probably would have been sold but for the combination, the combination was detrimental to the public interest. I emphasize those words, "contrary to the public interest," because the same words, or similar words, "detriment to the public interest," occur in the statute under which this Committee is set up. In the Supreme Court of New Zealand Mr. Justice Sim held that that was not contrary to the public interest He held, as he thought has been held by higher Courts in England in other cases, that the "public" included not only the consumer, but the manufacturer or producer and all others who were dealing in the article. They were sections of the public, and the public as a whole had to be considered. And Mr. Justice Sim held that the combination of flour-millers was not contrary to the public interest. It is quite true that by a majority of three to two the Court of Appeal reversed Mr. Sim's judgment, but the judgment of the majority was in turn reversed by the Privy Council, which, although we have not yet seen its judgment, must have decided the matter upon the ground upon which it was decided by Mr. Justice Sim, because that was the whole point in issue—as to whether the combination and the operations of the combination were or were not contrary to the public interest. And, I ask, if that was not contrary to the public interest, how can it be said that the operations of the P.A.T.A. are contrary to the public interest? They have to meet a similar position. It is much more serious in a sense, because it is quite plain that unless the operations of the P.A.T.A. are to be allowed very serious results must happen to a very large body of the public, consisting of members of various sections of the public—the manufacturing section and their employees, the wholesalers and retailers and their respective employees. After all, what is the difference between the fixing of a price for the goods so long as it is fair and reasonable, and the fixing, as we do fix in New Zealand, the price which an employer has to pay his workers? What on earth is the difference? Surely, in principle, there is none. And the reasons for the one thing, it is submitted, are reasons for the other.

Mr. Gresson: In your opening you referred to the results which would follow. Do you propose to deal with that?

Mr. Myers: I have referred to the results of the cutting operations, and when we give evidence we shall see what happened in actual practice in regard to certain well-known and recognized lines. I would like, if I may, to refer to what was said by Mr. Justice Sim in the Flour case. I will refer to it very shortly, and I refer to it for the reason that it seems to me that his judgment must have been affirmed on the same ground as he took. After referring to the origin of the combination, he says:—

> These, then, are the circumstances in which the company was formed and commenced its operations. There does not appear to be any reason for thinking that it was established with any sinister design, or that its main purpose was other than that of stabilizing the flour-milling industry by eliminating unrestrained competition, with its attendant evils.

And a little later on he says:—

> The case for the Crown seemed to be based largely on the view that unfettered competition is in itself a good thing, and that any agreement which interfered with such competition, unless justified by some cogent reason, must be contrary to the public interest; but unfettered competition is not always a blessing, and in considering the interests of consumers it is impossible to disregard the interests of those who are engaged in the production and distribution of the articles of consumption. The consumer may derive benefit for a time from cut-throat competition, but in the long-run it is not in the public interest to have such competition.

Then, again, in the Court of Appeal in England, in a recent case, Ware & De Freville *v.* The Motor Trades Association (reported in [1921] 3 K.B. 40), Lord Justice Scrutton said this:—

> While low prices may be good for the public for the time, they are not a benefit if all suppliers are thereby ruined. A steady level price may have considerable advantages over violent fluctuations from very high prices in times of scarcity and fierce competition and unremunerative prices in times of plenty or financial pressure.

And it was held in that case that the Motor Traders' Association, being manufacturers of motor-cars, were justified in fixing the retail selling-prices of cars, and enforcing the observation of those selling-prices by the use of a "stop list." Then, I would like to refer to one or two extracts from the case before the Privy Council, reported in 1913 Appeal Cases, which is known as the Coal Vend case, and also to a few observations of their Lordships in the House of Lords in the Salt case. In the Coal Vend case, at page 796, Lord Parker says:—

> The chief evil thought to be entailed by a monopoly, whether in its strict or popular sense, was the rise in prices which such monopoly might entail. The idea that the public are injuriously affected by high prices has played no inconsiderable part in our legal history. It led, no doubt, to the enactment of most, if not all, of the penal statutes repealed by 12 Geo. III, c. 71. It also lay at the root of the common-law offence of engrossing which, according to "Hawkins' Pleas of the Crown," vol. 2, Book 1, ch. 79, consisted in buying up large quantities of wares with intent to resell at unreasonable prices. It influenced the Courts in their attitude towards contracts in restraint of trade. Although, therefore, the whole subject may some day have to be reconsidered, there is at present ground for assuming that a contract in restraint of trade thought reasonable in the interests of the parties may be unreasonable in the interests of the public if calculated to produce that state of things which is referred to by Lindley and Bowen, L.JJ., as a pernicious monopoly—that is to say, a monopoly calculated to enhance prices to an unreasonable extent.

I have already pointed out, first of all, that it is not part of the policy of the P.A.T.A. to enhance prices to an unreasonable extent, but, on the contrary, to keep them down to a reasonable extent, and the whole idea of the association and of the manufacturers is to sell the goods at a fair and reasonable price, and no more than a fair and reasonable price. Then, at page 800, Lord Parker says:—

> It was strongly urged by counsel for the Crown that all contracts in restraint of trade or commerce which are enforceable at common law, and of combinations in restraint of trade or commerce which if embodied in a contract would be enforceable at common law, must be detrimental to the public within the meaning of the Act, and that those concerned in such contracts or combinations must be taken to have intended this detriment. Their Lordships cannot accept this proposition.