

In 1964 there were 88 such marketing boards organized in Canada, 54 of which were in the Province of Quebec and 17 in Ontario; each of the other provinces with the exception of Newfoundland had one or more boards. It is estimated that about one seventh of the 1964 farm cash income was received from sales made under the control of provincial marketing board plans, including the following commodities: hogs, certain dairy products, poultry, wool, tobacco, wheat, soybeans, sugar beets, potatoes, other vegetables, fruits, seed corn, white beans, honey, maple products and pulpwood. As at Oct. 31, 1965, 38 of these provincial boards had received an extension of powers for purposes of inter-provincial and export trade from the Federal Government. Seven boards had received authority with regard to seven commodities to collect levies in excess of administrative expenses.

Section 2.—Combinations in Restraint of Trade*

The purpose of Canadian anti-combines legislation is to assist in maintaining free and open competition as a prime stimulus to the achievement of maximum production, distribution and employment in a system of free enterprise. To this end, the legislation seeks to eliminate certain practices in restraint of trade that serve to prevent the nation's economic resources from being most effectively used for the advantage of all citizens.

By amendments that came into force on Aug. 10, 1960 (SC 1960, c. 45), all the provisions of the anti-combines legislation which previously had been divided between the Combines Investigation Act (RSC 1952, c. 314) and the Criminal Code were amended and consolidated in the Act. The substantive provisions now are contained in Sects. 2, 32, 33, 33A, 33B, 33C and 34 of the Combines Investigation Act. The Act was enacted in 1923 and was amended extensively in 1935, 1937, 1946, 1949, 1951 and 1952 as well as in 1960.

Sect. 32, generally speaking, forbids in Subsect. (1) combinations that prevent or lessen "unduly" competition in the production, manufacture, purchase, barter, sale, storage, rental, transportation or supply of an article of trade or commerce or in the price of insurance. Subsect. (1) derives from Sect. 411 of the Criminal Code which was enacted originally in 1889. Although Subsect. (2) provides that no person shall be convicted for participation in an arrangement relating only to such matters as the exchange of statistics or the defining of product standards, etc., Subsect. (3) provides that Subsect. (2) does not apply if the arrangement has lessened or is likely to lessen competition unduly in respect of prices, quantity or quality of production, markets or customers or channels of distribution, or if the arrangement "has restricted or is likely to restrict any person from entering into or expanding a business in a trade or industry" Subsect. (4) provides that, subject to Subsect. (5), no person shall be convicted for participation in an arrangement which relates only to the export trade. Subsect. (5) provides that Subsect. (4) does not apply if the arrangement has had or is likely to have harmful effects on the volume of export trade or on the businesses of Canada competitors or on domestic consumers.

Sects. 2 and 33 make it an offence to participate in a merger that has or is likely to have the effect of lessening competition to the detriment or against the interest of the public. These Sections also make it an offence to participate in a monopoly that has been operated or is likely to be operated to the detriment or against the interest of the public.

Sect. 33A deals with what are commonly called "price discrimination" and "predatory price cutting" It provides that a supplier may not make a practice of discriminating among those of his trade customers who come into competition with one another by giving one a preferred price which is not available to another if the second is willing to buy in like quantities and qualities as the first; it also forbids a supplier from selling at prices lower in one locality than in another, or unreasonably low anywhere, if the effect or tendency of such policy is to lessen competition substantially or eliminate competitors or the policy is designed to have such effect.

* Revised by D. H. W. Henry, Q.C., Director of Investigation and Research, Combines Investigation Act, Department of the Registrar General, Ottawa.