooden match industry in Canada. Four formal charges were preferred under the Combines Investigation Act. The trial of the first charge concluded at Montreal in May 1951 with the five corporation defendants being convicted and fined a total of \$85,000

\* Revised by T. D. MacDonald, Q.C., Director of Investigation and Research, Combines Investigation Act, Department of Justice, Ottawa.