

1935.
NEW ZEALAND.

INDUSTRIES AND COMMERCE COMMITTEE.

COMMERCIAL TRUSTS AMENDMENT BILL

(REPORT ON).

(HON. A. D. McLEOD, Chairman.)

Laid on the Table of the House of Representatives, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

FRIDAY, THE 6TH DAY OF SEPTEMBER, 1935.

Ordered, That a Select Committee be appointed, consisting of ten members, to consider all matters in connection with industries and commerce that may be referred to it; the Committee to consist of Mr. Ansell, Mr. Harris, Mr. Healy, Mr. Holland, Mr. Jordan, Hon. Mr. McLeod, Mr. McSkimming, Mr. Sullivan, Mr. Wilkinson, and the Mover.—(Hon. Mr. COBBE.)

WEDNESDAY, THE 11TH DAY OF SEPTEMBER, 1935.

Ordered, That the Commercial Trusts Amendment Bill be referred to the Industries and Commerce Committee.—(Hon. Mr. COBBE for Right Hon. Mr. FORBES.)

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REPORT.

I HAVE the honour to report that, owing to the large volume of evidence which was tendered to the Committee and the limited time available for consideration of such evidence, the Committee could not, without further investigation and inquiry, come to any definite conclusion, and as the subject-matter of the Bill is of such importance to the public it should be subjected to further inquiry during the next session of Parliament.

The Committee therefore recommend that the Bill be not allowed to proceed.

28th October, 1935.

A. D. McLEOD,
Chairman.

NOTES OF EVIDENCE

TAKEN BY INDUSTRIES AND COMMERCE COMMITTEE IN CONNECTION WITH THE COMMERCIAL TRUSTS ACT AT PARLIAMENTARY BUILDINGS, 9TH OCTOBER, 1935.

The Chairman: The Committee has decided to take to-day the evidence of those objecting to the Bill, and it also proposes to ask for leave from the House to sit again at 3 p.m. so as to give the objectors every opportunity. The Committee would be very pleased indeed if the objectors could complete their evidence to-day if at all possible, but we cannot see our way to hear any further evidence from the objectors after to-morrow. A recent communication has reached the Committee from the Wellington Coal Merchants' and Dealers' Association against the Bill. Is there anybody representing that request here? [*No reply.*] (The Secretary explained the position to the Chairman.)

Counsel for the objectors (Mr. H. F. O'Leary, K.C.): I appear with Mr. Jessep to make objections to this amendment. Therefore I name the companies and persons whom we represent:—

National Distributors, Ltd., Head Office, Wellington.
Self Help Co-op., Ltd., Head Office, Wellington, with 145 stores throughout New Zealand.
Hill Bros., Ltd., Wellington.
Rimmer and Co., Levin (Grocers).
(National Distributors are wholesale grocers, the others are retail grocers.)
J. Norrie, Timaru (Grocer).
G. H. Horsburgh, Grocer, Hawera and Taranaki generally.
Tudehope Stores, Whangarei.
Darby's (N.Z.), Ltd., Napier (Fancy Goods).
W. S. Millar, Service-station Proprietor, Auckland.

(The Chairman agreed with Mr. O'Leary's suggestion that he (Mr. O'Leary) would make detailed statements and quote authorities in opposition to the Bill, and then call witnesses.)

Mr. O'Leary: We summarize our submissions in this way: We submit, first, that there should be no amendment in the way of lessening the effect of the Act—the Act is weak already; second, at the present time sections 3 and 4 are of some effect in preventing price-fixation—and boycott—the Bill will nullify the effect of those provisions altogether; third, the alleged ground for the Bill is the prevention of price-cutting—we will call evidence that in the trades in which we are concerned price-cutting, if it exists at all, exists only to a negligible extent; fourth, this Bill as amended will have the effect of enabling high prices to be fixed to the detriment of the consumer.

The Bill that it is proposed to amend is the Commercial Trusts Act of 1910, which, as is well known, was drawn up by a very eminent gentleman—Sir John Salmond—and it has been looked upon in other countries as a model of draftmanship. Certain propaganda is being issued in an endeavour to have this measure passed, and in it the naive suggestion is made that as only two sections out of the fifteen sections are affected by this proposal then the amendment is only a little one and it does not really affect the position very much. I want to refer to the Bill to show that sections 3 and 4, which are the sections it is proposed to amend, are most important. Summarizing section 3, it means this: that it is an offence to give concessions to A. for any of the five following reasons: (1) That A. deals exclusively with B. or B.'s class; (2) that A. undertakes not to deal with C. or C.'s class; (3) that A. restricts his dealing with C. or C.'s class; (4) that A. is a member of a commercial trust; (5) that A. acts in obedience to a commercial trust. Section 4, which is a vital section, makes it an offence for any person to refuse to sell to A. because: (1) A. deals with B. or B.'s class, or will not undertake not to so deal; (2) A. is not a member of a commercial trust; (3) A. does not act in obedience to a commercial trust. Section 5 is the monopoly section making it an offence to monopolize the demand or supply of goods in New Zealand and it is an offence to so create a monopoly if such monopoly is contrary to the public interest. [Mr. O'Leary quoted sections 8 and 9.] You will see that I am correct in saying that the crucial sections are sections 3, 4, and 5.

At this stage I would like to read to you an extract from the *Evening Post* of the 24th August, 1935, headed "Trade Piracy—Amending the Laws—Damages by Price-cutting," by the Associated Chambers of Commerce:—

This was an extreme and far-reaching prohibition to place on price-control and supply-control by importers, manufacturers, and distributors. England has no legislation like it, there is no prohibition of private price-fixation activities there, nor any need or demand for restrictive legislation. In view of this it is seriously open to question whether there was ever any need for the enactment in New Zealand of the Commercial Trusts Act or whether there is any need to-day for its retention on the statute-book. However, that question can be passed over, because the Government's Bill does not propose repeal of the Act, in whole or in part.

No Defence possible.

The fact is that the operations of the price-cutter, on the scale to-day practised in New Zealand, have been made possible only by virtue of the Commercial Trusts Act. The price-cutter respects no recognized retail prices, and since the present law forbids distributors from withholding further supplies from him the Act therefore gives him full licence to hold a pistol to the head of the distributor and to continue his price-cutting activities without hindrance. The Act, in effect, says to the wholesale trader: "The price-cutter is taking from you supplies of commodities which you have advertised extensively and for which you have built up a public demand. He is cutting the retail prices below the recognized level, merely as 'catch' lines, thereby giving but a passing advantage to the consumer, but destroying the trade in those lines by other retailers who sell at a fair price. This has reduced the demand for your commodities, denied you a reasonable profit, lowered your output, reduced the number of your employes, and seriously restricted credit facilities. Nevertheless, you may not protect yourself, you shall have no rights whatever over your own property, and you shall be compelled to continue supplies indefinitely to these trade pirates who have battered themselves on to your business until there be no business left for them to batten on to."

A Measure of Justice.

It is just this measure of justice which the Commercial Trusts Amendment Bill of the Government seeks to infuse into the Commercial Trusts Act. Much as many traders would like to see the Act wholly repealed or very greatly amended, the amending Bill in no way alters or removes the powers or penalties in any particular which are contained in the Act. The Bill leaves untouched all the provisions in the Act regarding the control of monopolies, and of operations resulting in the charging of prices which may be deemed to be unreasonably high. Of the fifteen sections of the Act, the amending Bill affects only two—namely, those relating to the giving of concessions in consideration of exclusive dealing, and to refusals to deal with price-cutters. The provisions and penalties governing these matters are still retained, the Bill merely making a modification which provides that, in any proceedings taken, it shall be sufficient defence if the defendant proves to the satisfaction of the Court that those actions by him are not prejudicial to the public welfare, to any industry in New Zealand, or to the persons immediately affected."

Now, Sir, the cry of those who want this amendment is that price-cutting, followed by ruination to manufacturer and wholesaler or to some one, cannot be prevented because of the Act. Price-cutting was very thoroughly considered in 1927 by a Committee of inquiry set up by the then President to the Board of Trade, who was yourself, to investigate the proposal that an association, known as the Proprietary Articles Trades Association, should be permitted to operate in New Zealand. The association was to be a similar association to that known in Australia and England whose mode of business was this: the proprietors of proprietary articles formed an association and the proprietors of these articles fixed their prices. If a retailer sold at less than the fixed price, he was not only refused a supply of the particular article "cut," he was cut off from the supply of the whole of the articles stocked by the Proprietary Articles Trades Association—boycotted. The reason why I am referring to this in so much detail is that I want to bring under your notice the result of the functioning of this Committee. Price-cutting was the ground on which it was contended that the Committee should operate in New Zealand. The Committee of inquiry consisted of four members—Mr. Collins, then of the Board of Trade; Mr. Montgomery, who had been lately Commissioner of Customs; Mr. Hayward, a manufacturer from Dunedin, and Mr. Reardon, formerly workers' representative on the Court of Arbitration. The report was the report of the three members—Mr. Hayward dissenting; and, in short, as I will tell you presently, they reported against the operating of the Proprietary Articles Trade Association in New Zealand, and on page xv of the report dealing with the question of price-cutting it says—

It is therefore necessary to examine (a) the extent and nature of price-cutting, (b) the extent of the detriment to manufacturing and trading interests arising therefrom, and (c) the justification or otherwise for the system of price-maintenance proposed to be adopted by the association.

It is abundantly evident that the price competition or cutting may be classified under two headings—

- (1) Price-reductions which have an explanation and justification based upon certain savings in costs of distribution or sale, economies, or advantages in buying and/or trading necessity arising from changes in demand or fashion or from financial reasons;
- (2) Price-reductions, which are designed either to eliminate competitors or to draw customers in the hope of selling other articles upon which a relatively high rate of profit is fixed.

I submit that it will be of some interest to the Committee to know what can be done legally by a trader without violating the provisions of the Commercial Trusts Act. You gentlemen well know that the Commercial Trusts Act is restricted as to the commodities that it deals with; it deals with food, coal, petroleum products, and agricultural implements, and there is a general impression created and disseminated that a wholesaler can do nothing in the way of controlling retailers in their retailing his article. I submit that the legal position is this—and it is not only my own view: it is the view of many lawyers who have considered this question:—

- (1) A trader is not bound to sell his goods to any one to whom he does not wish to sell them.
- (2) He can in the ordinary course of trade sell to A. at a lower price than he sells to B; he can sell to one class lower than to another.
- (3) He can in the ordinary course of trade differentiate in the prices charged for the reason that A. takes his whole supply from him while B does not.
- (4) He can impose on the purchaser an obligation to retail at a particular price, and if a retailer breaks an arrangement to sell at a particular price he can be restrained by injunction from doing so.
- (5) He can, if he finds that the purchaser is retailing at a lower price than that fixed, refuse to supply, and may further—
- (6) He can demand cash from one customer and give credit to another.

He can do all these things legally, but, generally, if he does any of these things for the reasons set out in sections 3 and 4 of the Act he is acting illegally. Why is the trader not content with what, I submit, he can do legally at the present time? He is not content generally because he wants concerted action against the obstructive retailer, and he wants to use the power of combination and boycott—cut off supply. That is why this alteration is required to sections 3 and 4, because, whilst a trader can do legally what I submit he can do, if his wishes are not complied with, he wants to go beyond his own personal rights and he wants to use boycott and combination to have the recalcitrant trader dealt with.

I submit that experience from 1910 to 1935 demonstrates beyond question that, far from requiring modification, the Act is very weak and requires considerable extension. The following facts support this conclusion:—

- (a) In 1912 (two years after the Act was passed) the *Cost of Living Commission* made a drastic report [see extract attached to this memorandum; handed to members of Committee] on how monopolies, combines, trusts, and associations of manufacturers or sellers of the necessaries of life had contributed to higher prices. The Commission heard 270 witnesses, but was met by a point-blank refusal from the Merchants' Association to give any evidence whatsoever. The Commission found that trusts, monopolies, and combines operate *extensively* in New Zealand, and were endeavouring to corner supplies and increase prices to the detriment of the people, and were *boycotting* independent traders, and that they fixed higher prices for at least twenty-six commodities. The Commission recommended drastic *additions* to the Act to embrace *all commerce*, and *additional and wider provisions* in the Act, including prohibition of any combination arranging selling-prices to the retail trader or to the public, with a direct or indirect *penalty* to any trader refusing to do so.
- (b) In November, 1912, two months after the Cost of Living Commission report, the Merchants' Association of New Zealand was prosecuted and found guilty of conspiring to create a monopoly in sugar (under section 5), boycotting (under section 4), accepting illegal concessions (section 3), aiding and abetting (section 9). This is the *only successful* large prosecution under the Act. [(1912) 32 N.Z.L.R. 702, 1233.]

(*Mr. O'Leary*: I make this remark; that this is the only major prosecution under the Act that has been successful in New Zealand; there have been some minor ones.)

There is a third point—

- (c) In 1914 Fairbairn, Wright, and Co. endeavoured to obtain £8,000 damages from Levin and Co., Ltd., for alleged breaches of sections 3, 4, and 5, but the Court of Appeal held that *no private person may sue under the Act* for damages; only the Crown can sue for the penalty of £500. The complaints against Levin and Co. were that they were a member of the Merchants' Association of New Zealand; that this association arranged for supplies of sugar from the Colonial Sugar-refining Co. on much better terms than outsiders; and that Fairbairn, Wright, and Co., by reason of the combine, were being victimized by illegal concessions (section 3); were being boycotted (section 4); and were victims of a monopoly (section 5). [(1914) 34 N.Z.L.R. 1.]
- (d) In 1915 the Act was extended from specific foods—meat, fish, flour, oatmeal, and sugar—to cover *all foods*. [Cost of Living Act, 1915, section 12.]
- (e) In 1919 the Board of Trade Act was passed, including special provision against profiteering, already provided for in the Commercial Trusts Act (section 6).
- (f) In 1927 the prosecution of the Crown Milling Co., Ltd., and Distributors Ltd., by which a practical monopoly in flour was established, failed. [(1925) N.Z.L.R. 258, 753; (1927) A.C. 394.]

Mr. O'Leary: And it failed, I submit—this is of very great importance in considering the present proposal to amend the Bill—because it is not a monopoly if the monopoly is not contrary to the public interest, and it was held that there was a failure to prove that this monopoly was contrary to the public interest. I submit this that the effect of this decision is that section 5 is annihilated. It is impossible—if the decision in the Flour Milling case is considered—to show that a monopoly is contrary to public interest.

- (g) In 1927 a Committee of inquiry under the Board of Trade Act investigated the Proprietary Articles Trade Association, already known in Canada, Great Britain, and New South Wales. The Committee found that the association would be a *danger to the public*, and stated that “the element of force by *the boycott* is a weapon which no body of citizens could use without coming sooner or later into serious conflict with public opinion.” (Page xvii of report.)

The final fact I submit why the Act should be retained in its entirety is this—

- (h) In 1933 tobacco and cigarettes were taken out of the Act. As a result certain independent traders can only buy supplies *on much worse* terms than competitors. A Tobacco Association is at present suggested, with cutting off supplies to those not falling into line with the association.

Mr. O'Leary: I have copies of the draft rules and the agreements to show you that what I am saying is perfectly correct.

To proceed with the amendment itself: The amendment makes it a sufficient defence if the defendant proves all of the following matters to the satisfaction of the Court, that is to say:—

- (a) That the specific act or acts charged against him were not unfair to the person or persons immediately affected, having regard to the circumstances of the case :
- (b) That the specific act or acts charged against him were not prejudicial either to any industry carried on in New Zealand or to the public welfare :
- (c) That acts of the nature of the specific act or acts charged against him, if commonly practised or repeated, would not, in similar circumstances, be unfair to the persons immediately affected and would not be prejudicial either to any industry carried on in New Zealand or to the public welfare.

My submission is this, that the words "unfair" and "prejudicial to the public welfare" are vague and uncertain conceptions, and if used will lead to confusion and prolonged litigation. Repeated and emphatic protests have been made for years by eminent judges against Courts having to decide between what is fair or unfair, reasonable or unreasonable, or detrimental to public welfare or public policy or public interest. Those are matters that will be submitted to the Courts if this section in its present form goes through.

In a case—The Mogul Steamship Company (1892) 23 Q.B.D. 598, 625, Lord Justice Fry stated : "To draw a line between fair and unfair competition, between what is reasonable and unreasonable, passes the power of the Courts."

In 1909 the United States Senate Judiciary Committee made a report in reference to a Bill, very similar in effect to the present Bill, which proposed to amend the Sherman Anti-Trust Act, 1890, by allowing "reasonable" trade combinations. The report contains a full, careful, and able analysis of judicial decisions on trade combinations and monopolies, and upon the proposed Bill reads as follows :—

The Anti-Trust Act makes it a criminal offence to violate the law, and provides a punishment both by fine and imprisonment. *To inject into the Act the question of whether an agreement or combination is reasonable or unreasonable would render the Act indefinite and uncertain and hence to that extent utterly nugatory and void, and would practically amount to a repeal of the Act.* And . . . the injection of the rule of reasonableness or unreasonableness would lead to the greatest variability and uncertainty in the enforcement of the law. The defence of reasonable restraint would be made in every case and there would be as many different rules as cases, Courts, and juries. What one Court or jury might deem unreasonable another Court or jury might deem reasonable. In the case of *People v. Sheldon*, Chief Justice Andrews remarks : "If agreements and combinations to prevent competition in prices are or may be hurtful to trade, the only sure remedy is to prohibit all agreements of that character. If the validity of such an agreement was made to depend upon actual proof of public prejudice or injury it would be very difficult in any case to establish the invalidity although the moral evidence might be very convincing. To amend the Anti-Trust Act, as suggested by this Bill, would be to entirely emasculate it, and for all practical purposes render it nugatory as a remedial statute. Prosecutions would labour under the greatest doubt and uncertainty. The Act as it exists is clear, comprehensive, certain, and highly remedial. It is in every respect a model law. To destroy or undermine it when combinations are on the increase, and appear to be as oblivious as ever of the rights of the public, would be a calamity." The result was an indefinite postponement by the Senate of *any further* consideration of the proposed amendment.

In a famous case in the House of Lords in 1853 Lord Parke made the following important comments on public welfare, or public policy : "It is the province of the statesman, and not the lawyer, to discuss, and the province of the Legislature to determine, what is the best for the public good, and to provide for it by proper enactments. It is the province of the Judge to expound the law only : the written law from the statutes : the unwritten or common law from the decisions of our predecessors and of our existing Courts . . . not to speculate upon what is the best, in his opinion, for the advantage of the community" (*Egerton v. Brownlow*, (1853) 4 H.L.C.1, at 122). He states that the task is for the statesman and not the lawyer to say what is best for the public good, what would be unfair, what would be reasonable, and so on ; and in passing I would draw your attention to the Australian Act of 1906 where "unfair competition" is defined. It has not been wholly effective, but there has been an endeavour there ; but as this Act stands it will be left to the Courts to endeavour to ascertain what is fair, what is unfair, and what is contrary to the public welfare and so on—a task which Judges have protested against being submitted to them. [Informed Mr. Ansell : Australian Industries Preservation Act of 1906.]

(*Mr. O'Leary* produced a book entitled "The Law relating to Trade Combinations" by Haslam.) You will find that this Act is referred to at pages 170 and the following. The following extract from page 176 was read by *Mr. O'Leary* :—

The section which gave treble damages to an injured party afforded little protection to public interest, since the cost of litigation deterred an individual plaintiff from attacking a powerful combine, which had the means at its disposal to carry appeals as far as the Privy Council. Furthermore, the absence of a clear definition of unfair competition rendered the administration of the Act extremely difficult. The learned author considered the ordinary Courts incompetent to deal with the problem, since the average Judge lacked business experience. He advocated the introduction of more flexible regulations to be administered by a special tribunal. In this manner novel devices on the part of industrialists to exploit the public interest might be brought to light and, if possible, prevented.

It is striking that one of the grounds on which competition shall be deemed to be unfair is if the defendant is a commercial trust—no other ground is necessary whatever.

Mr. Harris : What is the definition of "commercial trust" ?

Mr. O'Leary : "Commercial trust" is defined in section 2 of the Act of 1910 :—

"Commercial trust" means any association or combination (whether incorporated or not) of any number of persons established either before or after the commencement of this Act, and either in New Zealand or elsewhere, and

- (a) Having as its object or as one of its objects that of (i) controlling, determining, or influencing the supply or demand or price of any goods in New Zealand or any part thereof or elsewhere, or that of (ii) creating or maintaining in New Zealand or any part thereof or elsewhere a monopoly, whether complete or partial, in the supply or demand of any goods ; or
- (b) Acting in New Zealand or elsewhere with any such object as aforesaid ;

and includes any firm or incorporated company having any such object, or acting as aforesaid.

Mr. O'Leary: As I submitted to you earlier, the individual trader can do many things in the way of price-cutting and restricting supply, as is evidenced in sections 3 and 4 of the Act.

The danger of ascertaining legal rights by reference to words such as "reasonable" or "fair" (which this Bill proposes to add to the Act) was stressed by the Supreme Court of the United States in 1896, in a long judgment convicting twenty railroad companies of breaches of the Sherman Anti-Trust Act. They point out the impossibility of deciding upon what is "reasonable" in the following words:—

If only that kind of contract which is in unreasonable restraint of trade be within the meaning of the statute, and declared therein to be illegal, it is at once apparent that the subject of what is a reasonable rate is attended *with great uncertainty*. What is a proper standard by which to judge the fact of reasonable rates? Must the rate be so high as to enable the return for the whole business done to amount to a sum sufficient to afford the shareholder a fair and reasonable profit upon his investment? If so, what is a fair and reasonable profit? That depends sometimes upon the risk incurred, and the rate itself differs in different localities: which is the one to which reference is to be made as the standard? Or is the reasonableness of the profit to be limited to a fair return upon the capital that would have been sufficient to build and equip the road, if honestly expended? Or is still another standard to be created, and the reasonableness of the charges tried by the cost of the carriage of the article and a reasonable profit allowed on that? And in such case would contribution to a sinking fund to make repairs upon the roadbed and renewal of cars, &c., be assumed as a proper item? Or is the reasonableness of the charge to be tested by reference to the charges for the transportation of the same kind of property made by other roads similarly situated? If the latter, a combination among such roads as to rates would, of course, furnish no means of answering the question. It is quite apparent, therefore, that it is exceedingly difficult to formulate even the terms of the rule itself which should govern in the matter of determining what would be reasonable rates for transportation. While even after the standard should be determined there is such an infinite variety of facts entering into the question of what is a reasonable rate, no matter what standard is adopted, that any individual shipper would in most cases be apt to abandon the effort to show the unreasonable character of a charge, sooner than hazard the great expense in time and money necessary to prove the fact, and at the same time incur the ill-will of the road itself in all his future dealings with it. To say, therefore, that the Act excludes agreements which are not in unreasonable restraint of trade, and which tends simply to keep up reasonable rates for transportation, is substantially to leave the question of reasonableness to the companies themselves.

Mr. O'Leary: If the Bill becomes law, Judges would have to follow the common law and endeavour to interpret what is fair and detrimental to the public welfare, and it is submitted that that would have very serious consequences. To summarize the matter, the common-law conception of public interest, fairness, public welfare, and public policy is far too unsatisfactory and uncertain to make the interpretation of the Commercial Trusts Act depend upon it. The flour combine in 1927 escaped liability under section 5 because of these very words "contrary to public interest," and in the present Bill the same difficulties would arise with the words that I have mentioned—"fair" and so on.

The next point I make is that the Privy Council, in deciding in favour of the flour combine in the Crown Millers' case (1927), pointed out that the New Zealand Act does not define "contrary to public interest," but has left the matter to be ascertained by the Courts, and stated that "It is not for this tribunal, nor for any tribunal, to adjudicate between conflicting theories of political economy." It is submitted that this is what may happen too if the Bill is amended in the way suggested—the matter being left to the Courts to interpret—and, after all, Judges are only human, and although making decisions on the evidence produced, these decisions may not be fair.

Judge Sim, when deciding the flour case in the New Zealand Supreme Court (and he was later upheld in the Privy Council), made the statement that—

The price secured by means of a monopoly may be higher than would have been obtained under free competition, but that does not make the monopoly contrary to the public interest.

Now, I would like to deal for a moment with "price-cutting," and I refer to a statement that appeared in the press that the Act shields price-cutting. This is erroneous. The Act does not prevent an individual manufacturer or wholesaler from refusing to sell to any trader who will not observe a fixed resale price. A list of at least fifty articles is available upon which the retail price is permanently fixed. (That statement appeared in the *Evening Post* on the 24th August, 1935.)

What the Act does prevent is a combination of manufacturers or wholesalers forming an association to bring pressure to bear upon independent traders to fix prices, by refusing supplies unless the prices fixed are observed.

[*Mr. O'Leary* read extract from *Evening Post* mentioned above:]

This was an extreme and far-reaching prohibition to place on price, &c. [See page 3 hereof.]

This Bill would, it is submitted, allow monopoly in the worst sense and would encourage trusts, coercion, threats, intimidation, boycotts, blacklists, and refusal of supplies to independent traders. The facts in the prosecution of the Merchants' Association of New Zealand in 1912 on the sugar monopoly speak for themselves.

In regard to combinations, I shall quote for you an extract in regard to a case *United States v. Trans-Missouri Freight Association* ((1896) 166 U.S. 290, at 339). It is to the public interest that there should be a free flow of trade and free competition. Combinations will stifle competition and artificially raise prices. The following very important observations were made by the Supreme Court of the United States in that case in convicting twenty railroad companies of violating the Sherman Anti-Trust Act:—

The claim that the company has the right to charge reasonable rates, and that, therefore, it has the right to enter into a combination with competing roads to maintain such rates cannot be admitted. The conclusion does not follow from an admission of the premise. What one company may do in the way of charging reasonable rates is radically different from entering into an agreement with other and competing roads to keep up the rates to that point. If there be any competition, the extent of the charge for the service will be seriously affected by that fact. Competition will itself bring charges down to what may be reasonable, while in the case of an agreement to keep prices up competition is allowed no play; it is shut out, and the rate is practically fixed by the companies themselves by virtue of the agreement, so long as they abide by it.

Dealing with the question of the activities of the Merchants' Association in securing control and fixing higher prices, the Cost of Living Commission in 1912 said this:—

The evidence before the Commission proves that the Sugar Co. have accorded preferential buying conditions to the Merchants' Association, and to favoured retail firms who buy through them, by which the company gives a larger discount to members of this association than to independent traders, who may buy in much larger quantities, but who will not join the association. *The object is to stifle competition in distribution and guarantee definite profits to wholesale dealers who are members of the association, as against other outside merchants. Could these outside merchants buy on the same terms as these favoured individuals the price of sugar would probably be materially reduced to the public.*

Mr. O'Leary: It is submitted that if this Bill is passed manufacturers, importers, wholesalers, and distributors will raise their prices *immediately* by, say, at least 10 per cent. If this were done no Court could easily hold this move was "prejudicial to the public welfare," because neither the Bill nor the Act defines these words, and they must hence be interpreted *according to the case or common law*. In the Flour Combine case (1927) Judge Sim stated:—

The price secured by means of a monopoly may be higher than would have been obtained under free competition, but that does not make the monopoly contrary to the public interest.

I give you that as an example.

The report of the Cost of Living Commission in 1912 states, at page lxvi:—

An isolated, highly protected, and sparsely populated country like New Zealand, so far distant from the world's markets, especially lends itself to the manipulation of trusts and combines. It is a comparatively easy matter for a few wealthy individuals in any given industry or business to secure control of the output, and by *slightly* raising prices to levy *secret taxation on the whole community*.

I submit that it would be quite easy for a manufacturer or a wholesaler to increase his overhead costs by paying directors larger fees and so on and pleading this in justification of higher prices. Moreover, importers who are only agents for foreign interests can so operate as to buy their supplies, leaving all the profit with foreign head office, and covering in New Zealand only importing and distributing costs. How can any independent trader hope to prove to a Court that the data on import costs produced by such an importer is incorrect?

My submission is this: that the Act is too lenient because no individual trader can sue under it for damages, although under the Australian and American statutes a private individual can sue for *treble damages*. The Australian and American statutes also provide for imprisonment for offenders. The New Zealand Act is deficient in these respects, and should be altered.

I have one or two further references which I would like to quote to you. Dr. Haslam, in his work "The Law relating to Trade Combinations," refers to the criticism made by Dr. Jethro Brown on the Australian Act. There are in this criticism some pertinent remarks.

Dr. W. Jethro Brown has advanced several powerful criticisms of the Australian Act . . . The section which gave treble damages to an injured party afforded little protection to public interest, since the cost of litigation deterred an individual plaintiff from attacking a powerful combine, which had the means at its disposal to carry appeals as far as the Privy Council. Furthermore, the absence of a clear definition of unfair competition rendered the administration of the Act extremely difficult. The learned author considered the ordinary Courts incompetent to deal with the problem, since the average Judge lacked business experience.

The Bill would give rise to protracted litigation, and each set of circumstances would require a separate decision. The Crown Millers' Case (1927) was taken to the Privy Council, and took two years ((1927) A.C. 394). In deciding that case the Privy Council observed that the question of being contrary to public interests "is, of course, such as to lend itself to prolonged discussion."

You will have some knowledge of the protracted litigation that ensues when an attack is made on any combination in respect of this Act. [Made further reference to the length of time the Crown Millers' Case took.] It is perhaps out of place to quote American authorities in regard to length of time, but I might mention that in 1911 the Standard Oil Co. and thirty-three other corporations in the United States were convicted under the Anti-Trust Act. After five years' litigation the evidence and papers comprised 12,000 pages in twenty-three volumes, and the same is not unlikely if the suggested amendment is allowed to go through. If sections 3 and 4 are passed it will have a disastrous effect on trading in New Zealand. I do not suppose that any one would have the audacity to suggest that sections 3, 4, and 5 have not been broken time and time again in New Zealand, but if they are left in their present form there is the fear of prosecution, with its attendant penalties for any one who breaks that law; we say that if this amendment is made, the prospective law-breaker will start on his campaign with far greater confidence that the law cannot touch him.

[Mr. O'Leary informed the Chairman that the first witness he would call would be a Mr. Norrie, from Timaru. He was one of the persons against whom it is suggested that the legislation is directed.]

Mr. O'Leary: They [referring to the witnesses he would produce] are alleged to be price-cutters; they will show you, I think without doubt, that they are able to sell at those prices because of the efficiency of their businesses and their organization and their cutting-down of overhead costs. I shall then call Mr. Arthur Sutherland, who is a director of National Distributors, Ltd. His evidence should be of the greatest importance, as they supply 545 stores throughout New Zealand. These have grown from a little store established by Mr. Ben. Sutherland some ten or twelve years ago when he retired from the Railway Service. These stores gave the people of this country commodities—groceries, &c.—at a low price, and Mr. Sutherland has been enabled to do it not by vicious price-cutting, but because of the efficiency of their organization and the keeping-down of overhead costs.

EXTRACT FROM PAGES LXV—LXXVI AND PAGE XCI OF COST OF LIVING COMMISSION REPORT 1912—SEE
PAGE 4 OF ADDRESS BY MR. H. F. O'LEARY, K.C.

The evidence that the Commission has been able to collect proves conclusively that trusts, monopolies, and combines operate extensively in the commerce of this country.

This restraint of trade in the Dominion has only become acute during recent years. In the United States of America and other countries it has proved to be the greatest curse of modern civilization, enabling unscrupulous individuals to amass immense fortunes at the expense of the people. Under free and competitive trade the best and most economical methods of distribution from the producer to the consumer will succeed, and the whole community will benefit.

An isolated, highly protected, and sparsely populated country like New Zealand, so far distant from the world's markets, especially lends itself to the manipulations of trusts and combines. It is a comparatively easy matter for a few wealthy individuals in any given industry or business to secure control of the output, and by slightly raising prices to levy *secret taxation* on the whole community.

Trade combinations in America were, in the first instance, adopted for the purpose, amongst other things, of eliminating unnecessary expenses in the cost of manufacture and distribution, and had this been the sole object of such combinations the consumer would have benefited, as all improved services, such as labour-saving machinery, cheaper transport, railage, postal, cable, telegraph, and banking facilities are directly beneficial to the whole community. But the operations of these associations and combinations in New Zealand as disclosed by our investigations have had an exactly opposite effect, for their avowed object is to *corner supplies and increase prices* to the detriment of the people.

While the common object of these associations is so to regulate industry that it may become more profitable to those in whose interests it is regulated, the Commission must not be understood to condemn all form of combination, as, for instance, a combination of traders who buy in concert in order to obtain maximum discounts, cheaper transportation, and other legitimate objects of a like nature, such benefits being passed on to the consumer. But what appears to your Commissioners to be particularly reprehensible is the practice common in New Zealand of combinations in different branches of trade not merely fixing selling-prices but *fixing penalties* for breaches of the agreement to sell as arranged, or bringing *pressure to bear on suppliers to refuse supplies to independent traders* who do not conform to their selling conditions.

Acting upon legal advice, individual members of the Merchants' Association of New Zealand refused to give evidence. The Commission has definite proof that the members of this association have banded together for the purpose of restraining trade in their own interests, and boycotting independent traders. Where they have succeeded in securing control of imported and locally produced commodities their operations have been followed by *increased prices*. In no single instance have they reduced the price of any commodity to the public. They have obtained control and fixed higher prices for at least the following commodities—viz., sugar, matches, cocoa, Keiller's marmalade, Colman's mustard, Colman's starch, Keen's spice, Keen's blue, Robinson's groats and barley, oatina, gerstena, Neave's food, Mellin's food, Edmond's baking-powder, sapon, Levers' soaps, Reckitt's polishes, local starch, soap, candles, proprietary teas, Highlander milk, tobacco, cigarettes, and certain brands of cigars.

It was proved to the satisfaction of your Commissioners that the Merchants' Association are bringing constant pressure to bear upon local, British, and foreign suppliers to refuse supplies to independent traders who refuse to join the "ring." As an instance of their methods the following letters are quoted. It should be explained that these letters were at first given to the Commission in confidence, but that that embargo was subsequently removed.

While, as already stated, your Commissioners cannot definitely measure the extent to which prices have been raised by the operations of the various branches of this association, voluminous evidence was tendered us clearly showing that *prices have been raised to the public* immediately the association secured the control of various commodities.

Another equally deplorable state of affairs is that certain favoured large retailers, able to buy many of the necessaries of life on exactly the same terms as the wholesale merchants, instead of passing on the saving to the public, retail the goods at the same prices as the smallest of their competitors, who have in many instances to pay 15 per cent. more for the same goods through the Merchants' Association, and who are debarred the opportunity of buying from the same source in the same quantities as the favoured ones.

The evidence before the Commission proves that the Sugar Co. have accorded preferential buying conditions to the Merchants' Association, and to favoured retail firms who buy through them, by which the company gives a larger discount to members of this association than to independent traders who may buy in much larger quantities, but who will not join the association. *The object is to stifle competition* in distribution, and guarantee definite profits to wholesale dealers who are members of the association, as against other outside merchants. Could these outside traders buy on the same terms as these favoured individuals, the price of sugar would probably be materially reduced to the public.

This Commission to question 12—"What causes generally have brought about the increased cost of living?"—answered that one of the *chief factors* was "Local combinations, monopolies, and trusts, commercial and industrial, which both raise prices directly to the consumer and *tend to discourage initiative and self-reliance.*"

This Commission to question 13—"What steps should be taken with a view to reducing the cost of the necessaries of life?"—recommended, *inter alia*, as follows:—

"Your Commissioners are of opinion that an amendment to the Commercial Trusts Act is necessary and should be widened to embrace *all commerce*, and include the following additional provisions:—

- "(1) That it is illegal for any combination of traders to arrange selling-prices to the retail trade or the public with a direct or indirect penalty to any trader refusing to do so. (NOTE.—This would not prevent traders in any business mutually arranging to sell at uniform prices, without obligation or penalty to any one refusing to do so.)
- "(2) That every person commits an offence who makes it a condition of sale that the goods are to be resold at prices fixed by the vendor. (NOTE.—This would not prevent a vendor from arranging a scale of prices for large and small quantities, but it would establish the principle that the purchaser has an *unrestricted right to his own property*. It would encourage a number of retail distributors to co-operate in buying maximum parcels, and thus be in a position to sell cheaper to the public.)
- "(3) The term '*agent*' requires stricter definition, as it is now used to defeat the spirit of the Act. Individual members of the Merchants' Association of New Zealand are called '*agents*,' to secure them special discounts in the sale of oatina and gerstena, which would otherwise be illegal under the Commercial Trusts Act.
- "(4) The Act should contain a provision giving power to the Governor in Council to gazette prohibitions to any selling-conditions cunningly devised to defeat the spirit of the Act where the public interests are prejudiced."

JOHN ALEXANDER NORRIE, Grocer, Timaru, cross-examined.

Mr. O'Leary.] How long have you been in business?—Twenty-three years—nine years service store and fourteen years cash and carry—cash over the counter.

What is your overhead?—Last year is the highest that I have had since I commenced cash and carry, 8 per cent. approximately.

What was your minimum overhead?—In 1921 it was 5 per cent. ; the lowest would be $4\frac{3}{4}$.

How would that compare with the overhead for a service store?—The service store would run into 15 per cent. to $17\frac{1}{2}$ per cent.

Gross on turnover?—Yes.

Does that reduction in turnover enable you to do anything so far as prices are concerned?—Most certainly ; we are enabled to give our customers goods at cheaper prices, which is impossible, of course, with a high overhead.

Are you enabled to generally retail at a lower price because of your cash and carry?—Yes.

Are there certain lines that are sold practically cost price?—There are certain commodities that are sold at practically the manufacturers' price ; flour and sugar are both sold at practically cost price, and while that exists I have to meet the competition.

Is that general?—Flour and sugar are two lines that are stocked by all grocers.

There is no difference in the price?—In the main, no ; it is practically the same at all grocers.

Mr. Wilkinson.] You were saying that you were able to sell articles at a lower price because of your lower overhead since you gave up the service store ; could you give any examples?—Just that we know that immediately we advertise a line our competitor who is giving service immediately advertises the same line at the same price ; he cannot do it. You cannot give service and sell at the same price as cash over the counter.

What is your view of sacrificing a line just as a catch line?—I am definitely opposed to it. It is not legitimate business ; my view always has been that every line should carry its own load.

You have been able to carry on on that basis?—Yes.

Have there been lines sacrificed?—Yes, flour and sugar during the last two or three years. I might say that I think certain firms get discounts from the manufacturer which we cannot get ; therefore he may be selling at a profit. I am compelled to meet his prices, although I am not on that special basis.

Mr. O'Leary.] You know that there is a special basis?—Yes.

What view do you take in regard to this amendment?—We are greatly concerned ; in fact so much so that I am anticipating that I shall have to go out of business if the amendment is passed or at least go back to the delivery and service store, which I do not wish to do. If prices were fixed, we would not do one-third of our present business.

Do you know that from your experience on lines where prices are at present fixed?—Yes.

What margin of profit are you compelled to make when prices are fixed?—I might mention Bayers aspirin [?]. The landed cost is 9s. 7d. and they are retailed by me at 1s. ; the price is fixed at 1s. 6d., but I refused to sell at 1s. 6d. I had a letter from the agents asking me to price them at 1s. 6d., failing that they would take action against me. I ignored that, and then I had a further letter asking me if I would promise to sell at 1s. 3d. ; I still refused, and they wrote again. On the wholesale price a handsome profit could be made at 1s. They said that this was not fair to the small trader, who would not get the advantage of discounts.

Those are articles outside the purview of the Commercial Trusts Act and you were in the hands of the agents or the manufacturers and had to sell at the stipulated price?—Yes. I have been quite content with 1s.

Are you in a substantial way?—Yes, I have four employees in one shop in Timaru. I may say that these four are equal to about eight or nine in a service store.

That is, the cash and carry lessens the work?—Yes.

Mr. Harris.] Why do you say that it is not legitimate in your opinion to have catch-lines?—I do not believe in underselling an article, and I think that each line should carry its burden of the overhead ; also it is unfair to the manufacturer of the line.

Supposing you decided to sell a certain line at a cut rate to save you the expense of advertising, would that not be legitimate?—It might be legitimate, but it would be unfair.

Mr. Wilkinson.] Under the old method of service store you say that your overhead was 15 per cent. to $17\frac{1}{2}$ per cent., but under the cash and carry system it is $4\frac{3}{4}$ per cent. or 5 per cent.— $4\frac{3}{4}$ per cent. for the first two years.

How long since you gave up the service store?—In 1921, fourteen years ago. Of recent years the overhead has been 8 per cent. I could really put on two lads instead of paying men adult wages, but I do not wish to do that.

How did you bring about the reduction in overhead?—No delivery, booking, &c.

How many hands did you discharge?—None, my business increased ; I had to put on another assistant.

I think you said that those carrying on business under the old method have heavier overhead?—Yes, and it is impossible for them to sell at our prices. They have to deliver and keep books. My experience in the cash and carry business is that I made more money in one year under that system than I made in nine years under the service-store system.

Have you reduced wages?—No, I have not ; I try to give my men the best.

You mentioned two articles that you sell at the same price as your competitors, flour and sugar. Do you pay the same price?—It depends ; some are retailers and wholesalers, but I understand that the retailers all buy at the same price from the merchant.

Therefore you buy at the same price as every other retailer?—On the same basis. There are some who are retailers and others who are wholesalers, and the wholesalers may buy direct. For instance, the National Distributors, they are part and parcel of the Self-Help.

You mean that the wholesaler can buy better than the retailer.—Yes.

Mr. Ansell.] In reply to Mr. Harris you made a statement that you had reduced your overhead very substantially in the cash-and-carry store and that you did not dismiss any staff, is that correct?—Yes. I did not at the time. My turnover increased.

Did you give the same service to the public?—We cut out delivery and calling for orders.

I understand from your remarks that the wages paid under the new system are the same as under the old?—No reduction.

You say that four employees under the new system could do the work of eight under the old?—They handle more goods; there are no men going out for orders. The man in the cash-and-carry store would handle three times as many goods as the man in the service store.

You remarked that with price-fixation on certain lines (tobacco) the business dropped by two-thirds, would you suggest less consumption of that article?—No, only that a man could get it anywhere at the same price.

Is it a fact that the business was transferred to the tobacconists?—Possibly. Some people think that is quite all right, but I claim that tobacco was the grocer's line originally.

Are there any other examples apart from what you have given us (sugar and flour) in regard to which you are not on the special discount basis?—I do not know of any others. Sugar is really the only item.

There are other lines, are there not—flour for instance?—I understand there are some on the direct list. Then there is Edmond's baking-powder on which there is a discount of 7½ per cent. which you cannot get unless you join the organization United Buyers. I will not join up, as I am opposed to that kind of thing.

Mr. Sullivan.] You are of opinion that service given must be charged for?—Yes.

That must have an effect on unemployment if you curtail that service. What would be the position in your own town if all those engaged in your line of business adopted the same method?—Naturally it would displace some. Once we all became cash and carry we would get on to a level basis—we would have to adjust ourselves. In 1921 I worked at 10 per cent. on the turnover; prices in that year were enormously high, but then they have come down till to-day that is just about cut in half. When cutting costs down, overhead increases. You must increase turnover or increase the margin of profit.

You say that when the price was fixed on tobacco your business in that line dropped by two-thirds?—Yes.

Due to the fact that you sold tobacco at the same price as the tobacconists?—Yes. A service store would send a tin of tobacco at the same price three miles away, if any one rang up on the telephone, and it could even be booked at the same price.

If all the traders adopted your method, what would happen in regard to employment of the assistants? Would it not displace many?—Yes, it might; it remains to be seen.

If there was to be a wide application of your method, would it not mean unemployment for a great mass of the people. If you were faced with that problem as a member of Parliament, what would be your solution?—That is going into a very big question—that is, unemployment. Machinery has displaced so many to-day, but it has made work easy as has my method of cash and carry made work easier. My method has been successful. I have my views on these things, but they do not concern this Committee. I think that superannuation is the way out of the difficulty. My system of trading has improved work very much and has made the task much easier and that is something worth while. We do not work hard; conditions are easier for the men since the cash-and-carry method was adopted; my men never work any overtime except one night before Christmas and one night before stock-taking, and I claim that has made the change over worth while. My competitors are in a very different position; their assistants work very late hours and do a considerable amount of overtime, due to the fact that they give service—delivery—to their customers.

The whole position is this: that if all traders adopted this method of cash and carry—reducing the service to their customers—it would displace a number of assistants. It would reduce staff, would it not?—Yes.

What year did you start your cash and carry?—1921.

And since that your business has grown?—It has fallen off a little during the last two years.

I was wondering if people were most disposed to carry their own goods now than in prosperous times?—Yes, that is the position.

My difficulty is that I do not want to see prices fixed and the public exploited, yet I do not want to see men displaced from their employment—I have to solve that problem. People have benefited by the reduction in prices?—Yes, considerably.

Mr. Jordan.] What is the difference between a wholesaler and a retailer? If you opened three shops to sell exclusively retail, could you get on the wholesale list?—I can get on to some so-called wholesale lists to-day, but we do not get the full wholesale. If the wholesale is 12½, we get 10. Some manufacturers are quite content to go to bigger buyers.

Complaint has been made that certain persons or amalgamations obtain prices that you cannot get?—Yes.

You could get the same prices if you complied with certain conditions?—If I joined a combine. If I wanted fifty cases of Edmonds' baking-powder I could not get ½d. discount, whereas if a firm in the combine wanted one case they would get 7½ per cent.

If you did certain things you could claim lower prices, but you are opposed to that?—Yes; it is a chain, and I am opposed to that.

Tell me, why are you opposed to chain stores?—Well, I claim that my interests are in Timaru and I have no right to open a store in Temuka and take the profits out of that place.

If you opened in Temuka you would employ a manager who lived there, the staff would live there, and you would pay rates and taxes on that business in Temuka?—I would bring my profits to Timaru.

You would not discourage people coming from Temuka into your store at Timaru?—Would you discourage them? If these people are attracted into my shop surely I am justified in accepting them, but to go out into their district I think is wrong.

But you do not mind them coming into your shop. It would be more convenient for the people in Temuka to go into one of your shops in Temuka?—It probably would be; as a matter of fact I have had invitations to go there.

You said the new system of trading has made work easier?—Yes, meaning that I have no books, no accounts to worry about, no bad debts, and no delivery.

You say that your staff is handling three times the amount of goods they used to handle, how would that be easier?—If I had my present turnover and worked under the old system I would require another five or six men to do the work.

The Chairman.] Would you have been in a position to lower your overhead by employing a different type of labour?—Yes, I could have done by employing two lads instead of older men and comply with the award.

On the same class of work?—Yes. I could get lads as efficient as men.

You are a believer in paying good wages?—Yes, I believe in paying a man well for what he does.

Your evidence is to the contrary: you can get assistants at a cheaper rate to displace men on higher wages?—I could, but I do not.

You have displaced men by the cash-and-carry method?—The cost of the goods has been reduced. Naturally.

GEORGE ROBERTSON HORSBURGH, Managing Director, Cut Rate Providers, Ltd., Hawera, cross-examined.

Mr. O'Leary.] Under what conditions do you operate?—I give a comprehensive service, discriminate delivery, and discreet credit. I give a very discreet accommodation; as regards service I would not send a tin of tobacco three miles away.

In what towns do you operate?—Eltham, Stratford, Manaia and Patea, and Hawera.

How many stores?—Seven, three in Hawera.

Not only grocers, also drapers?—Yes.

When did you start in New Zealand?—1921.

Prior to that, where did you have experience?—Scotland and the United States.

Do you know of the proposed amendment to the Bill?—Yes.

Are you opposed to it?—Definitely.

Would you just give the Committee your reasons?—Firstly, I take a long view; I am afraid of the length that it will extend to. At the present time I have thirty-five employees, some of these are girls. My particular reason for taking up such a definite stand towards this amendment is that I am afraid of what may happen. As the Act stands at present there is every facility to enforce prices; I think that many proprietary articles are being sold to-day at a fixed price. I would like to point out, firstly, that it is rather significant that certain big bargain stores operating through this country to-day advocate—if they do not advocate they welcome—fixed prices, because they can sell such lines as tooth-pastes, cosmetics, &c., to the public with a 33½-per-cent. return. This enables such stores to sell cheap, tawdry, inferior articles made by workmen in the Orient, who are threatening to throttle our own secondary industries; these articles are landed here at a ridiculously low price, and I have evidence that they are sold at a ridiculously low profit because any loss made can be offset by handsome profits obtained on fixed price lines. I submit that if this is carried through it will lead to vicious price-cutting such as we have never witnessed before, and I also submit that if this amendment is carried it is going to lead to the dismissal of several grocers and shop-assistants throughout the country. At the present moment we have several little shops throughout the country operated by women who will tell you that they have business acumen; they carry on these shops while their husbands hold down another job, and if the amendment is carried we will have this practice greatly increased. It is very difficult for ordinary traders to compete with this class of business, and the result will be that we shall have to dismiss several of our men—they will find themselves unemployed.

If prices are fixed?—Yes. At the present time I cannot see what more fixation we want.

Your prices compare with your competitor's?—I never let them be higher.

Do you succeed?—Fairly well.

What have you to say in regard to the practice of selling some lines at cost or under cost?—A properly commercially trained man would not sell at cost or under cost.

I will emphasize again that the very people who are seeking to have this amendment brought about are the very ones very often who sell at such levels.

Do your numbers of employees fluctuate?—Yes. I shall be starting three assistants this week, and as the season goes on the numbers will increase; I employ a much larger number at Christmas-time.

What is the reason of that?—A seasonable trade.

You consider that if the prices are fixed for grocery commodities it will lead to unemployment?—Yes.

Wages have to be paid according to award?—Yes.

How do you pay?—Very often above award rates; if the employee is over average efficiency he gets over the award rates, but I never pay less than the award rates.

Is selling at cost-price carried out to any great extent in your experience?—In the grocery trade, definitely no. Some lines you could not possibly sell below cost because they are stamped.

There is no slaughtering in the trade?—No. It usually takes $7\frac{1}{2}$ per cent. to 10 per cent. on cost to give a grocer cover—*i.e.*, meet overhead. Of course, there are times when exceptions necessitate you wanting to sell under cost, but no retailer can sell under cost and make a success of his business.

Mr. Harris.] What is your general line of business?—I am really a grocer. I sell fancy goods; I had to meet the competition set up by Australian people.

Do you get a special discount at all?—Yes.

On some things such as sugar, flour?—No. On many things as much as any wholesaler in New Zealand. I may say that I have not found difficulty with the law as it stands on the statute at present.

Do you buy solely in New Zealand?—No. I import from England and sometimes, unfortunately, I am forced to buy elsewhere, but very little.

Do you go in for cutting any particular line?—No, but I do not allow any one to come into the town and sell cheaper. I would like to emphasize this: that there are some who are making a handsome profit importing cheap, tawdry articles from Japan and selling them at a small margin of profit over landed cost.

Wholesalers?—No; these retailers who are running these bargain stores.

Are you cash and carry?—I give a discriminate service and discreet credit.

Mr. Wilkinson.] Do I understand that those in opposition to the Bill do not include retailers?—I am not in a position to say, but I think I saw the same retailers on the other side in 1927.

Have you ever been refused supplies of goods?—Yes, but it was through a misunderstanding many years ago, and they apologized to me afterwards.

I understand you have male and female employees?—Twenty-five to thirty-five.

Of that number, how many male employees have you?—I have eight or nine girls on what they call bins—open display. I have three girls in the office. There would be fourteen to fifteen men. The wages are all covered by awards (with the exception of the girls in the office). Some of the men are managers and paid accordingly. I also employ boys.

How many boys do you employ?—A boy in every shop. There is a boy employed in the back of the shop, and in one shop I have a boy on the open display; then there is one in the despatch department.

You heard Mr. Norrie say that when he took over the cash-and-carry system he reduced his overhead to $4\frac{3}{4}$ per cent. You believe in a comprehensive service?—I proved to the P.A.T.A.—to Sir Michael Myers—when I was giving evidence that 8.5 was my lowest overhead, but if Mr. Norrie operated on $4\frac{3}{4}$ I shall have to accept his statement. Mine is a shade under 10 per cent. to-day.

In your evidence you do make reference to having been refused supplies?—There was one case only—a drapery line. I am regarded as a pirate in the drapery business. I have correspondence from Bond's hosiery saying that if I did not charge their prices I would not be supplied with the goods.

You do agree to sell at a price?—Yes, sometimes, because we must have the goods.

Mr. Sullivan.] In what towns do you operate?—Hawera, Eltham, Stratford, Manaia, and Patea.

You made a statement that you never allowed another man to sell lower?—No, I do not.

Are you carrying on a cash-and-carry business in any of these towns where you operate?—Yes, in some of these little places it is really cash and carry.

I have created this impression that you are not really troubled with competition from cash-and-carry stores to any great extent, is that correct?—We have had it when the Farmers' Trading Co. came down from Auckland, but they only stayed nine months after paying rent for a year.

Supposing you had a man of Mr. Norrie's calibre in each of your towns carrying on a cash-and-carry business, what would be the logical result, would you have to adopt the same method?—I would not.

Do you think that if you had this effective cash-and-carry store competition that your attitude to the Bill would be the same as it now is?—Yes, emphatically; I would not change my attitude to this Bill.

Your overhead was 8.5 in 1927?—Yes.

Mr. Norrie's overhead was $4\frac{3}{4}$ per cent.—

Mr. Norrie: It was $4\frac{3}{4}$ per cent. in 1910; it is 8 now.

Mr. Sullivan: Then the service that you are giving would amount to about 2 per cent., but you would employ a greater number of people.

Mr. Jordan.] You consider that if the amendment is carried it will lead to the dismissal of employees. Mr. Norrie showed that the introduction of his cash-and-carry method has really led to a reduction in employment because he said that four in the cash-and-carry store could do the work of eight in the service store. This system has led to unemployment; it must have done. You say if the amendment is carried it will lead to unemployment, how?—By women setting up shops. If prices are fixed it will lead to unemployment.

The cut-rate has led to unemployment?—I submit that if prices are fixed it will lead to unemployment.

You think small stores will spring up?—That is a very grave danger.

Is not that a means of getting a livelihood?—Their husbands are very often working at another job. That practice would get very prevalent.

You employ eleven girls; is it possible that you have somebody there whose husband may be employed elsewhere?—No, I employ only young girls.

They may be displacing men.—No, because they are only young girls. They are paid according to the Shops and Offices Act or under the award if they come under an award; there is no such thing as “wrappers.”

Are they not displacing ironmongers and chemists who would be in other stores?—No, they are not. We do not sell ironmongery. There is that danger, for instance, in regard to those people selling tea, essences, extracts, and other commodities which should be sold by grocers, and I think the law as it stands if interpreted properly would stop that. We have to follow suit by stocking cheap essences; we have to meet that competition.

That is the very point I was stressing.—It is just to meet the opposition.

You said that you had thirty-five hands and eleven of these are women?—Yes.

How many married men employed in the business?—About nine on my staff are married men and two or three others are getting adequate wages to get married.

The Chairman.] You have a number of juveniles employed?—Nine out of thirty-five are married.

Only nine out of thirty-five able to keep up a separate house?—Several of the others could marry; they get as much as £5 a week.

We have here a petition from something like two hundred individual grocers and other people who are asking for this legislation to be passed. You also are probably aware that there is a widespread cry in this country, as well as in other countries, for the fixation of prices. You do not agree with that?—No, and I think if you look through those names you will find that possibly more than 50 per cent. are perhaps members of a buying combine (?); they ask for one thing with one hand and something diametrically opposed with the other.

JEFFERY CLARK, Head Buyer for National Distributors, Auckland, cross-examined.

Mr. O'Leary.] You do the buying for the Auckland district?—Yes.

Your company supplies the Self-Help stores?—Yes.

Any other stores?—We have about two hundred other customers.

Is the so-called price-cutting in evidence in the Auckland district?—No, not at present.

Have you extensive knowledge of the operations of the retailers in the Auckland district?—Yes, I have to study that for my own business.

You say that there is no price-cutting in the Auckland district; is that the result of combines or simply the general position?—The general position.

There is no arrangement for the prevention of price-cutting?—No.

The Chairman.] It amounts to this: that you also represent a combine?—In what way?

In the business that you are running?—No, I represent National Distributors.

I am wondering whether National Distributors is not on a combination basis.

Mr. O'Leary. They supply Self-Help stores and two hundred other customers.

The Chairman. The Self-Help must be obviously a combination for the same trade purposes. Whether it is a beneficial combination it must be for the Committee to decide.

ARTHUR FRANCIS HUMPHRIES SUTHERLAND, Shareholder and Managing Director of National Distributors, Ltd. (Wholesale Company), Head Office, Wellington, with branches at Auckland, Christchurch, Dunedin, and Invercargill.

Mr. O'Leary.] Your company supplies the Self-Help Co., Ltd.?—Yes, that is so.

How many other customers?—About four hundred other customers.

When did the National Distributors, Ltd., come into existence?—About 1928.

Since its inception has the company been obstructed in any way in the purchase of goods on the best possible terms?—It has been hampered and harrassed in every possible way.

This harrassing, as you call it, has come from whom?—It has come from both wholesalers and retailers.

Just what has it resulted in so far as your company is concerned?—It has resulted in pressure being brought to bear to urge manufacturing firms to remove us from the wholesale lists and also prevent us from getting wholesale rates when we made application.

Would you give us examples as to what happened?—National Distributors have repeatedly requested to be placed on the best buying terms, but that request has not been granted by the Australia Dried Fruits Board for the supply of sultanas and currants. Some nine months ago this firm altered their selling-arrangements and decided to supply direct on the best terms to any concern which would take 400 cases. National Distributors placed orders and were supplied on the best terms, but when the next order went forward they were refused supplies, and they had to purchase the dried fruits from another wholesale house and pay 12½ per cent. more than their competitors paid.

That is the experience within the last twelve months with reference to Australian dried fruits?—

Yes.

You have referred in your statement to your company being the largest buyer?—We believe that we are.

You have a memorandum here with the correspondence which has taken place between your company and the Australian Dried Fruits Board in connection with this matter. You produce this for the benefit of the members of the Committee?—Yes. [Papers produced.]

Mr. Arthur Sutherland read the following:—

A. F. H. Sutherland, Shareholder and Managing Director of National Distributors, Ltd., a wholesale company whose Head Office is in Wellington, with branches at Auckland, Christchurch, Dunedin, and Invercargill. The company supplies, amongst others, the Self-Help Co-op., Ltd., and is probably the largest wholesale grocery merchandizing firm in the Dominion.

Since its inception the company has had every obstacle placed in its way to purchase goods on the best possible basis. Manufacturers have had great pressure brought to bear upon them by retailers and wholesalers—

(a) Not to place National Distributors on best possible terms;

(b) To remove them from best terms if same were being received.

An instance of this occurs with the purchasing of Australian dried fruits. National Distributors has repeatedly requested to be placed on the best buying terms for Australian dried fruits, sultanas, and currants, but that request has not been granted. Some nine months ago those in control of the Australian dried fruits, sultanas, and currants altered their selling-arrangements and decided to supply direct on the best terms any business concern which would take 400 cases.

National Distributors, Ltd., placed orders and were supplied on the best terms, but when their next order went forward they were refused supplies and had to purchase for their customers from another wholesale house and pay 12½ per cent. more than their opponents were paying.

We are informed that the cause of this reversal of policy on behalf of those in control in Australia was because representatives of the Merchants' Association (Mr. Stronach Paterson, President of the Association, and Mr. Talbot, Secretary) went to Australia on a mission and induced those in control in Australia to revert to their old list of merchants who could buy dried fruits on the best terms. National Distributors was not on that old list. Those in authority in Australia were told that if they did not agree to this the New Zealand merchants would wait on the New Zealand Government and get them to remove the recently imposed duty on American dried fruits.

Since that time National Distributors, Ltd., has had to buy Australian fruits 12½ per cent. dearer than other merchants in New Zealand and 12½ per cent. dearer than retail firms such as Wairarapa Farmers and Wardell's. The latter firm has only three shops and was placed on the direct buying list for Australian fruits some three years ago, and long after National Distributors, Ltd., had applied to be placed on the direct list.

The requests from National Distributors, Ltd., to be placed on the direct list for dried fruits have not been granted and their letters to the Australian authorities practically ignored. Such is the power of the combined merchants in New Zealand that they could induce those in authority in Australia to stop direct supplies to the largest buying concern in New Zealand.

I might mention that the smallest grocery business in New Zealand can buy those fruits cheaper through their buying organization, which is on the direct list, than can National Distributors, Ltd.

National Distributors, Ltd., can buy dried fruits from Greece and California on the best terms, but the duty on American fruits has raised the prices until they are scarcely competitive."

Mr. O'Leary.] Now you would like to refer to your difficulties in connection with matches?—Yes.

Mr. Arthur Sutherland read the following:—

Matches.

Some six years ago the New Zealand Wax Vesta Co. placed National Distributors on its list of wholesalers who could buy matches on the best terms, but Bryant and May's refused to do so. Some years afterwards Bryant and May's decided to place National Distributors on the wholesale list, and this firm imported large shipments of Bryant and May's safety matches.

National Distributors, Ltd., has never handled either Russian or Japanese matches, neither has the line of chain stores which National Distributors supplies.

When Bryant and May's started manufacturing safety matches in New Zealand, National Distributors, Ltd., were informed that they would have to pay dearer than other merchants for the New Zealand manufactured article, but they were still allowed to buy Bryant and May's English-made article on the best terms. After repeated interviews, and failing to get fair play, National Distributors gave up the idea of trying to foster Bryant and May's New Zealand industry, and ceased buying any of Bryant and May's safety matches, whether made in New Zealand or elsewhere.

National Distributors, Ltd., is still selling an English safety match, and the New Zealand Wax Vesta Co.'s wax match, which is manufactured in Dunedin.

The combination of retailers and merchants against National Distributors was thus proved sufficiently powerful to compel National Distributors to have to buy on such unequal terms.

Mr. O'Leary.] Have you had any difficulties with flour?—Yes.

Mr. Arthur Sutherland read the following:—

Flour.

Distributors Ltd., the flour-millers' combine, is operating its business in a manner which is harmful to some merchants and retailers. Distributors Ltd. have two agents in Wellington who are grocery merchants, and these agents can buy flour 2½ per cent. cheaper than other merchants. One of these agents—Burch and Co.—controls through a debenture a rapidly expanding number of chain stores.

Merchants dissatisfied with this system of agents cannot purchase from independent mills, for these independent flour-mills cannot receive sufficient wheat to allow them to take any additional orders for flour. The position has been that if another independent mill starts, any quantities of wheat which it receives have to be deducted from the quantities of wheat allocated to the other independent mills. Consequently, it leaves Distributors Ltd.—the flour-millers' combine—in the impregnable position of not losing any of their trade because independent mills cannot receive wheat to supply additional trade.

National Distributors, Ltd., has frequently approached independent mills in an endeavour to draw their supplies of flour from that source, but invariably the answer has been, "We should like to supply you, but we cannot secure the wheat."

Mr. O'Leary: Tobacco has been taken off the list by legislation and what has it resulted in so far as you are concerned?

Mr. Arthur Sutherland read the following:—

Tobacco.

Every merchant in New Zealand cannot buy tobacco on the same terms. Some merchants are allowed a greater percentage of profit than others. For instance, every merchant in New Zealand who supplies chain stores buys tobacco from Wills 3 per cent cheaper than does National Distributors, Ltd.

It is only within recent years that some merchants have been placed on the most favourable terms.

On some brands of tobacco and certain cigarettes, such as :—

Godfrey Phillips (N.Z.), Ltd.—	
Cigarettes.	Tobaccos.
De Reszke.	Grey's.
Myrtle Grove.	Cavenders.
B.D.V.	B.D.V.
	Myrtle Grove.
Gallaghers—	
Park Drive.	Park Drive.
	Red Jacket.
	Irish Roll.
Du Maurier—	
Peter Jackson.	
Du Maurier.	
Nelson.	
Summit.	

National Distributors has to pay some 8 per cent. dearer than other merchants.

Members might be told that this is because National Distributors supply a certain line of chain stores, but other merchants who own, or are associated with, or control through debentures, lines of chain stores, such as Burns, Philp, and Co., Goldingham and Beckett, L. D. Nathan and Co., Rattray and Co., Burch and Co., Bond and Bond, Green and Co., are all buying on the best terms.

There is no reason why National Distributors, who not only supply a line of chain stores, but also many other stores as well, should be handicapped by having to compete on such unequal terms.

On account of the injustice received at the hands of manufacturers and agents, National Distributors decided to co-operate with the Nelson Tobacco Co. and supply Huia tobacco, for which it has the sole agency, to Self-Help Co-op., Ltd. The tin has stamped on it "Specially manufactured for Self-Help Co-op., Ltd." A fair amount of expense has been sustained in the advertising of this line, and also in marketing Penguin brand, a tobacco also manufactured by the Nelson Tobacco Co.

Since tobaccos and cigarettes have been removed from the Commercial Trusts Act, the tobacco-manufacturers have produced an agreement, which we are called upon to sign, binding ourselves not to stock exclusively any line of tobacco which has not been available to other traders.

Under the agreement we shall have to practically make these brands available to the competitors of Self-Help Co-op., Ltd., after Self-Help have had the expense of placing them on the market and having the tins specially manufactured for them. Otherwise we run the grave risk of not being supplied on the same terms under which we are now buying tobaccos and cigarettes.

The tobacco specially manufactured by the Nelson Tobacco Co. for National Distributors, Ltd., carries a rate of profit to the wholesaler and to the retailer of not less than any other brand of tobacco which we stock. Without the support of National Distributors, Ltd., the Nelson Tobacco Co.—a small, struggling company—would have great difficulty in carrying on.

A considerable amount of capital is required to market a new line of tobacco or cigarettes in the usual way. Consequently the Nelson Co., being a small company, decided that it could successfully operate by giving its output almost entirely to a few firms. On account of these firms having the exclusive rights to sell all such tobacco, they would take a special interest in it and consequently market the line for them.

The effect of the proposed tobacco agreement will be to restrict the tobacco trade to the large companies already in existence, as a new small company will be unable to get the assistance of large retailers to take a special interest in the line for them, and they will not have sufficient capital to successfully launch a new brand.

Mr. O'Leary.] You have the draft Tobacco Association's Agreement?—I have.

You draw attention to Rule 40?—Yes. [Produced for the Committee. Rule 40 read. "No member of the association shall," &c. Rules 42 and 43 read.]

Mr. O'Leary: We are using that as an analogy [referring to agreement] as to what has happened when this particular commodity was taken out of the Commercial Trusts Act, and we feel that the same thing will happen if these other things are taken out. Is not that your view (to witness)?—Yes.

You believe there should be no exemptions from the Commercial Trusts Act?—Yes, we are mostly concerned with foodstuffs.

Continuing statement :—

The manufacturers or packers of Bell tea, Amber Tips tea, and Edmonds baking-powder refused to supply National Distributors with their articles, even although National Distributors have offered to sign any agreement that they will not sell to a retailer whose name is on the "black" list of any of these three manufacturers.

National Distributors, Ltd., has repeatedly tried to be admitted to the membership of the Merchants' Association, of which Mr. Talbot is secretary. These requests, on the advice of members of the Merchants' Association, were made verbally, but in February of this year a written application was forwarded to Mr. Talbot, secretary of the Merchants' Association, asking that National Distributors be admitted as a member of the association. Three weeks later a written acknowledgment of the letter of application was received, but up to the present the application has not been granted.

National Distributors, Ltd., conforms in every way to the rules of the Merchants' Association and is entitled to be admitted as a member of that association. Three of the cardinal points entitling to membership of the association are :—

- (1) That the merchant carries stocks.
- (2) That the merchant supplies retail custom.
- (3) That the merchant has travellers on the road.

National Distributors, Ltd., conforms to all of these three points, and yet is not admitted to membership. The effect of the Bill, quite apart from the legal aspects, will be :—

- (a) The withholding of supplies of commodities.
- (b) The removal from the best buying terms.
- (c) Combinations refusing to supply unless our customers sell at a fixed price.
- (d) An increase in the cost of living.
- (e) As our clients cater chiefly for the lower-wage earners, the increase will be inflicted on those least able to bear it.

(Committee adjourned for luncheon, 1 p.m.)

The Committee resumed at 3 p.m.

MR. ARTHUR SUTHERLAND'S evidence continued.

Mr. O'Leary: We had finished the reading of written evidence of some witnesses, and there are just one or two questions I would put to Mr. Sutherland.

Mr. Sutherland, have you any personal knowledge of the retail trade?—Being a wholesaler, we have quite an intimate knowledge of the retailers' trade.

What is your view of the cash-and-carry stores monopolizing the grocery trade?—I would say there is no possibility whatever of the cash-and-carry stores putting the service stores out of existence. It has been proved the world over that there is a definite need for both types of stores, and in many countries the cash-and-carry stores have been going longer than they have in New Zealand and still do only a small percentage of the total trade.

In your opinion, what is the effect of the cash-and-carry stores on unemployment?—I would say that the cash-and-carry stores do not tend towards unemployment in the least, but that they rather tend towards employment. There is, for instance, only a certain amount of money which can be expended on groceries; the worker has only a certain sum which he can spend. If he, by the expenditure of a certain sum, is able to buy more goods, he requires more people to produce those goods, and if he does not buy goods from the grocer the additional finance which he has will be spent in other directions. It is quite definite that the cash-and-carry stores do not tend towards unemployment.

Is it not a fact that National Distributors supply 400 other customers besides the Self-Help?—That is so.

Do you think if a manufacturer's article is cut unnecessarily the manufacturer suffers?—I would say definitely no. On numerous occasions where articles have been sold at a certain fixed price and that fixed price has been abandoned, I have been informed by the manufacturers' representatives themselves that never in the history of their trade has so much been sold. But even where manufacturers are able to fix a resale price they are not unanimous amongst themselves that it is for their benefit. This is one of the problems that a manufacturer has right throughout the world, whether to fix a resale price or not, yet many of them are of the opinion that not to fix a retail price is to the personal advantage of the manufacturer himself.

Mr. Harris.] I gather, Mr. Sutherland, that you think there is a very grave danger in allowing any wholesalers, particularly a monopolistic group of wholesalers, to say what price goods will be retailed at to the general public?—Definitely.

I gather that you think there is a possibility of the public being exploited: the concern is for the general public, the people who have to pay?—Yes.

You heard Mr. O'Leary's opening address in reference to the things that are retailed; an individual trader can do what you cannot do?—Yes.

Would it be possible for retailers to so combine as to unduly raise the price or to agree to a system of price fixation?—Retailers do combine and endeavour to bring pressure to bear upon the manufacturer to fix a retail policy for his product. They point out to that manufacturer that unless he will bring such a policy into operation they will cease to give his line favourable treatment.

In the direction of lower or higher prices?—In my experience a fixed retail price always is higher than when a commodity is available to the public without a fixed price.

You think that the effect is bad from the standpoint of the consuming public?—Yes.

Mr. Healy.] The Merchants' Association is a body that is endeavouring to stabilize fixed prices, is it not? It endeavours to control prices, and you said a little while ago that you were hampered in every way by the Merchants' Association, but that association must do that in the interests of the other members with a view to keeping prices up, I take it?—We are hampered and harrassed by the Merchants' Association. The merchant was making a lot of money before we came into existence, he could get high prices, and the effect of our competition has been to cause him to sell on a cheaper margin than he formerly used to. Consequently, every endeavour is made to prevent us getting into the market.

Would it not be to the interests of the association to sign you up as a member to prevent competition: would it not be an obvious policy?—I dare say we will be admitted after we have cost them more money than it has cost them already. You will see from the correspondence that we would not be put on certain lines until we definitely became members.

Another statement made by the witness that certain firms in Wellington enjoyed 2½-per-cent. advantage in flour. Is that controlled to a large extent, if not wholly, by chain stores who would be in the same position as the National Distributors?—I do not control any retail stores through it.

Your company is on the wholesale list for sugar?—Yes.

Would the shareholders be the same?—The shareholders in National Distributors have no shares at all in retailing companies. That is absolutely definite, and no retailer or shareholder in a retailing company has shares in National Distributors.

Mr. Ansell.] In reference to your statement that you have been hampered and harrassed in every possible way by wholesalers and retailers, what particular lines would that statement refer to?—Biscuits and confectionery. It took us years of fighting before we got on to the list. It took us many years of effort to get on the candle list. That is the object; we would be entitled to purchase candles on a wholesale basis; and also pressure was brought to bear by merchants on representatives of lines not to recognize or to quote us for direct handling—so much so that we have written to the principals of these concerns overseas. They have got in touch with the New Zealand agents and, finding their reasons absolutely unsatisfactory, have overridden them and offered to supply us direct from the country of origin.

To take one line in particular—biscuits. Have you been hampered by any manufacturer of biscuits throughout New Zealand?—There is a biscuit and confectionery association under which all the manufacturers belonging to this association have a table of discounts. These discounts are determined by the association and then the members will supply you at wholesale.

Does that association embrace all manufacturers of biscuits and confectionery?—It embraces every manufacturer of biscuits and the principal confectionery manufacturers.

In regard to the dried fruits; there was a claim put up to the Australian authorities that if they refused to supply you the New Zealand Government would be requested to remove the duty on dried fruits from America. Can you give the Committee any evidence to justify that statement?—We were told that the association reverted to its old list. Inquiries were made by us as to exactly what took place in Australia, but this we could not get. The people who are making inquiries for us told us that.

That is all the evidence you can give to the Committee on that?—Yes.

It is fairly serious to state that New Zealand merchants had threatened to shelter behind the Government in moving in a certain direction?—I was quite aware of the difficulty of definitely proving up to the hilt what did take place and consequently my statement was “we are informed that.”

You are not prepared to go further than that?—I could not take a photograph of Mr. Paterson over there and it is very difficult to get evidence in these cases, but we are definitely convinced that that is what took place.

Do you think that the distributors were influenced?—I would say yes.

They would not supply you on the assumption you were not members?—We offered to sell on any terms the members might determine.

With regard to the Bell Tea Co. You referred at a later stage to their having refused to supply you; what was the basis of their refusal?—I wrote to them just as recently as this year and we were informed that they were not prepared to add us to their list.

You also referred to a “black list”; what is the qualification for admission to a “black list”?—I do not know. I have not done any harm to the Bell Tea Co. people. We know that other merchants and retailers have had sent to them what is known as a “black list” and on it appears the name of National Distributors.

What was the specific objection to the proposed amendment to the Act?—The amendment? I have given that in my evidence.

What do you say was the main objection?—The action of combines in bringing influence upon manufacturers to withhold supplies from National Distributors.

Mr. McSkimming: Nothing to say.

The Chairman: You differentiate in your discount on the same quantities of certain purchases through your association?—I am not a member of any association.

Then what is it?—We would make a special price.

For the same quantity? Mr. Norrie gave evidence—I do not know that it is special to your company—that he had to sign certain things before he could get on a special list?—I think that would be with reference to manufacturers' items.

We will say £500 worth of goods. Would you treat them all the same as regards discounts?—Well, certain manufacturers give us a resale rate—that is, we will charge 13s. 6d. per dozen for items sold in one-case lots, but if we sell them in ten-case lots we would be charging 13s. In many cases the manufacturers fix the retail rates at which we can supply.

Mr. O'Leary: Mr. Ansell asked you the possible reason suggested for your being kept off the Australian list of dried fruits. You said you had offered to maintain whatever price they fixed.—That appears in the memorandum *re* the National Distributors and the Commonwealth Dried Fruits Board; page 20, letter of the 11th May, 1933:—

The Chairman,
Australian Dried Fruits Control Board,
Melbourne.

DEAR SIR,—

We wish to make application to be placed on the direct wholesale list of buyers of Australian dried fruits.

We are strictly a wholesale organization having warehouses in Auckland, Wellington, Christchurch, and Dunedin. In addition to many other stores, we supply the whole of the requirements of the Self-Help Co-op., Ltd., a company which owns 145 retail stores throughout New Zealand.

We have in the past been compelled to draw our vine fruit requirements from America and other sources, and are most anxious that this business should go to a British Dominion and that our money should be kept within the Empire. We give this undertaking that our prices to the Self-Help Co-op. and other stores will be the standard ruling rates fixed by the Board, and in no case will these terms be broken.

Our organization handles approximately 10 per cent. of the total dried fruit business in New Zealand.

We have withheld placing our requirements for the coming season in the hope that you will make it possible for us to place this business with our sister Dominion.

Yours faithfully,

NATIONAL DISTRIBUTORS, LTD.

(Signed) A. F. H. SUTHERLAND, Director.

Mr. Harris: I would like Mr. Sutherland to make it clear in these circumstances why they were not supplied.

Mr. O'Leary: Well, they were not supplied.

- (d) National Distributors, Ltd., is entitled to the best treatment because, in the first place, its competitors have been given such treatment, and, in the second place, because of the magnitude of its operations. It is the biggest buyer of grocery goods in New Zealand. Its purchase of dried fruits is practically equal to the whole of Australia's trade with the East in these goods. Its purchase of dried fruits can immediately under equal treatment be brought up to one-tenth of the total New Zealand trade with Australia in these goods, and it has in the past taken the trouble to push out the sale of Australian and other Empire products even where this trading has been a disadvantage to the company. Reference is particularly made to the company's letter of 3rd October, 1934, in this connection.
- (e) Under the trade agreement between Australia and New Zealand every New Zealand importer is entitled to fair and reasonable treatment. It is submitted that the company has not received such treatment. Reference here is made to the extracts from the Hon. Massey Greene's letter on page 24 hereof.
- (f) The Board was set up to control and expand the sale of Australian dried fruits. Reference is made to the extracts from the Board's report of 31st July, 1934, set out on page 24 hereof. The Board apparently recognizes the importance of the New Zealand market. It is suggested that the history of the Board's dealing with the company does not support the views set out in the report. On the contrary, the largest buyer of dried fruits in New Zealand has for a period of four years consistently been discouraged by the Board, with the result that it is now buying Californian and other dried fruit in spite of a tariff preference in favour of Australia.
- (g) The company is a large buyer of other products from Australia not controlled by the Board. Refer to cable from New Zealand dated 18th July, 1935, on page 24 hereof, which reads as follows: "Under best treatment could buy Australian products thirty thousand pounds excluding dried fruits twenty thousand pounds and sugar ninety-five thousand pounds." Sugar mentioned in the cable is being purchased from the Colonial Sugar Co., a company which has a monopoly and which is most conservative and particular in its choice of distributors. National Distributors, Ltd., is on the most favoured list of the Colonial Sugar Co.
- (h) Fruits produced and exported from Australia may be divided into two classes (a) vine-fruits controlled by the Dried Fruits Export Control Board, (b) fruits produced from trees—*e.g.*, prunes, peaches, apricots, &c., which are marketed by the Australian Dried Fruits' Association. National Distributors, Ltd., has for some three years past enjoyed the best terms from the Australian Dried Fruits' Association resulting in a large and increasing business with that association, while similar terms have been refused to it by the Board controlling the vine-fruit section, leaving that Board in the extraordinary position of being the only distributor or wholesale organization in the British Empire adopting such an attitude to National Distributors, Ltd.

20th November, 1931.

W. C. P. Thomas, Esq., Chairman,
Commonwealth Dried Fruits Control Board,
Perpetual Trustee Building, Queen Street, Melbourne.

DEAR SIR,—

On numerous occasions we have approached your local agents in an endeavour to purchase supplies of an Australian dried fruits direct from your Board, but so far our requests have been ignored. We rather think pressure is being brought to bear by some of the wholesale trade in consequence of which your agents are somewhat loath to act. This we are at a loss to understand since several of our competitors are already on your list, as instanced by—

Oswald M. Smith & Co. (Star Stores),
Goldingham & Beckett Ltd. (Community Stores),
Hutchinson's (W'sale) Ltd. (Hutchinson's Stores),
Burns Philp & Co. Ltd. (Yates Stores),

and for that reason we feel sure that given your permission, your agents would be only too pleased to encourage our very substantial business.

Might we here be permitted to explain that National Distributors Ltd. is a wholesale company whose shareholders have no financial interest in any retail stores although it supplies exclusively Self Help Co-op. Ltd. and we carry large stock for the 120 stores of that Company, and that our purchases of Australian currants, sultanas and leixias this year have already exceeded 7000 boxes. Where possible we give preference to produce grown within the Empire (which is only natural when our title "Self Help" is considered) and for many years we have featured Australian fruit both dried and canned. This fact we think entitles us to a certain amount of consideration.

We are familiar with your methods of shipping and payments and we are prepared to give you our assurance that National Distributors Ltd. will at no time pass on any extra discount to Self Help Co-op. Ltd., or indulge in any price cutting whatsoever. In short we are prepared to give you an undertaking to abide by any scheme of price fixation which you or your agents or the merchants already on your list might decide upon.

We think the foregoing explains the position fully, for we desire to be most frank with you and hope soon to have the pleasure of receiving your favourable reply.

Yours faithfully,
NATIONAL DISTRIBUTORS LIMITED.
(Signed) A. F. H. SUTHERLAND, Director.

5th October, 1932.

W. C. F. Thomas, Esq., Chairman,
Commonwealth Dried Fruits Control Board,
Perpetual Trustee Building, Melbourne.

DEAR SIR,—

Almost eleven months have elapsed since National Distributors applied to the Commonwealth Dried Fruits Control Board to be placed on the wholesale list for Australian Dried Fruits in New Zealand.

As explained in our letter of 20th November 1931, National Distributors Ltd. is a wholesale company supplying exclusively the Self Help Co-op. Limited which operates one hundred and thirty retail stores through New Zealand. National Distributors Ltd. has a larger turnover than any other grocery merchandising company in New Zealand and has branches in each of the five main centres.

Its shareholders have no financial interest in any retail grocery stores whatsoever and all its profits are divisible amongst its own shareholders. During recent years it has been forced to adopt a policy in conflict with its wishes which are, wherever possible, to give preference to Empire produce. We have found in the case of dried fruits the Agents and principals of foreign firms are willing to co-operate with us, and seeking our business, but with the Australian dried fruits the apparent policy is that this is the largest merchandising company of groceries in New Zealand must be placed at a disadvantage compared with its competitors.

This has now been endured for many years and the enormous growth of our business in foreign fruits is distasteful to us. Such growth being caused by Australian produce not being available to us on equal terms as our competitors as well as the fact that the foreign produce is purchasable cheaper by us on account of being placed on the full wholesale terms by agents. Generally, this would not be cheaper to us if Australian produce was available on wholesale terms.

Although National Distributors Ltd. is not on the wholesale list, nevertheless, your Board has seen fit to place on that list retailers having no wholesale interest whatsoever such as Wardells who have only a very small business in their three shops, but also wholesale firms directly owning or controlling stores such as:—

Oswald M. Smith & Co. Ltd. (Star Stores),
 Goldingham & Beckett Ltd. (Community Stores),
 Hutchinson (W'sale) Ltd. (Hutchinson's stores),
 Burns Philp & Co. Ltd. (Yates' Stores),
 National Trading Co. (Wallace Stores),
 Farmers' Trading Company with headquarters in Auckland and numerous other organizations.

We can see no reason for the infliction of the present injustice done to us by the Commonwealth Dried Fruits Control Board and we, therefore, bring the matter up once more for your serious consideration. As stated in our former correspondence to you we are familiar with your methods of shipping and payments and we are prepared to give you our assurance that National Distributors Ltd. will at no time pass on any extra discount to any retailer nor indulge in any price cutting whatsoever.

We are prepared to give an undertaking to abide by any scheme of price fixation which you or your agents or the merchants already on your list might decide upon.

We are quite confident that our claims as to our requirements will be substantiated for such have not been made recklessly.

Yours faithfully,
 NATIONAL DISTRIBUTORS LIMITED.
 (Signed) A. F. H. SUTHERLAND, Director.

11th May, 1933.

The Chairman,
 Australian Dried Fruits Control Board,
 Melbourne.

DEAR SIR,—

We wish to make application to be placed on the direct wholesale list of buyers of Australian dried fruits.

We are strictly a wholesale organization having warehouses in Auckland Wellington Christchurch and Dunedin. In addition to many other stores we supply the whole of the requirements of the Self Help Co-op. Ltd. a Company which owns 145 retail stores throughout New Zealand.

We have in the past been compelled to draw our vine fruit requirements from America and other sources and are most anxious that this business should go to a British Dominion and that our money should be kept within the Empire.

We give this undertaking that our prices to the Self Help Co-op. and other stores will be the standard ruling rates fixed by the Board and in no case will these terms be broken.

Our organization handles approximately 10% of the total dried fruit business in New Zealand.

We have withheld placing our requirements for the coming season in the hope that you will make it possible for us to place this business with our sister Dominion.

Yours faithfully,
 NATIONAL DISTRIBUTORS LIMITED.
 (Signed) A. F. H. SUTHERLAND, Director.

2nd March, 1934.

The Rt. Hon. F. H. Stewart,
 Minister for Commerce for the Commonwealth of Australia,
 Sydney.

DEAR SIR,—

National Distributors Limited.

We have been instructed by the above Company to write to you regarding its purchases of dried fruits from Australia. National Distributors Ltd. is a Company which does all the buying for the Self Help Stores Ltd. an organization with approximately 150 grocery shops throughout New Zealand. It also buys for other stores and wholesale merchants. The Company is a very large buyer, in fact the largest wholesale buyer of grocery lines in New Zealand. It takes from Australia yearly—

8,000 cases of tinned fruit,
 6,500 boxes of prunes,
 8,000 boxes of currants and sultanas and up to 10,000 boxes,
 5,600 tons of sugar.

For some considerable time past the Company has been endeavouring to obtain the best buying terms for Australian products and has applied on more than one occasion to be placed on the direct list of buyers. The effect of this would be that it would receive the best discounts given. Similar terms have been given to competitive companies and it is very difficult to understand why they have been refused in this case. It is not a question of payment, because all the goods can be paid for by demand draft at the time of shipment or delivery.

So far as prunes and tinned fruit are concerned the Company already has granted to it the best buying terms. The Australian Dried Fruits Board however, which controls the sale of currants and sultanas has up to the present been unwilling to give our client company the same terms which it has granted to others.

We enclose copies of letters written by our client company the Board dating back to the 10th November 1931 and shall be very much obliged if you will have an enquiry made into the position and ascertain whether anything can be done.

We may say for your information that the writer discussed the matter with the managing director of one of the biggest New Zealand wholesale houses as we wanted to be certain that there were no facts which our clients had possibly overlooked which might militate against their being granted the concessions which they have been seeking. Our friend advised us that he knew the whole of the facts of the case, was well aware of National Distributors activities and affiliations, and he stated definitely that although as a wholesale house it was not in his company's interests that the request should be granted, yet he was of the opinion that our clients were entitled to it for two reasons, first of all owing to the magnitude of their operations and secondly because similar terms have to his knowledge been granted to other companies working on exactly the same lines as our client Company. As you will see from the correspondence our clients desire to trade within the Empire and preferably with Australia. They have recently placed extensive orders in Australia for dried fruits and such is their desire to do business in Australia for dried fruits and such is their desire to do business with the Commonwealth that they also placed orders there for dried apricots even though the prices were higher than for similar fruit from other parts of the Empire, notably South Africa.

In view of the desire on both sides for closer trade relations between our country and the Commonwealth our client felt that they could expect the most favourable treatment from the Dried Fruits Board. So far they have not received it.

Yours truly,
 O. & R. BEERE & Co.

23rd March, 1934.

DEAR SIRS,—

I am desired by the Minister for Commerce (Mr. F. H. Stewart) to acknowledge the receipt of your letter of the 2nd March regarding applications made by National Distributors Ltd. to the Commonwealth Dried Fruits Control Board to be placed on the wholesale list for Australian dried fruits in New Zealand.

In reply I may say that the Commonwealth Dried Fruits Control Board is a statutory body set up under the provisions of the Dried Fruits Export Control Act of 1924 with power to administer the arrangements for the oversea marketing of Australian dried vine fruits.

Your representations on behalf of the National Distributors Ltd. have, therefore, been referred to the Board for consideration and reply direct to you.

Yours faithfully,

E. J. MULVANEY, Secretary.

Messrs. O. & R. Beere & Co.,
Barristers & Solicitors,
Wellington, N.Z.

21st February, 1934.

The Rt. Hon. Wm. A. Watt,
Little Collins Street,
Melbourne.

DEAR MR. WATT,—

I have shown your letter of the 7th to Mr. Sutherland and he has asked me to reply. He mentions in the first place that without having more definite information as to the Board's difficulties it is impossible for him to appreciate the reason for any further delay.

So far as the growers are concerned he mentions that some of the Mildura people were over here some year or two ago and called upon him in Wellington with their chief representative and complimented him on his display of dried fruits which they said was the finest they had ever seen. Apart from them Messrs Crowe & Newcombe Ltd. of Adelaide, who apparently represent certain bodies of growers, were in communication with him in 1932 and told him that they would do all in their power to see that he was put on the direct list. At their suggestion an application was made in 1932 to the Fruit Control Board, but nothing came of it. In their letter to him of the 14th October, 1932, Messrs Crowe & Newcombe write as follows:—

"We are in receipt of your letters of the 3rd and 5th instant enclosing copy of your application to the Commonwealth Dried Fruit Control Board. We have not heard when the meeting is to be held this month, but we should hear the results a day or two after it has been held. Should your application be unsuccessful we will probably take action in a political way but we want to avoid that if possible."

Nothing happened with regard to the application and Mr. Sutherland did not pursue the matter with Messrs Crowe & Newcombe any further. Mr. Sutherland Jnr. went over to Australia last winter and was there for two months. We tried to arrange a meeting with the Board or the General Manager but were not successful. He was able to see only the Secretary. Before he left Melbourne Mr. Sutherland saw Messrs Joseph Nathan & Co. of Melbourne who said that they would do what they could, so that if any pressure at all has been exercised it has possibly been some approach made by Messrs Joseph Nathan & Co. In view of the apparent injustice of the whole matter, we can see no reason why the Board should object to very strong pressure being exercised.

We refer you again and for your information again enclose copies of the letters written by Mr. Sutherland's company to the Dried Fruits Control Board. As you will see the first letter is dated the 20th November 1931. There is a further letter on the 5th October 1932 and another letter on the 11th May 1933. Can the Board possibly suggest that he has not been patient? Since the application was made two of Mr. Sutherland's competitors have been put on the direct list, Food Stuffs Ltd. of Auckland a combination of small storekeepers, also Wardell's who have stores in Christchurch and Wellington. In Mr. Sutherland's opinion both of these people have turnovers considerably smaller than his. Frankly, Mr. Sutherland cannot understand the Board's attitude! There is nothing in your letter to explain the treatment which he has received. The curious thing about the whole business is that he is on the direct list for Australian prunes, apricots, and peaches, also for all Australian canned goods. The only case where he has not been able to receive satisfaction is in his dealings with the Dried Fruits Board which is apparently a Government Institution.

It occurred to us that there might be difficulty either about prompt payment for the goods or the fixing of satisfactory retail prices. Mr. Sutherland however, assures us that he can either pay cash in advance or by demand draft, and that as far as the retail prices are concerned, no question has arisen or can arise. In conclusion, he asks us to say that he cannot afford to let the matter stand indefinitely. Unless arrangements are made fairly soon for him to be put on the direct list, he will lose the benefit of the present season's buying. He asks me to say that if you cannot conclude a satisfactory arrangement with the Board on or before the 1st June next he would prefer that you take no further steps in the matter.

Yours truly,

O. & R. BEERE & Co.

7th August, 1934.

Stanley H. Wilson, Esq.,
Messrs. Pavey, Wilson, & Cohen,
360 Collins Street,
Melbourne.

DEAR SIR,—

National Distributors Ltd. and The Dried Fruits Board.

I wrote to you on the 8th May last, advising you that I would write to you again as soon as I had seen Mr. Sutherland who had been ill. Mr. Sutherland's illness lasted for a considerable time and since then several of his family have been very seriously ill and he has had very little time to attend to business. I have now had a discussion with him with regard to the matter and he asks me, in the first place, to thank you for your efforts on his behalf. You suggest that a formal application should be sent in for National Distributors Ltd. to be placed on the best buying terms with the Board. Mr. Sutherland feels that he cannot do better than act on your advice. At the moment, however, he has sent forward a special order and if it is dealt with as he expects he will then know that his application has been granted and that your efforts have been successful. He is rather in a difficulty as to whether this formal application, therefore, should be sent in or whether the matter should be left as it is. He would be grateful for your further advices with regard to it.

Yours truly,

3rd October, 1934.

The Chairman,
Commonwealth Dried Fruits Control Board,
100 Queen Street, Melbourne.

DEAR SIR,—

On May 10th of this year this Company received acceptance of orders placed with the Commonwealth Dried Fruits Control Board. The altered regulations of the Board made it possible for us to direct considerable business to Australia, the bulk of which owing to the refusal of the Board in the past to accept our business has been going to foreign countries. Our business was accepted during the months of May, June, and July but when further business was placed at the beginning of August we were informed that our name had been deleted from your list.

We would point out that the total business placed for vine fruits during the three months which we were on the list amounted to approximately—

Currants, 1,100 boxes.
Sultanas, 2,700 boxes.
Lexias, 250 boxes.

These quantities would have been trebled during the months up to December for you will realise that we had certain stocks on hand of all varieties of fruits which necessarily had to be disposed of. Immediately we were placed on your list we gave instructions for the prompt disposal through our branches of all American and Mediterranean fruits, and at the same time instructed our managers that they were to concentrate on the pushing of Australian fruits to conform to our policy of giving preference to these goods in an appreciation of your action in placing us on best terms and in performance of what we consider our obligations in fulfilling the spirit of the appointment.

The orders placed during the brief period when your list was open to us will clearly prove this to you. We were aware that certain objections were made to the throwing open of your list generally to those able to buy the Board's specified quantity, and we were under the impression that the protest which was likely to be lodged by the Merchants' Association to this course would result in a request being made to the Board to revert to the previous list with the addition of the National Distributors name. Subsequently, we learned that the Board went further and in reverting to the original list did not add our name.

The Board's list at present comprises the names of many companies who are solely retailers and a great many more whose business is principally the supply of the chain store organizations. We protest against the refusal of the Board to supply the National Distributors Ltd. on the following grounds—

Firstly, That we are the largest individual buyers of dried fruits in New Zealand and have made definitely clear our policy of preference for Australian fruits. This is justified by the fact that we were in 1932 added to the list of the Australian Dried Fruits Association and to the exclusion of all other sources of supply we placed business with the various agents of the Australian Dried Fruit Association amounting to 3,700 boxes of prunes which was considerably below the quantity required by us and which quantity was limited only by the fact that on the larger sized prunes throughout the whole of New Zealand when Australia was not able to accept the business.

We featured Australian prunes throughout the whole of New Zealand when a number of the merchants were definitely featuring Californian as a superior fruit. We paid a premium on some sizes of Australian prunes over the prices of Californian.

We placed business for 4,200 boxes of Australian apricots when South African apricots were available at lower prices. Proportion of this business was subsequently not confirmed on account of the fact that apricots were in short supply. We purchased these lines and featured them throughout the whole of New Zealand. We made arrangements two years ago that all our canned fruit requirements would be drawn from the Water Conservation & Irrigation Commission of New South Wales and have not imported one single case of Californian canned fruit, refusing also tempting offers of New Zealand pack, and so far this season have purchased 4,100 cases which will be considerably increased before the close of the season if supplies are available.

Secondly, That we have given the Board and are still prepared to give any undertaking laid down by the Board to other wholesalers that the Board's prices and terms shall be maintained.

Thirdly, That whatever impression the Board may have to the contrary this Company is able to buy on the best wholesale basis from all suppliers of merchandise in Australia, with the exception of the Commonwealth Dried Fruits Board. That we are accorded wholesale terms from every important manufacturer in New Zealand, and that the whole of our indent business is accepted by agents in New Zealand and for overseas shippers on the same basis as other merchants. The most exclusive wholesale list in New Zealand is that of the Colonial Sugar Refining Co. who appoint merchants throughout New Zealand as their distributing agents. The fact that our name has not appeared on this list as distributing agents has been considered we believe in the past as a reason why we should not be entitled to wholesale terms. The Sugar Company's list imposes much the same definite conditions which are even more rigorously imposed regarding price maintenance than those imposed by your Board. We are pleased to be able to inform you that we have received a letter from the Colonial Sugar Co. advising that we have been appointed as distributors as from the 1st October of this year. We communicate this information because we feel that it will be some guide to the Board who probably having heard one side only of the position will appreciate that having now been added to this exclusive distributing list that the Board is now the only important organization who refuses to accept our business on wholesale terms.

We are ready to place considerable further business on Australian vine fruits and in view of the facts stated above we would ask that the Board reconsider the present decision. We consider that an injustice has been done to us in the fact that our name was not added to the Board's list years ago when we made application and that having been afforded the opportunity to purchase Australian vine fruits this year we immediately concentrated on their sale, and after three months for no reason whatever our name has been removed from your list. We would ask you to believe that our attitude is still one where we really do wish to buy Australian vine fruits and at present we are at a loss to know why we have been treated in this way and we feel that it is because our side of the question has not been placed before you by us. We would appreciate your setting out your views on the matter and advising just what policy we should now pursue.

We make this request for a suggestion from you because we are so certain of the justice of our claim for inclusion on the list that it is a matter of your Board's due consideration to replace our name, and we would like to know whether we should now revert to the position in which we were before we were placed on the list, that is to purchase our requirements in American and Mediterranean fruits for the present basis it is possible for us to indent at much better prices than those being charged by merchants for Australian fruit. Individual merchants have expressed to us that they were surprised at our deletion from the list and that it was entirely unexpected.

We cannot think that it is the Board's intention to adopt an arbitrary attitude and have, therefore, placed the whole of the facts before you and again make application to have the name of this Company added to the list repeating our previous undertaking to conform to the Board's terms and conditions for the sale of vine fruits in New Zealand and at the same time give you our assurance of our co-operation not only in the sale of vine fruits but on all other Australian fruits.

Our Christmas requirements, orders for which we will shortly be placing for deliveries between now and December will be approximately 1,000 seeded, 2,000 sultanas, 1,000 currants.

We feel sure that you will appreciate it is important to us to have your prompt decision as our Christmas buying will be held up pending word from you.

Yours faithfully,
NATIONAL DISTRIBUTORS LIMITED.

4th October, 1934.

The Secretary,
The Australian Dried Fruits' Assn.,
Melbourne.

DEAR SIR,—

The purpose of this letter is to solicit your assistance in connection with our application to be placed on the Commonwealth Dried Fruit Control Board's list. We are enclosing a copy of a letter addressed to the Chairman of the Board, which will give you some understanding of the whole situation.

Reference to your files will show that the whole of our business for prunes, apricots, peaches, nectarines and pears have been confined to the Australian Dried Fruit Association through your selling agents. We feel sure that the support we have accorded Australian fruits in the past the exclusion of Californian and South African which as you know are competitive, and in some cases particularly prunes, slightly better than Australian that there should be no reason why the Control Board will not accept our business on vine fruits.

We think, perhaps, in view of the circumstances your Association may approach the Board on our behalf and any action you care to take will be appreciated by us. We are reluctant to place our business outside Australia but we are afraid that the position is one where we are not being fairly treated by the Board's refusal to supply us with the vine fruits and expecting us to purchase from merchants at 10% above landed cost, when we are confining the whole of our purchases on prunes, apricots, &c., to Australian and paying a slight premium in some cases because these are Empire products.

Yours faithfully,
NATIONAL DISTRIBUTORS LTD.

11th October, 1934.

Stanley H. Wilson, Esq.,
Messrs. Pavcy, Wilson, & Cohen,
Solicitors, 360 Collins Street, Melbourne.

DEAR SIR,—

National Distributors Ltd.

I duly received your letter of the 30th ult. and I am afraid that owing to the long lapse of time since we first wrote you, you have overlooked the advices which we originally gave you. In my letter to Mr. King on the 2nd March last which you had to deal with owing to his unfortunate death I forwarded a copy of the correspondence between ourselves and the Hon. Mr. William A. Watt. My first letter dated the 12th January 1934 to Mr. Watt sets out the fact that National Distributors Ltd. is a wholesale Company which does all the buying for the Self Help Stores. As a matter of fact I suppose I might have made the position more clear although I think it has been mentioned in other correspondence with the Board. National Distributors is purely a wholesale company. Self Help Stores Ltd. is a retail organization. National Distributors Ltd. in addition to doing all the buying for the Self Help Stores Ltd., also buys for other companies to a fairly considerable extent so that National Distributors Ltd. has for some time been in the position that you advise Mr. Sutherland to attain. The only difficulty is that up to the present the Merchants' Association in New Zealand have declined to admit National Distributors Ltd. as a member of their Association.

You will, of course, appreciate the fact that while several of the merchants belonging to the Merchants' Association are directly interested and are controlling and running chain stores, yet the more difficult they can make it for Mr. Sutherland to obtain supplies cheaply through National Distributors Ltd. the less effective his opposition through Self Help Co-op. Ltd. is likely to be, so that the position is actually that while National Distributors Ltd. is and has been since its inception a wholesale company, yet it does not belong to the Merchants' Association.

I might say in addition that the shareholders of National Distributors Ltd. are none of them shareholders in Self Help Stores Ltd. and none of the shareholders of Self Help Stores Ltd. are shareholders in National Distributors Ltd. Actually, members of Mr. Sutherland's family are interested in the two companies so that while technically the two companies are not associated, yet actually there is a close bond. I mention this because I want you to be seized of the full facts. Dealing again with your letter you say, "The result is this, that as long as your man stands as at present he has no hope of getting on the list. He is not a merchant. I understand that all merchants are entitled to be placed on the list."

Actually, as I have explained National Distributors Ltd. is purely a wholesale merchant company and is not in any way connected with the retail business. If therefore, your letter gives a correct statement of the position there seems to be no reason why National Distributors Ltd. should not be placed on the same terms as its competitors. Will you take the first opportunity of seeing Mr. Bell again. You may think it wise to delay approaching him for a little while. We shall have to leave this to you.

Please keep us in touch with the position.

Yours truly,
O. & R. BEERE & Co.

16th October, 1934.

S. H. Wilson, Esq.,
Messrs. Pavcy, Wilson, & Cohen,
360 Collins St., Melbourne.

Dear Sir,—

National Distributors Ltd. & The Dried Fruits Board.

We have to-day cabled you as follows:—

Son "Our letter seventh August National Distributors Sutherlands in fathers absence forwarded formal application direct Board sending you all copies correspondence would like you see Bell suggest he defer action if unfavourable meantime".

You will remember that in our letter to you of the 7th August we told you that Mr. Sutherland had sent forward a special order to the Board and that if it were dealt with as he expected he would know that his application had been granted. Apparently, however, his application has not been granted. Mr. Sutherland is still in very poor health and during his absence from the office his son who did not know of our recent correspondence with you sent a letter direct to the Dried Fruits Board. We enclose herewith copy of that letter dated the 4th October also copies of letter sent to the Co-op. Dried Fruits Sales Pty. Ltd. Sydney and to the Leeton Packing Co. Ltd. of Melbourne. There is, we think nothing in the letter to the Board to which exception could be taken but in order that you can understand the whole position Mr. Sutherland instructs us that he has been advised that after he had been placed on the direct list for three months a deputation committee of New Zealand merchants sent over to Australia interviewed the Dried Fruits Board and advised them that if National Distributors Ltd. were put on the direct list they, the New Zealand merchants, would exert pressure on the New Zealand Government with a view to having duties removed from Californian and other American dried fruits.

It is difficult to believe either that anything so stupid should have been said to the Board or that if it were said the Board should have taken any notice of it, because it is quite obvious to anybody who knows anything about the position in New Zealand that such a threat was quite impossible of being put into action. The Board may possibly have been impressed by the representation of New Zealand Merchants' Association as some of those merchants have been very active in their opposition to Mr. Sutherland and his company. Exactly the same position arose with

regard to sugar, but as the result of negotiations extending over a considerable period our client has now been given the best possible terms for sugar, and as you probably know the Colonial Sugar Company is probably one of the most conservative in Australasia and it is not likely that they would have taken this action without the fullest consideration. So far as we can see the letter to the Board fairly sets out the position. If we had known of it in time it would have been sent through yourself.

Mr. Sutherland is to-day leaving for a month's holiday and if by any chance, not that we anticipate it, the Board is perturbed at having further representations through Mr. Sutherland and on his behalf, we trust that you will see that they make some allowance for our client's state of health. He is in a highly strained and nervous condition and this business has caused him a very great deal of anxiety.

Yours truly,
O. & R. BEERE & Co.

2059 WELLINGTON NZ 30 18 1135

J H Miles
Care Bank New Zealand Sydney

18th July, 1935.

Under best treatment could buy Australian products thirty thousand pounds excluding dried fruits twenty thousand pounds and sugar eighty five thousand pounds

SUTHERLAND.

EXTRACTS FROM TENTH ANNUAL REPORT OF THE COMMONWEALTH DRIED FRUITS CONTROL BOARD DATED 31ST JULY, 1934.

The development of substantial markets in the Dominions of Canada and New Zealand is of supreme importance by reason of the fact that the consuming power of these sister Dominions is such that at least 20,000 tons of dried vine fruits might be taken from the Australian producer, and especially so under existing preference tariffs.

The importance of these markets in relieving the weight or pressure of supplies on the United Kingdom markets must be self-evident inasmuch as trade to this extent would reduce the quantity which must go to the British market which, by reason of the high aggregate consumption is the ultimate dumping ground for the export surplus of the Mediterranean, Asiatic, and American producers.

* * * * *

The Board is gratified that during the last few years the Dominion markets indicated have afforded considerable relief to the situation by the absorption in Canada and New Zealand of some 12,500 to 15,000 tons per annum.

* * * * *

In view of the position indicated above it is evident that the future of the Australian dried fruit industry in its present dimensions lies in the maintenance of Imperial preference and that any change which would tend to diminish the preference granted in the British, Canadian and now, happily, also in the New Zealand market would have far-reaching and disastrous results to the dried-fruit industry in the Commonwealth.

EXTRACTS FROM TRADE AGREEMENT BETWEEN AUSTRALIA AND NEW ZEALAND.

(Correspondence.)

Australian Trade Delegation,
Midland Hotel, Wellington, N.Z.,

The Right Hon. J. G. Coates, P.C., M.C., Wellington.

6th April, 1933.

MY DEAR MINISTER,

In consideration of the imposition of a duty of one penny per lb. upon the importation into New Zealand of foreign sultanas and lexias such duty being designed and intended to secure the whole of the market to fruit of this class from Empire sources, I hereby give on behalf of the Government of the Commonwealth of Australia an undertaking to your Government in the following terms:—

* * * * *

3. That it would be further understood that the Australian Government would not expect the duty to be maintained against foreign supplies of these goods if the Australian industry is at any time unable or refuses to supply or refrains from supplying all the reasonable requirements of New Zealand.

* * * * *

5. That the Australian Government would agree that in the consideration of the foregoing conditions the New Zealand Government might have regard to all and any circumstances which in the opinion of the Government of New Zealand have at any time a bearing upon the matter of the prices at which and the terms and conditions upon which supplies of these goods are or may reasonably be purchased by importers in New Zealand.

* * * * *

(Signed) W. MASSEY GREENE,
Leader of Trade Delegation of New Zealand.

Evidence of Mr. B. SUTHERLAND.

Mr. O'Leary: Mr. Sutherland in his evidence is going to refer to prices, and so on. I have got these schedules, which I would like to put before members.

Your name is Benjamin Sutherland?—Yes.

And you are a resident of Wellington?—Yes.

You have your evidence in typed form and you desire to read it?—Yes.

7th October, 1935.

EVIDENCE OF B. SUTHERLAND.

My name is Benjamin Sutherland. I am the founder and managing director of Self-Help Co-op., Ltd., a firm of retail grocers with 145 stores throughout New Zealand. We operate as far south as Invercargill and as far north as Whangarei. Thirteen years ago I resigned from the clerical division of the New Zealand Railway Department after thirty-two years service, and founded the Self-Help Co-op., Ltd.

My reason for founding the Self-Help Co-op., Ltd., was that, owing to the exorbitant charges made by the master grocers in Wellington, the pay of a railway employee was not then sufficient to make both ends meet. The huge profit on a 70 lb. bag of sugar—sold as a bag and not in broken quantities—was 3s. 6d. Every one thought that my business could not last when I brought the retail profit on a bag of sugar down to 1s. That profit has now been practically stabilized at 9d., and is working in a quite satisfactory manner.

I am informed that the alleged reason for this Bill is that price-cutting is practised on a large scale to-day in New Zealand, and that this price-cutting has been made possible only by virtue of the Commercial Trusts Act. So far as the grocery trade is concerned, I state emphatically that there is practically no price-cutting at all. We trade throughout New Zealand with 145 shops, and we therefore have first-hand knowledge of all prices offered to the public. We know exactly what our competitors are doing, and we are quickly informed of any change in prices which they may make. On the whole, no one sells cheaper than we do. Most grocers in New Zealand more or less meet the price of their competitors. So far as our own business is concerned, we are not price-cutters and we do not make it a rule to sell at cost or under cost. There may be, and there always have been isolated instances of price-cutting, but no Bill will ever prevent this.

Our experience has clearly shown that there is far less price-cutting to-day than there was ten years ago, or than there was in 1927, when the inquiry was held into the Proprietary Articles Trade Association. This allegation of price-cutting is a stock complaint of traders who are unable to keep up with the constantly improving and more efficient methods of to-day.

Any scheme of minimum grocery prices would require of necessity to discriminate between shops which sell for cash only and do not deliver on the one hand and shops which give credit and deliver. The former cater for that section of the public who cannot afford to pay for the luxury of a book-keeping department or have their goods delivered at their house. This section includes those in straitened circumstances and those who are near to the bread-line who must buy their food as cheaply as is possible. The comparatively well-to-do can afford to enjoy the advantage of monthly accounts and the delivery of the food to their homes.

Very often price-cutting is confused with price-reductions, which have their explanation and justification in greater efficiency. This is totally different from selling under cost or at cost, which is very seldom justified. Cash-and-carry stores should never be made to sell at the same price as those stores which deliver and give credit. It is well known that the cash-and-carry store can always operate with a smaller overhead than the other type of store. Unless a safeguard were provided in this respect the inevitable result would be that with both types of shops having to sell at the same prices practically the whole of the trade must go to the group that gives the additional services of delivery and credit. The cash-and-carry group would therefore have to close their doors and go out of business. We employ more than five hundred persons. A grocery which sells for cash should be allowed to sell its goods 5 per cent. cheaper than a store which gives credit and incurs the expense of a system of book-keeping. Further, those grocery stores which do not deliver should be allowed to sell an additional 5 per cent. (10 per cent. in all) cheaper than those shops which deliver. The customers of the cash-and-carry stores must make their purchases over the counter, because they cannot afford to pay for the expense of having their food delivered at their own homes. The lowest market price should not include the cost of delivery and book-keeping services, which the very poor simply cannot afford to pay without going hungry.

The view is widely held that various causes make the cost of distribution in New Zealand exorbitant, and that the difference between what the consumer pays for his food and what the producer gets makes an unreasonable gap. Any legislation which widens this gap, and therefore reduces the purchasing-power of those on the bread-line, requires very careful consideration.

Some grocers call on the customer's house for orders, wrap up and deliver the orders, give credit, and give discount when the bill is paid, sometimes at the end of one, two, or three months. Is it fair to fix a minimum price which will be fair to the retailer who does not give this service? Is it fair to saddle the customer, who is prepared to call at the shop, pay cash for the goods, and carry them away himself, with the cost of all services performed by the grocer who renders all these services?

In some districts the retailer carries some of his customers over bad seasons or over the winter months and gets paid for his goods perhaps once or twice every year. It is scarcely fair to those dealing in these districts who can pay cash for their goods to have to pay increased prices because of the retailers who, not having adopted the correct method of running his business, charges the same price to the man who pays cash, as he charges to the man who sometimes, or never, pays. We can all sympathize with the retailer supplying country districts when that district is affected with drought or with a serious drop in the price of primary products; but it is scarcely fair to saddle the whole of the rest of New Zealand with increased prices which will serve to put more money into the pockets of the retailers in other districts whose prices are already higher than the consumer should be called upon to pay.

As the law now stands, the manufacturer or agent of any article need not supply a retailer with that article unless he wishes to do so; and the manufacturer or agent does not need to give any reason for refusing to supply.

Mr. B. Sutherland: There are a lot of figures here, and I think if I read out the name of the article and the price "on cost" you will understand that is greater than what it is on "selling-price." They were worked out "on cost."

Mr. O'Leary: Just to explain the schedules, the first one is a list of articles supplied on which the retail price is fixed by the manufacturer?—You have to agree to those prices or you cannot get the goods.

And you must make these profits?—Yes.

ARTICLES ON WHICH RETAIL PRICE IS FIXED BY MANUFACTURER OR AGENT.

Article.	Cost to Retailer.	Selling-price.	Profit, per Cent.
Aspirins (Bayer's 24's)—	s. d.	s. d.	
6 doz. lots 9s. 3d.	3 5	1 6	84.5
Less quantities	12 1	1 6	48.9
Aspros—			
8's	4 4	0 6	38.4
27's	13 6	1 6	33.3
6 doz. lots	11 7	1 6	55.3
54's	17 4	2 6	73.07
108's	34 8	4 6	55.7
Fluenzol—			
Small—6 doz. lots	11 8	1 6	54.2
Less quantities	12 3	1 6	46.9
Large—6 doz. lots	19 5	2 6	54.5
Less quantities	20 6	2 6	46.3
Gibb's dentifrice—			
Small	8 5	1 0	42.5
Large	13 1½	1 6	37.1

ARTICLES ON WHICH RETAIL PRICE IS FIXED BY MANUFACTURER OR AGENT—*continued.*

Article.	Cost to Retailer.		Selling-price.		Profit, per Cent.
	s.	d.	s.	d.	
Lanc's emulsion—					
Small	23	6	2	9	40·4
Large	44	7	4	9	27·8
Kolynos	13	0½	1	6	38·01
Listerine—					
Liquid	13	1½	1	6	37·1
Medium	26	3	3	0	37·1
Large	48	1¾	5	6	37·1
Listerine toothpaste—					
Small	4	6¾	0	6	31·8
Large	10	10	1	3	38·4
Pepsodent—					
Small	4	6¾	0	6	31·8
Medium—					
6 doz. lots	10	3	1	3	46·3
3 doz. lots	11	6½	1	3	29·9
Large—					
6 doz. lots	16	3	2	0	47·6
3 doz. lots	18	4½	2	0	30·6
Q-Tol—					
Toothpaste	10	9	1	3	44·1
Lotion	17	5	2	0	37·7
Shaving-cream	13	6	1	6	33·3
Cigarette-papers—					
Zig-Zag—					
Doubles	12	2 (box)	16	8 (box)	36·9
Singles	12	8 "	16	8 "	31·5
Roll rite—					
10-box lots	12	3½ "	16	8 "	35·5
5-box lots	12	6½ "	16	8 "	32·8
Lesser quantities	12	10 "	16	8 "	29·8
Tic Tacs	9	10 "	12	6 "	27·1
Skipper emulsion—					
Small	19	5½	2	3	38·7
Large	37	11	4	3	34·5
Bournville cocoa—					
¼'s	2	0 ¾ (lb.)	2	8 (lb.)	32·5
½'s	1	11 ¼ "	2	6	29·8
1's	1	10 ¾ "	2	5	31·5
Baxter's lung preserver—					
Small	14	4 (doz.)	1	6	25·5
Medium	24	7 "	2	6	22·03
Large	41	0 "	4	6	31·7
Nazol	11	0 "	1	3	36·3
Rexona—					
Ointment	13	5 "	1	6	34·1
Soap	6	7 "	0	9	36·7
Shirdy poultry spice—					
Small	7	4 "	0	10	36·3
Large	13	2 "	1	6	36·7
McBride's pills	9	2 ¾ "	1	0	30·2
Pulmonas—					
Small	8	11 ¼ "	1	0	34·4
Medium	13	7 ¾ "	1	6	31·8
Large	23	0 ¾ "	2	6	30·3
Valet and Gillette razor blades	1	6¼ (packet)	2	0	31·5
Saladress	11	5½ (doz.)	1	3	30·9
Sauce (H.M.)	7	10½ "	0	10	26·9
Wrigley's chewing-gum	4	4 ½ (box)	6	0 (box)	37·1
Dad's washing tablets	9	2 ¼ "	1	0	30·6
Jeyes fluid—					
Small	7	8½ "	0	10	29·7
Medium	12	0 ½ "	1	3	24·5
Large	17	9¾ "	1	9	17·8
Wilson's malt—					
Small	11	0	1	2	27·2
Large	19	2	2	2	35·06
Wilson's malt and oil—					
Small	12	0 ½	1	3	24·5
Large	21	8	2	4	29·2
Edmond's baking-powder—					
Small	4	10½	0	6	23·07
Large	13	3	1	4	24·1
Edmond's custard-powder—					
Small	4	10½	0	6	23·07
Large	9	8	1	0	24·1
Antacid powder (De Witt's)	22	0 ½	2	6	36·1
Lushus jellies	4	6	0	6	33·3
Yeast Vite tablets—					
Small	13	3¾	1	6	35·3
Medium	19	11	2	3	35·5
Large	48	7	5	6	35·8
Family size	74	9	8	6	36·4

Mr. B. Sutherland: The next page is a list of articles which are sold on price agreement with the manufacturer or agent. He comes to you and discusses with you what price you will sell these goods at. You buy them on a basis, and you have to agree to sell at these prices or you cannot get supplied.

Mr. O'Leary.] You need a written agreement for the first three?—For the first three, not for the first page.

ARTICLES ON WHICH RETAIL PRICE IS FIXED BY MANUFACTURER OR AGENT.

Article.	Cost to Retailer.	Retail Selling-price.	Profit, per Cent.
C.O. Waxshline—			
No. 1—	s. d.	s. d.	
Gross lots (assorted)	4 1 $\frac{2}{5}$	0 5	21·4
3 doz. lots (assorted)	4 4	0 5	15·3
No. 2—			
Gross lots (assorted)	5 5 $\frac{1}{2}$	0 7	28·2
3 doz. lots (assorted)	5 9	0 7	21·7
No. 3—			
Gross lots (assorted)	8 8 $\frac{1}{2}$	1 0	37·8
3 doz. lots (assorted)	9 2	1 0	30·9
No. 4—			
Gross lots (assorted)	16 5 $\frac{1}{2}$	2 0	45·7
3 doz. lots (assorted)	17 4	2 0	38·4
Bonnington's Irish Moss—			
Small (per doz.)	14 4	1 5	18·4
Large (per doz.)	25 7 $\frac{1}{2}$	2 5	13·1
Bonnington's Irish Moss jubes (per doz.)	4 0 $\frac{3}{16}$	0 6	49·0
K.P. life salts—			
Small—			
Gross lots	12 9 $\frac{3}{4}$	1 6	40·5
Smaller quantity	14 10 $\frac{1}{2}$	1 6	21·0
Large—			
Gross lots	20 6	2 6	46·3
Smaller quantity	23 7 $\frac{1}{2}$	2 6	26·9
Bell and Amber Tips teas—			
First grade (per lb.)	2 10 $\frac{1}{8}$	3 4	16·5
Second grade (per lb.)	2 4 $\frac{2}{5}$	2 10	19·6
Vick's vapo rub (per doz.)	22 6	2 6	33·3
Vick's cough drops (per doz.)	8 1 $\frac{1}{2}$	1 0	40·5

Mr. B. Sutherland: The smallest grocer could buy these and make that rate of profit.

Mr. Harris.] Could he make less?—No, they will not allow you to get the goods.

ARTICLES SOLD BY PRICE AGREEMENT.

Article.	Cost to Retailer.	Selling-price.	Profit, per Cent.
	s. d.	s. d.	
Kiwi boot polish	4 3 $\frac{7}{8}$ (doz.)	0 6	38·7
Nugget boot polish	4 0 $\frac{1}{3}$ (doz.)	0 5 $\frac{1}{2}$	36·5
Nestles cocoa—			
$\frac{1}{4}$'s	1 6 $\frac{1}{2}$ (lb.)	1 10 (lb.)	18·9
$\frac{1}{2}$'s	1 5 $\frac{1}{4}$ (lb.)	1 9 (lb.)	21·7
1's	1 4 $\frac{1}{4}$ (lb.)	1 8 (lb.)	23·07
Sloan's liniment	18 7 $\frac{1}{2}$ (doz.)	1 10	18·1
Poliflor	6 0 $\frac{1}{2}$	0 7 $\frac{1}{2}$	24·1
Hudson's eucmenthol jubes (large)	4 6 $\frac{3}{4}$	0 6	31·8
	12 4 (12 doz.)	1 6	45·9
	12 8 $\frac{1}{4}$ (6 doz.)	1 6	41·8
	13 0 $\frac{1}{2}$ (3 doz.)	1 6	38·01
	13 7 $\frac{1}{8}$ (1 doz.)	1 6	26·9
Luxus jellies	3 3 $\frac{1}{2}$	0 4	21·5
Bemax	31 0 $\frac{3}{4}$	3 0	15·8
Andrews liver salts—			
4 oz. tins	13 5 $\frac{7}{10}$	1 4	18·7
8 oz. tins	22 5 $\frac{1}{10}$	2 4	24·5
Bisurated magnesia powder—			
Small	22 9	2 4	23·07
Large	42 2	4 3	20·9
Bisurated magnesia tabs—			
Small	16 1 $\frac{1}{5}$	1 9	39·43
Large	31 4	3 4	27·6
Creamoata—			
Small	5 0 $\frac{3}{4}$ (doz.)	0 6	18·5
Medium	10 1 (doz.)	1 0	19·0
Large	15 7 (doz.)	1 7	21·9

Mr. B. Sutherland: The following is a list of articles which Self-Help Co. sells at a lower percentage of gross profit than any other articles we stock. The profit shown is not greater than can be made by an individual grocer.

Articles.	Profit, per Cent.	Article.	Profit, per Cent.
Ammonia (Scrubbs)	10·0	Magnesia (Dinnefords)	13·6
Anti-acido	9·1	Margarine	9·4
Bengers food	9·1	Marmalade—	
All Bran	10·5	Golden Shred	10·4
A. and H. Food	8·3	Keillers	11·6
Evaporated apricots	10·5	Meat extract (C.M.C.)	7·3
Asparagus tips	9·1	Condensed milk and cream	10·6
Baking-powder	9·8	Mother Seigels syrup	11·3
Black lead	9·1	Mustard (½'s)	12·1
Bag blue (Reckitts)	9·4	Neaves food	12·6
Square blue (Reckitts)	9·1	No Rub laundry help	8·6
Bon Ami cakes	11·4	O'Cedar oil	12·8
Bovril (2 oz. and 4 oz.)	10·8	Painkiller	11·0
Candles	9·1	Pan Yan pickles	12·3
Caustic soda (1's)	10·4	Melhuish's pickles	12·8
Cheese	8·3	Becchams pills	12·1
Clarke's blood mixture	8·3	Doans pills	8·8
Clever Mary	10·5	Indian Root pills	12·2
Brown Barrett's coffee	11·3	Pollard	12·5
Club coffee	11·5	Puffed wheat and rice	11·6
Coffee (Tray Bong)	9·5	Lexia raisins (packets)	11·8
Cornflour (B. and P.)	9·1	Newburys rusks (tins)	9·1
Cornflour, loose	10·8	Salmon	9·7
Coffee and milk	10·3	Safety matches	12·5
Cordials (Crescent)	12·5	Salt (Cerebos)	10·1
Cornflakes	10·5	Sardines (X Fish)	11·1
Cream of tartar	10·3	Tomato sauce (B.B.'s)	9·3
Foster Clarkes custard powder	8·6	Sauce (L. and P.)	11·0
Self-Help custard powder	11·3	Self-Help toilet soap	9·0
Ovoline egg-preserver	9·7	Cuticura soap	11·5
Elliman's embrocation	11·9	Lifebuoy soap	10·4
Enos fruit salt	12·4	Sunlight	8·8
Waxeesi floor polish	11·6	Soups—	
Canned fruits	9·7	("K")	10·3
Davis gelatine	11·3	Self-Help	10·3
Preserved ginger	11·2	Starch (Colman's)	11·1
Glaxo	11·1	Steedmans soothing-powders	12·9
Grape-nuts	11·6	Doctors China tea	10·8
Heenzo	10·2	Desert Gold tea	11·5
Celery salt	11·4	Roma tea	9·9
Heinz spaghetti	7·3	Three-in-One oil	11·9
Heinz vinegar	9·6	Vinegar—	
Herrings in sauce	10·5	Champion	10·7
Herrings, kippered	10·0	Sugar	12·2
Jam ("K")	9·1	Westfield preserved meats	10·7
Kerosene (bottled)	11·6	Wheat	9·1
Knife powder (Oakkeys)	10·7	Writing-pads	10·0
Kruschen salts	9·5	Sugar (averaging four bags loose to one single bag)	8·3
Lentils	14·0	Rice	11·7
Loaf sugar	11·1	Flour	8·8

Mr. B. Sutherland: I have made that clear: that these are the articles which we stock and which are sold at a lower percentage of gross profit than any other articles we stock. They carry the lowest rate of profit—that is, "on cost" of all the list we stock.

Mr. O'Leary.] That is the usual, whether you are a price cutter or not? Yes.

The lowest is Heinz spaghetti (7.3), and for the C.M.C. (7.3 per cent.). Yes, they are the lowest; there is a meat-extract which carries a bigger profit.

Mr. Ansell.] This is the least profit, of course? Yes. I would like to explain the last three items—"Sugar, averaging four bags loose to one single bag." We found out by what quantities they sell by the bag and what quantities are sold in broken lots.

Mr. O'Leary.] You sell four bags loose to one whole bag? Yes. In regard to flour we find out what quantities they sell. It is the same.

Mr. Harris.] Made up in pounds and so forth? Yes, and on the sugar we include the cost of the bags. After paying for the cost of the bags we make 8.3 in sugar and 8.8 in flour. These are the profits we made in Timaru for the month of August; we have just checked up the figures. That contradicts Mr. Norrie's statement that sugar and flour are sold at cost down there. Since leaving here we checked up our selling and cost prices at Timaru. We buy exactly the same as he does, and on one cost we made the sugar 8.3 and the flour 8.8. The representative of the Board of Trade is here and he can check the figures, which will be available to him this afternoon.

Mr. B. Sutherland: The next is a list of overhead for the whole of the Self-Help throughout New Zealand. It totals to 7.7—that is not on cost, that is on turnover. The profits on our lists of articles were worked out "on cost." I have explained it so you will understand and perhaps we may take it as read.

SELF-HELP CO-OP. LTD.—PERCENTAGES OF OVERHEAD.

	Per Cent.
Wages	4.4
Rent	1.3
Advertising	0.3
Interest	0.1
Rates and insurance	0.1
Paper and bags	0.6
Sundry expenses (land-tax, shop-redcoration, motor expenses, delivery expenses, repairs, travelling-expenses, legal expenses, exchange, stationery, property expenses, lighting and heating, telephones, postages and telegrams, tickets, and paint)	0.6
Depreciation—	Per Cent.
Buildings (approx.)	0.2
Cash registers	10.0
Fixtures and fittings	5.0
Plant	5.0
Motors—	
Lorries	15.0
Cars	10.0
Office furniture	5.0
	7.7

Mr. Harris.] Is the depreciation actuarially sound?—Yes, that is absolutely sound and is what is allowed by the Income-tax Department.

Mr. B. Sutherland: The next is “The Effects of the Bill.”

(1) Manufacturers at present have the right to fix a retail price if they so desire. Consequently, the aim of those behind the Bill must be to permit the coercion of combines to attack efficient business.

(2) The aim is to fix the price of not only proprietary articles, but also lines such as flour, bread, sugar, by refusing supplies to those who do not agree to make a large profit. Underlying this innocent-looking measure is a motive unparalleled in the history of this country to crucify efficient business methods at the expense of the worker. Ninety-five per cent. of the public have to live upon 50 per cent. of New Zealand's total income—the other 5 per cent. of the people receiving the other 50 per cent. of the income.

(3) The tendency is for retailers and merchants to stock and push only those lines which carry a high rate of profit. This will act like a snowball coming down a hill, and prices to the people will soar. Manufacturers will attempt to obtain the assistance of the retailer by fixing the price at such a figure as will give the retailer a greater margin of profit than on competing brands. Hence a competition as to who can fix the higher price and the greater profit.

(4) Price-fixation will not benefit the manufacturer. It merely places a strangle-hold on the efficient retailer and protects the inefficient.

(5) The public throughout must pay the price—that is, workers will be called upon to pay more than necessary for the essentials of life without a corresponding increase in wages.

(6) Price-fixation always increases the price dearer than necessary.

Mr. B. Sutherland: The next is a list of the number of employees who belong to the Grocers' Union, and taken from a list in the Department of Labour. It goes from 1919 to 1933. The Department has not got the list since 1933 yet. That statement clearly shows that since 1922, when the chain stores really started, they had 350 employees belonging to the union, and since then the figures have increased every year. As the chain stores grew, so the number of employees grew. The number now belonging to the union is now 801, and as the law stands there must be a fully-paid man for every youth or boy—that is, you could not have a man drawing £4 a week and a boy drawing £2 a week in the one shop with three people in it. Do I make that clear? Suppose there is a man drawing the minimum rate of £4 5s. 6d., you could not employ another drawing £4 and another one drawing £3. You have to have a fully-paid man drawing at least the award rate.

Mr. Harris.] All assistants are members of the union, of course?—Yes.

RETURN SHOWING NUMBER OF MEMBERS OF WELLINGTON GROCERS' ASSISTANTS' UNION.—DEPARTMENT OF LABOUR, WELLINGTON.

Yearly Returns.				Number of Members.	Yearly Returns.				Number of Members.
1919	..	..	..	278	1927	..	..	..	663
1920	..	..	..	345	1928	..	..	..	703
1922	..	..	..	350	1929	..	..	..	703
1923	..	..	..	466	1931	..	..	..	875
1924	..	..	..	565	1932	..	..	..	860
1925	..	..	..	600	1933	..	..	..	801
1926	..	..	..	645					

NOTE.—Prior to the chain-stores being established in Wellington the number of assistants employed in the grocery trade never reached the 300 mark. Since the establishment of these shops the number of employees has trebled. These returns cover the following districts: Wellington City and suburbs, Petone, Hutt, Johnsonville, &c.

Mr. B. Sutherland: Although we strongly oppose the amendments to the Bill in order that we may be able to continue our policy of selling groceries to the public at a low rate of profit, yet we have never done nor intend to do this at the expense of the staff, or of the many charitable institutions it has been our privilege to subscribe to.

BENEFITS TO EMPLOYEES.

(1) *Bonuses.*—The firm distributes about £1,000 each year in bonuses to the staff for the most efficient work.

(2) *Sick-benefit Fund.*—The Self-Help Co-op. operates a sick-benefit fund for the employees, and subsidizes it to the extent of £500 per year. Employees contribute 1½ per cent. of their wages to this fund.

(3) *Subsidies*.—Liberal subsidies (£400) are made to allow employees to study Dr. Fern's (London) Course for Self Advancement.

(4) *Free Tuition*.—Every person in the employment of Self-Help Co-op. receives *at the firm's expense* free tuition in ticket-writing, shop-decoration, window-dressing, and handling of provisions, in classes conducted by the Self-Help Co-op. Also free tuition is provided by the Self-Help Co-op. in recognized technical schools.

(5) The Self-Help trains all its employees to become shop-managers, who receive considerably more pay than the ordinary shop-assistant. Before the last sitting of the Arbitration Court 75 per cent. of the Self-Help Co-op. managers *received more than the award rates of pay for managers*. On account of their training, a Self-Help employee is better able than others to operate a business of his own if he ultimately wishes to do so. It helps and encourages every lad whose ambition is to own a store of his own, and no trouble or expense is spared to help those employees who are willing to help themselves.

(6) Surely it is better that fifteen men should be each shop-managers drawing at least 15s. per week more than assistants than for those fifteen men to be all employed in one store, all drawing assistants' wages.

(7) At the first sign of the depression, and twelve months before the Government introduced the unemployment-tax, when unemployment was growing, the directors of Self-Help Co-op. asked each employee to contribute $1\frac{1}{4}$ per cent. of his wages, the directors subsidized that amount pound for pound, and the total amount was handed to the Mayor in each city to provide work for the unemployed. At Christmas-time every employee of the company, in addition to any other bonus he may have received, was presented with a Christmas gift of twice the amount he had contributed to the fund for the unemployed. This practice continued in operation until the Government introduced the unemployment-tax.

(8) *Managers' Wages*.—When the general order of the Arbitration Court—29th May, 1932—came into force which reduced all wages by 10 per cent., the Self-Help Co-op. continued for nearly twelve months without reducing the wages of any employee, and only put the 10-per-cent. cut into operation when absolutely forced to do so.

The Chairman.] A portion of the statement referred to the benefit fund. Where is that invested?—It is a trust.

Is it in the business?—No. There are three trustees appointed by the staff, and the management has no concern in that whatever. The management has no say in it, and the Fund is operated by the staff themselves.

Mr. O'Leary.] They control the investment of the Fund?—Yes.

Mr. B. Sutherland: This list shows the profit we are making (again it will be "on cost") at each of the places where we sell bread.

BREAD.			
Town.	Profit, Per Cent.	Town.	Profit, Per Cent.
Upper Hutt and Trentham	.. 7.5	All Dunedin shops	.. 8.1
Wellington City and suburbs	.. 14.1	Invercargill shops	.. 9.2
Parnell (Auckland)	.. 11.1	Gore	.. 10.0
All other Auckland shops	.. 12.5	Mataura	.. 7.5
Rotorua	.. 13.0	Rangiora and Mosgiel	.. 12.5
Te Awamutu	.. 12.8	Ashburton	.. 12.5
Frankton	.. 10.0	Hokitika	.. 8.2
Hamilton	.. 10.0	Nelson	.. 14.15
Gisborne	.. 10.0	Blenheim	.. 8.5
All Christchurch shops	.. 12.5	Palmerston North	.. 8.5
Timaru	.. 12.5	Masterton	.. 11.1
Oamaru	.. 10.9		

Mr. B. Sutherland: In every case we buy the bread from the baker, and this shows the profit we make. In one case—Wellington City and Suburbs—it shows we make 14.1, but we do not make quite as much as that, because we buy milk and give it to the baker to keep the quality of the bread up. Will you take that as read?

Mr. Holland.] Why such a discrepancy—in some cases 8.1 and in other cases 14.1?—Wellington is 14.1, and it all depends on what one can get the baker to sell at. We buy the bread from the baker, who fixes his price, and if we think he will not make a good article we subsidize him.

Mr. O'Leary.] Have you any information that would help the Committee on this matter of the Commonwealth Dried Fruits Board refusing National Distributors?—Yes, we have tried for about six years, since 1929, to get on; they always turned us down and would not take any application from National Distributors. Then the Merchants' Association always advised my son to apply and they would get National Distributors and another firm placed on the list. They held a number of meetings and different members of the association came up to my house. Some of them came up again and then they went over to Australia and brought sufficient pressure to bear on the authorities there that they would not put us on the list. I have been told that by merchants.

You were put on and then taken off?—Yes, because he was my son he was not allowed to be put on.

Now, as to tobacco sales; what about the present margin of profit to the retailer?—Well, it is more than we make on the gross percentage in our business. We do not want to make that, but I suppose it helps the tobacconists. It will be made bigger all the time and you will not be allowed to stock your own tobacco.

Mr. Harris.] What about your turnover?—It has gone down.

Mr. O'Leary.] Of course, you distribute to the price fixed?—Yes, we distribute to the price fixed and so does every one else.

Would you oppose legislation which made it necessary for you to make 10 per cent. profit on all lines handled?—If legislation was introduced making it illegal to refuse supplies of any line you did not make 10 per cent. on, then I would be quite agreeable to that. Legislation compelling you to make at least 10 per cent. gross on everything handled. That would stop all this cry about price-cutting.

Mr. Harris.] Ten per cent. on everything—that you could not be refused supplies of an article so long as you made 10 per cent. or over, and that you could be refused supplies of any article that you made less than 10 per cent. on.

Mr. O'Leary: There is one other matter. You have been asked, Mr. Sutherland, to put in a complaint by a Mr. Miller, a petrol-station operator in Auckland. I ask your ruling, Mr. Chairman,

as to whether it would be in order. He apparently wrote a letter of complaint to all the Auckland representatives in Parliament, and in it he complained as to the treatment he has received from the oil companies. He desires that it be put before the Committee. He sent a copy of the letter to Mr. Sutherland.

The Chairman: Yes, put it in. I understand that evidence will be tendered on behalf of the resellers later on.

Mr. O'Leary.] You have seen it, Mr. Spratt, have you any objection to it?—No.

Mr. B. Sutherland,

19th September, 1935.

Messrs. National Distributors, Ltd.,
Wellington.

DEAR MR. SUTHERLAND,—

Re "COMMERCIAL TRUST ACT."

The other enclosure is a copy of a letter forwarded by Mr. W. S. Miller to all the Auckland City members of Parliament. Mr. Miller, who is the owner of the largest Service Station in N.Z., is willing to do anything within his power in Auckland, and elsewhere by correspondence. Mr. Miller regrets that it is impossible for him to go to Wellington as he has no one in his service whom he would care to leave in control.

Yours faithfully,

NATIONAL DISTRIBUTORS, LTD.

(Sgd.) W. COWAN,
Manager, Auckland District.

12th September, 1935.

Mr. F. Lye, M.P.,

House of Representatives,
Parliament Buildings, Wellington.

DEAR SIR,—

I was pleased to note that your name was mentioned in the *N.Z. Herald* of yesterday as being one of those opposing any amendment to the Commercial Trusts Act being allowed to proceed.

I take this opportunity to bring to your attention the tactics adopted by the major oil companies here in Auckland to awaken interest and endeavour to create an apparently justifiable reason for some alteration being made to the Act.

Prior to this question being brought up in the House on March 28th, 1935, a scheme was laid by the oil companies whereby Shell, Vacuum, Big Tree, and Texas Companies, from all of whom I was then dealing, cut off my supplies of petrol, knowing that by so doing it practically meant ruination to my business, as I was then one of the largest retail vendors of petrol in New Zealand. I have at all times paid my accounts strictly by the due dates, and when my solicitor and I tendered the cash to these firms, after they had cut off my supply, they still refused to fulfil my orders, the Texas Company shortly after regrating me supplies. Since then, I have been able to sell only one brand of petrol—Texaco.

When asked for the reason for their action, each local manager of these companies gave me the same reply—that is, that they had received instructions from Head Office, and when asked many times at later dates for supplies and the reason why my orders would not be accepted, the answer was that it was at the request of the Auckland Petrol Resellers' Association that I should not be supplied, otherwise the resellers would boycott these particular brands of petrol. At this time as at all other times, I had sold company brands at competitive prices only, and at the particular time in question, the price ruling at three of the service stations nearest to me was the same price at which I was selling. One of those stations was owned outright by the Gilmore Oil Company and was known as the Domain Service Station, so it was impossible for them to even tender the excuse that I was the offender in an endeavour to set a lower price level.

On many occasions in the past I have imported my own brand of oil and petrol in competition with the oil companies, but have sold only my own brand below the ruling retail rate. I have at all times made legitimate profits on these commodities, and worked on reasonable percentages, proof of this being that I started in the business sixteen years ago with practically nothing, and now operate, as an individual, one of the largest and most successful concerns of its kind in New Zealand.

There is only one conclusion at which I can arrive, and this coincides with the advice of my counsel; and it is that the oil companies were endeavouring to make use of me to bring an action against them, for it was plain that they wanted me to do this, in order to create publicity through the Courts, and assist them to establish a reason why set prices should be maintained, and consequently why the Act should be altered. On talking the matter over at length with my counsel, I was assured that I had an excellent case against the companies, and they apparently had an ulterior motive in endeavouring to force me to take action and thereby be made use of as a tool, so that they in turn could accomplish their object by bringing about an apparent reason why the alteration in the Act was necessary.

It would be difficult to estimate how much damage they have done to my business by cutting off my supplies, for as I have mentioned, I had the largest retail petrol turnover in New Zealand, and consequent upon the discontinuation of supplies to me, other sections of my business have been seriously affected. In closing, I would mention that I have been a regular customer of these companies for the past sixteen years, and it is not necessary to emphasize to any one of ordinary intelligence the enormous power they wield at the expense of the consumer.

Trusting that this information will be of some assistance to you.

Yours faithfully,
W. S. MILLER.

P.S.—Before closing, I would mention that the local manager of the Vacuum Oil Company and his chief lieutenant called on the 11th inst., and mentioned that they would not be pleased to supply me with petrol, the reason for this being hard for me to understand, seeing that they cut off supplies only six months ago.

Mr. Harris.] You dealt fairly lengthily with what you regard as the disastrous effects of high prices to the manufacturer. If a manufacturer does insist on higher prices, is it not going to restrict his trade very considerably?—Not if he can get all the retailers to stock his product.

Will not many others refuse to handle that high-priced line and get a substitute?—No, they are all trying now for the higher profits. Unfortunately at one time they worked that, but now the grocers are strongly united and they are trying hard for higher profit. Pressure was brought to bear on me twelve months ago to raise the price of bread $\frac{1}{2}$ d. higher than we get for it in Wellington, and you have information that we make 14·1 per cent. on it. I did not give way to it.

It is extraordinary to me that with the reduced purchasing-power we would not find that the retailer would have decreased turnover and a restriction of business and that must reflect on the wholesaler.—Somewhere about the same turnover with an increase in profits of 20 per cent. It is going to be a good thing for them.

Your suggestion, of course, would be general and every one would have to charge a higher price ?—I suggest that if this goes through up goes the price of grocery lines and up goes everything else. The 20 per cent. will be all profit.

I was wondering whether I have a different idea of business to most people, but my idea is that unless you can bring the price of an article down to the price the public can afford to pay they will not purchase and everybody suffers.—If retailers only stock the articles which carry a high profit, people must have them.

If there are no substitutes ?—Substitution for articles which are too dear opens a way for other stores to start. For instance, if the chemists had kept their prices lower there would have been no opening for Boot's Cash Chemists, Ltd.

The Chairman.] May I take it in effect that there are only four articles mentioned in this sheet of prices that come into the question ?—Yes, they are half the turnover, and in connection with the ones sold at the low rate of profit the profit will be bumped up.

Mr. Harris.] If this were generally known you would get a lot of people starting ?—Yes, look at the people starting in the tobacco trade.

As you have remarked, you have had a lot of difficulty about that right throughout New Zealand and the profits you obtained were not excessive and were quite reasonable. Is it not a fact that in a number of cases, particularly in the City of Auckland, considerable price-cutting in bread is taking place and that, to a large extent, has influenced the application of the Master Bakers' Association ?—It is a remarkable fact that this price-cutting in the City of Auckland always takes place at the time there is a Bill coming before Parliament making it possible to increase the price of bread. You will remember my giving evidence on the Committee on the bread question twelve months ago, and I stated that the moment Parliament had given its decision—which must be against the Bill and they could not do anything else—the price of bread would go back to the old figure in Auckland, and it did so.

What about the Dot Stores ?—I do not know.

And has the cutting started again ?—There must be some evidence for it, hence the price of bread.

And you suggest the whole thing is been manipulated ?—I do not suggest if, I say it straight out.

In your various shops, what policy have you followed so far as bread is concerned—that is, so far as selling in competition ?—I make a fair rate of profit on the bread. I make not less than we make on the whole of our business. I try and retail the bread at not less profit than we make on the whole of our business.

Surely if there was a store close to you selling bread lower than you do, you would have to meet that competition ?—Yes, I would do my very utmost to get the price of bread stabilized and I work in with the secretary of the Master Bakers'—Mr. Gerrard—in Christchurch, and very often when information has reached me that there was going to be a bread war I did my best to fight it.

Just one question, Mr. Sutherland, in explanation of the number of assistants on this list you have given. Is there any explanation of the reduction during the four years from 1931, 875 to 801 ?—Yes, in 1933 there were a large number of resignations from the union.

The numbers go up until 1929 and the drop since 1931.—That is because there was a disagreement with the union and a lot of them dropped out.

In paragraph (2) of your evidence dealing with the "Effects of the Bill" you say that the aim is to fix the price of not only proprietary articles, but also such lines as flour, bread, and sugar. Are they the cheap lines which concern you—flour, bread, and sugar ?—They are all practically the necessities of life.

That does not imply that the demand for the Bill comes largely from the flour-millers and the bakers and the Colonial Sugar Co. ?—I do not think that the Colonial Sugar Co. comes into it at all, except that pressure has been brought to bear on them. They are quite satisfied with the profit being made. However, pressure will be brought to bear on them.

To raise their price ?—Not to raise their price, but to raise the profit which can be made.

Mr. Healy.] Just one question, Mr. Chairman. Mr. Sutherland, presuming you are selling bread at the same price as the baker, your profit according to the list would really be more than that of the baker who delivers the bread ?—The baker usually has one price for selling in the shop and another price for delivery.

One penny difference ?—Yes, we would sell at the same price as the baker is selling it in the shop.

I understand that it costs over 3d. in some rural districts to deliver bread.—Yes, it might, but it is pretty hard to make a cash-and-carry man in the towns pay that. We take each case on its merits and we try and get the thing stabilized. I want you to take particular notice of this: that I have offered Gerrard, the secretary of the Master Bakers' Association, to go to any part of New Zealand where there is a war on and try and get the thing settled. That offer is still open. We are not out to cut the price of bread to the point where the bakers cannot make a living. We are out to stop undue profits, but we do not want to go to such an extent that it is going to influence the weight.

If it came to pass would the wholesale price be increased ?—Yes.

To what extent ?—It would go up to 6½d. a loaf. We are selling now at 5d.

Mr. Wilkinson.] Do you own bakehouses of your own ?—Yes, I have them, but they are let. They do not belong to the Self-Help, they belong to me and are let to clients who are quite satisfied.

You say your price in Wellington is 5d.; is that the general price in New Zealand ?—I could not say. It is pretty much the same elsewhere. Christchurch will be about the same. Unfortunately, I did not bring those figures, but I could send you a return certified by the auditor of several places regarding the buying and selling prices.

Mr. Wilkinson: It would be handy to have those prices, Mr. Chairman.

Mr. B. Sutherland: We did not have the time to get it typed.

Mr. Wilkinson.] You said you would agree to the retailers receiving a profit of 10 per cent. on the sales?—We could make it sales or cost, it does not matter which. Provided you will not refuse any article that you made 10 per cent. on and that you sold no article under 10 per cent. That would cut out the long list which is rapidly growing where they are trying to make 84, 35, and 73 per cent. of profit. That would cut that out.

Mr. Sullivan.] You mean fixation of profits?—The idea is to do away with what is called “price-cutting.” In grocery there is little or no price-cutting.

Mr. Wilkinson.] That would get over a good many objections to the Bill, would it not? You would sooner have this left as it is at present?—I will have to close up and get rid of my men as soon as I can if this goes through. I reckon I will have to start reducing staff as soon as this goes on the statute-book. It will throw five hundred men out of employment in our business alone.

The Chairman.] I think that must be an exaggeration.—It is not an exaggeration, and if you knew more about business you would know it.

Mr. Wilkinson.] Just another point, and that is the connection between National Distributors and the Self-Help. Your son stated there is no connection between the two.—None whatever.

It is stated that the National Distributors supply the whole of the Self-Help stores?—They do not supply all the Self-Help stores or the business of the Self-Help stores, and the National Distributors supply over two hundred businesses in this city. It has quite a different shareholder list. Self-Help takes its own profits and National Distributors take theirs. The Self-Help is not connected with National Distributors, nor does my son deal with the Self-Help exclusively.

The Self-Help stores are not able to buy wholesale from the National Distributors?—No, they do not buy wholesale from the National Distributors.

Mr. Ansell.] On page 25 of this Report you say that some grocers call at customers’ homes for orders.—The service stores do.

Do we infer that this is the objection to the proposed legislation?—The objection to the proposed legislation is the fixation of retail prices on every article, covering the whole of the profits, plus bad debts, plus delivery, and working expenses.

But is that so? You have a long list of goods here showing various percentages of profits, but only a few of these articles are under the Trusts Act?—Yes.

You stated to Mr. Harris that the general price would be raised by at least 20 per cent. if this amendment came into force?—Yes.

By what reason have you come to the conclusion that prices will be raised by 20 per cent.? Because it would leave the small merchants sufficiently powerful that they could go to manufacturers and say “Unless you fix a price on your article sufficient for me to make 25 per cent. and 30 per cent. we will not sign.” You can see that with the prices that are already fixed. None are fixed at a reasonable percentage; they are all high. There might be one or two exceptions, but they are all high.

In regard to your overhead costs—7·7—I would ask a question on one item, the 10 per cent. depreciation on motor-cars. You say in your evidence that that is adequate?—Yes. Lorries are 15 per cent. and cars 10 per cent.

That is a natural practice?—Yes. We have had cars for seven years and then traded them in. Along with allowing for that and what we have written off it is generally just about 10 per cent. It is 15 per cent. for lorries. The roads are very much improved to what they were a few years ago.

I would like to refer to the question of employees and the evidence you placed before the Committee showing the increase in the number of members in the Grocery Trade Union in the district of Wellington. Do you suggest that the growth of the membership has been influenced by the introduction of the chain stores?—Yes, there are a lot more now than there were when I started in 1922.

How would that square with Mr. Norrie’s evidence this morning that the establishment of the class of store he has undertaken displaces labour?—I could not follow Mr. Norrie there, I could not understand him, because it does not fit in with our experience all over New Zealand. There are more shops in Timaru.

You have a cash-and-carry business. Mr. Norrie stated that all employees under the cash-and-carry system could do as big a turnover as eight or nine in the ordinary store. It seems to me to be an extraordinary position when we infer that the growth of these figures is consequent upon the establishment of chain stores.—You have heard that it has been contradicted by Mr. Horsburgh the other witness who came. I have taken these figures from the Department of Labour for six years, and there is no denying them. A check is kept and the figures are accurate. The extra number of stores that are open have provided far more work, and I know of very few stores that were open in 1922 that are now closed unless someone else is in them. There seems to be a far greater number of stores.

What is your reason for the increase in the number of established stores. Shall I put it this way; that the business is sufficiently attractive to attract to it a larger number of business people?—Yes. I started and others followed.

In regard to the question you suggested I should refer to you, the question of the Australian Dried Fruits business. You heard the question I asked your son whether he thought the alleged threat had influenced the Australian distributors?—Yes, it did influence them to a very great extent.

Are you quite certain on that point?—I am quite certain. I had a letter on that point from a man over there who had interviewed the dried-fruit people and they had told him that it was impossible to

get on until the National Distributors joined the Merchants' Association. I also got the thing in conversation with merchants whose names I cannot divulge. Half the merchants want National Distributors on the Merchants' Association and there is about another half who do not. Those who want them on want to get the benefit of our advice and experience in helping them with their fights with the Four Square Stores.

I understand that the National Distributors' fruit only sells at a price which is fixed?—Yes, and I would like to state that the Self-Help have never cut the price of Australian currants or sultanas. We have always made a good profit on those lines and we have never been accused of price-cutting in connection with them. We always make a good profit on Australian dried fruits, and we have been complimented by the dried-fruits representative who has come over from Australia on the displays we have made of their product.

What suggestion would you give to the Committee for the refusal on their part?—They were influenced by the merchants of New Zealand, who told them straight out that they would bring pressure to bear to try and get the duty removed on American fruit if they did not go back to the old list—that is, the Australian people did go back to the old list and the old list did not have the name of National Distributors on it.

Mr. Healy: I am a bit out of the running of the thing. Will you tell me how long this Committee has been taking evidence?

The Chairman: This is the first day on the main evidence.

Mr. Healy: It seems to me like a case of intimidation on the part of the Self-Help people, asking the people to watch the division-lists of the House and telling them how to cast their votes.

The Chairman: You had better bring that up in the House.

Mr. Healy: It seems to me to be a breach of privilege to say things like that in the House while the Committee is still making inquiries. It is a question of distributors. I have heard from a number of business people that the policy of National Distributors was to get the monopoly and to supply merchants with goods, the merchants would supply the retailers with goods, and the retailers would supply the public. That is three hands it goes through and it is a very uneconomic way of doing the business.—How on earth could National Distributors get a monopoly with the huge firms that deal in groceries with the enormous amount of capital they have got. They could buy us twice over.

Mr. Sullivan.] If anything is to be done, Mr. Sutherland, how would you prefer it to be done—on the lines of minimum profit?—Yes, so that a fixed profit must be made, say, not less than 10 per cent., and you could not be refused supplies of any article so long as you made 10 per cent. on it. If you did not have that provision they could at once force you to make 10 per cent. on everything, and they would gradually work the whole lot of the lines up so that you would be getting about 50 per cent.

Supposing you put out an increased number of stores and employees, would that hold good if all the grocery businesses of the Dominion were run on the same lines as your own?—It is impossible to run it all on our own. A big number of people must have service and they will not bother carrying their goods home. We only have a very small part of the business of the Dominion. In every country in the world the chain stores only have 15 per cent. of the business. They have in America and I suppose they have elsewhere. The people want the service; they do not want to be carrying the articles along the street.

The Chairman.] I think it was Mr. Sutherland, jun., made a statement in evidence that he was representing the largest distributors' association in New Zealand. In making that statement he must have some idea of the total distribution made, so it may be that they want a monopoly as Mr. Holland suggests.—They could not fight firms like Nathan's, Johnston's, and Ellis and Manton.

Also in your list taken from the Year-Book as to employees in the trade union, that would include in more recent years employees in such concerns as Woolworths and McKenzie's?—No, Woolworths and McKenzie's have just gone into the grocery trade. The last year is 1933, and Woolworths were not in it then.

That is taken from the list of the union? In connection with bread you mention the profit in Wellington City as 14·1 while at Upper Hutt it is 7·5. That is lower than your average turnover?—It is a different baker out there.

There must be price-cutting there.—I did not say there is. Ours is 7·7 and overhead 7·5—very little difference.

What is the retail price here in Wellington?—5d. or 5½d.

That is 10d. for a 4 lb. loaf. Now we have a statement handed in by the representatives of the bakers. They came down a day or two ago to give that evidence, but we were not ready to take that evidence and we told them they had better leave their statement for examination. In part of the statement it is said that the Self-Help stores sell bread in Auckland at 8d. with a landed cost of flour £1 8s. 6d. above Wellington.

Mr. Wilkinson.] The witness has promised to let us have the particulars of the prices?—At every store we have got.

The Chairman.] Apparently it has been so in Auckland?—Not long. We have the returns every week, and it has only been started three weeks, or a month at the outside.

Mr. Harris.] Regarding the question of unemployment, Mr. Sutherland expresses the opinion that if the amendment went through it would reduce the number of assistants all round. Would not the question of price-fixation, Mr. Sutherland, induce quite a lot of new businesses to start—possibly tobacconists—and would not that have the effect of increasing the amount of labour rather than decreasing it?—I said it would drive me out of business; I would have to start and look out for something else.

Would it affect the amount of labour employed in the grocery trade?—I have 500 employees that would have to be put off.

If you went out because of the price-fixation your 500 employees would be put off, but would not the effect be that further businesses would start to absorb those put off by you and others besides?—No, I do not think many more would start. Mr. Horsburgh said this morning that a lot of women would start small shops.

Mr. O'Leary.] Mr. Harris asked as to whether you knew that National Distributors were for a time put on the list of the Australian Dried Fruits Board. Were they or were they not?—I just cannot answer it yes or no. The Australian Dried Fruits Board altered its selling-terms and they did away with the old list. They extended the old list by leaving it as it was and leaving their four representatives here supply any one who could take 400 cases in one shipment. We took 400 cases in each of our branches—that is, Auckland, Wellington, Christchurch, Dunedin, and Invercargill. When these 400 were done we sent for a further 400, but in the meantime New Zealand merchants had gone across to Melbourne and seen the secretary, and they got the Board to revert to the old list. I would like to make it clear on the Australian Dried Fruits question that on almost every article—and this might interest Mr. Holland—the ones who could get profit out of them are the distributors, then there is the merchant and the retailer. That is three already. The distributor gets his percentage. There are four distributors for New Zealand—Harrison and Ramsay, Gollin and Co., J. R. Buckland, and another man.

You buy from other merchants than National Distributors do you not?—Yes, a great lot. If National Distributors will not sell to us cheaply enough we buy elsewhere.

It is quite true, as the Chairman has pointed out, that practically the whole of that list is known as Commercial Trust commodities?—Yes, they could not fix them otherwise.

You say that if this legislation goes through the commodities governed by the Commercial Trusts Act will have their price fixed?—Yes, they will.

Mr. O'Leary: That is all the evidence we have here, but Messrs. Spratt and Johnson are here and will carry on.

At this juncture Mr. B. Sutherland handed in a statement showing the cost price, selling-price, and profit per cent. on the sale of bread throughout New Zealand in Self-Help stores.

Mr. O'Leary: I think some explanation of this P.A.T.A. inquiry should be made, as there appears to be some misunderstanding. It seems that 1927 was the year in which this P.A.T.A. was formed. Mr. De Fenq who had organized it in New South Wales, came to New Zealand, where it was proposed to operate, and in the main it covered commodities that did not come under the Commercial Trusts Act and for which prices could be fixed, so that his association would be legal. Apparently what they did was this; they formed the association and inquired as to whether they would be likely to be allowed to operate because under the Board of Trade Act there is power for the Governor-General in Council to make regulations.

Section 26, Board of Trade Act, 1919.

The Governor-General in Council may, on the recommendation of the Board of Trade, make, by regulations under this Act, such provisions as he deems necessary in the public interest for the following purposes:—

- (a) For the prevention or suppression of methods of competition, trading, or business which are considered to be unfair or prejudicial to the industries of New Zealand or to the public welfare.
- (b) For the prevention or suppression of monopolies and combinations in or in relation to any industry which are considered to be prejudicial to that or any other industry in New Zealand or to the public welfare.
- (c) For the establishment of fixed or maximum or minimum prices or rates for any class of goods or services, or otherwise for the regulation or control of such prices or rates.
- (d) For the prohibition, regulation, or control of differential prices or rates for goods or services, or the differential treatment of different persons or classes of persons in respect of goods or services in cases where the existence of such differential prices, rates, or treatment is considered prejudicial to any industry in New Zealand or to the public welfare.
- (e) For the regulation and control of industries in any other manner whatever which is deemed necessary for the maintenance and prosperity of those industries and the economic welfare of New Zealand.

All such regulations shall be known as Board of Trade regulations, and are so referred to in this Act.

Apparently those who were behind this association were wise enough to make inquiries as to whether that section of the Board of Trade Act would be put into operation if it commenced operations in New Zealand. This Board of inquiry was set up, and it reported against the association, which then knew that it was useless going on with the proposals which were up against the regulations under the Act. That is the explanation, and I thought it would be of assistance to the Committee in the matter.

Mr. Wilkinson: Will this amendment allow the establishment of the P.A.T.A. business? A witness said just now that if the amendment was made law it would enable them to form a P.A.T.A., but that does not seem to me to be the case.

Mr. O'Leary: Strictly, the P.A.T.A. can perform now.

Mr. Wilkinson: Subject to the control of the Government?—Yes, apparently under section 26 of the Act the Government can deal with the position.

(The Committee rose at 11.40 a.m.)

RETURNS SHOWING NUMBER OF INDEPENDENT GROCERS (NOT INCLUDING CHAIN STORES) IN 1925 AND 1935.			
Northern District (including Whangarei, Auckland, Hamilton, Waikato, Gisborne)	1925.	1935.	
Wellington District (including Wellington, Palmerston North, Wanganui, Napier)	1,328	1,350	
Canterbury District	479	690	
	1928.		
	420	433	

Mr. B. Sutherland,
Self-Help Co-op., Limited,
Wellington.

SELF-HELP CO-OP., LIMITED.
Hamilton, 11th October, 1935.

DEAR SIR,—

Please note the following remarks *re* bread at our Otorohanga Branch. When we opened our branch I was met by Mr. S. August, Baker, Otorohanga, and the supply of bread was discussed.

He, however, would not supply me, and we had no bread for some six weeks or more after we opened. After repeated requests from customers, I went into the position again with Mr. August, but he still would not supply. I told him I should have to make arrangements outside of the town as the only other baker in the town was the Farmers' Trading Co., who are also grocers.

Some of our customers said they would leave us and deal with the Farmers if we did not get bread.

I made arrangements to get supplies from Mr. Collins, Te Awamutu, and the cost was to be 10d. per 4 lb. loaf. The first day we stocked bread our price was put on the window at 11d. per loaf.

This price was immediately cut to 10d. by Marriott's Limited and Wallace Supplies. These two shops were supplied by Mr. S. August; notwithstanding the fact that he would not supply me. The price was further reduced to 8½d. per 4 lb. loaf.

Our lowest price was 9½d. for one day only, and then I instructed our Manager to put it back to 10d., which was followed by Marriott's and Wallace Supplies. Shortly after this, I was approached by Mrs. S. August asking for them to supply the bread. This I would not agree to owing to Collins, Te Awamutu, helping me out.

Our price of 10d. has been in effect since that time.

I attended a bakers' meeting in Hamilton a few months ago, and at that meeting I personally asked Mr. August if he wanted to get the price of bread up again to a favourable basis.

I got no satisfactory answer from him, a fact which could be borne out by a great number of the Hamilton bakers.

At the present time Wallace Supplies, Marriott's Ltd., and ourselves are all selling at 10d. per loaf.

Yours faithfully,

SELF-HELP CO-OP., LIMITED, HAMILTON.
(Sgd.) G. WESTERBY.

SELF-HELP CO-OP., LIMITED,

399 Moorhouse Avenue, Christchurch, N.Z., C.I.

October 14th, 1935.

JK/JC/ND/BC.

Mr. B. Sutherland,
Self-Help Co-op., Ltd.,
P.O. Box 125, Wellington, C 3.

DEAR MR. SUTHERLAND,—

Attached particulars of the retail price and cost price of pills in Christchurch.

For our cost price we have taken the price at which a retailer is able to buy from the merchants. The retail price is Self-Help retail price of these articles.

You will notice from Tuck's list that his retail prices are exactly the same as ours. We might mention here that Kincaid issued a price-list on October last and on that price-list he brought the price of Chamberlain's Pills, large, from 2s. 6d. to 2s. 3d., the previous price all round being 2s. 6d.

Tuck's latest price-list has just reached us to-day. We enclose a copy of same, and we notice that Tuck has cut the price of De Witt's Pills, small, from 3s. to 2s. 11d.

There has been no end of cutting in this particular line in Christchurch, and Newson & Co. are trying to get this matter fixed up at the present time.

SELF-HELP CO-OP., LTD.,

per J. KILPATRICK.

Christchurch Pill Prices.

	Cost to Retailer.	Retail Selling-price.	Profit, per Cent.
	s. d.	s. d.	
Beecham's pills	9 9 (O.T.)	0 11	10·0
Bile Beans	9 6 (net)	1 1	30·0
Cassells Tabs—			
Large	33 6 „	3 4	13·7
Small	14 0 „	1 5	15·5
Carters pills	11 0 „	1 2	20·8
Chamberlains Tabs—			
Small	11 8 „	1 3	22·4
Large	23 6 „	2 3	9·4
Doans	28 11 „	2 10	12·0
De Witts—			
Large	52 10 „	4 10	4·5
Small	31 3 „	2 11	6·6
McBride's	9 0 (O.T.)	1 0	30·3
Indian Root	10 10 (net)	1 1	14·2
Pink Pills	25 8 „	2 7	14·9

BREAD.

Statement handed into the Committee by Mr. B. Sutherland.

Town or Locality.	Cost Price.	Selling.	Profits, per Cent.
Auckland City and Suburbs (29)—	s. d.	s. d.	
Twenty-two shops	0 4	0 4½	12·5
Avondale	0 4	0 4	Nil
Onchunga	} Do not stock.		
Mount Eden			
Herne Bay			
Grey Lynn			
Devonport			
Takapuna			
Waikato District (22)—			
Rotorua	0 11½	1 1	13·0
Te Awamutu	0 9¾	0 11	12·8
Frankton	0 5	0 5½	10·0
Hamilton (two shops)	0 5	0 5½	10·0
Gisborne (two shops)	0 5	0 5½	10·0
Te Kuiti	0 5½, less 2½ per cent.	0 6	11·6
Otorohanga	0 10	0 10	Nil
Te Aroha	} Do not stock.		
Thames			
Waihi			
Huntly			
Whakatane			
Tauranga			
Whangarei			
Morrinsville			
Matamata			
Pukekohe			
Paeroa			
Cambridge			
Dargaville			
Wellington District and Suburbs (37)—			
Thirty-three shops	0 4½, less 2½ per cent.	0 5	14·1
Upper Hutt	} 0 5, less 7½ per cent.	0 5	7·5
Trentham			
Palmerston North	0 4½, less 2½ per cent.	0 4½	8·5
Masterton	0 4½	0 5	11·1
Marlborough, Nelson, and Coast (8)—			
Blenheim	0 8½, less 2½ per cent.	0 9	8·5
Picton	0 4½	0 5	11·1
Nelson (2)	0 4½, less 2½ per cent.	0 5	14·1
Motueka	0 4½	0 5	11·1
Hokitika	0 4¾, less 2½ per cent.	0 5	8·8
Greymouth	0 10, less 5 per cent.	0 10	5·0
Westport	Does not stock.		
Christchurch Town and District (26)—			
Twenty-three city shops	0 4	0 4½	12·5
Ashburton	} 0 4		
Rangiora			
Timaru			
Dunedin Town and Country (14)—			
Ten city shops	0 3¾, less 1¼ per cent.	0 4	8·1
Balclutha	0 4	0 4½	12·5
Oamaru (2)	0 9, less 10 per cent.	0 9	10·0
Waimate	Does not stock.		
Invercargill and District (8)—			
Six town shops	0 8, less 2½ per cent.	0 8½	9·2
Gore	0 5, less 10 per cent.	0 5	11·1
Mataura	0 10½, less 7½ per cent.	0 10½	7·5

Statement of F. W. JOHNSTON on behalf of Associated Motorists Petrol Co., Ltd.
Commercial Trusts Amendment Bill, 1935.

Submission 1.—“That ‘motor-spirit’ be excepted from the operation of section 2 of the Bill.”

I refer specifically to section 2 of the Bill, because if the Bill becomes law it is to be read with and deemed part of the principal Act. It is desirable that the benefits of the principal Act itself should be preserved (as affecting motor-spirits) as is the case under section 14 of the Motor-spirits (Regulation of Prices) Act, 1933.

The difficulties arising out of the attempted enforcement of the Commercial Trusts Act, 1910, particularly in regard to motor-spirits, were recognized, hence the special legislation enacted by the Motor-spirits (Regulation of Prices) Act, 1933. This Act, together with the Commercial Trusts Act, 1910, affords reasonable protection to any oil-distributor whose existence is threatened:—

- (a) By a competitor or combination of competitors price-cutting; or
- (b) By such competitor or competitors refusing to supply a reseller except subject to a condition that such reseller will not vend the goods of the distributor against whom an attack is launched.

Cite Possible Example.—A reseller, having a "Europa" pump, being refused supplies of another brand or brands of petrol for other pumps on his station unless he agrees not to trade in "Europa."

The provisions of the Motor-spirits (Regulation of Prices) Act, 1933, are specific and definite, and the Courts would have little difficulty in interpreting them and recording a conviction for an offence in regard to price.

Submission 2.—If "motor-spirits" are not entirely eliminated from the operation of section 2 of the Bill, section 2 should be amended by striking out the words "or section four" where they occur in line 11 of the Bill.

Both sections 3 and 4 (particularly section 4) of the 1910 Act are valuable aids in assisting to keep the oil trade on a reasonable footing. There has been extreme difficulty in the past in enforcing the provisions of the 1910 Act, and it is submitted that nothing should be done which will increase that difficulty by giving offenders a further line of defence. It is to be noted, moreover, that up to the present no Order in Council fixing prices under the 1933 Act has been promulgated, and during such periods as no such Order in Council is in force sections 3 and 4 of the Commercial Trusts Act, 1910, are the only legally enforceable safeguard against price-cutting (by giving secret rebates, &c.) and against a boycott.

Submission 3.—Unless the implied request in submission 1 is acceded to and "motor-spirits" entirely excluded from the operation of section 2 of the Bill, a section should be added to the Bill to the same effect as section 14 of the Motor-spirits (Regulation of Prices) Act, 1933, to make it quite clear that nothing in section 2 of amending Bill is to affect the provisions of the Motor-spirits (Regulation of Prices) Act, 1933.

Mr. F. W. Johnston: I will limit my statement directly to those things which are of moment. The first is this: you all appreciate that section 3 of the 1910 Act has placed a ban on concessions, refunds, and so on—in other words, price-cutting on certain conditions. Section 4, of course, is the opposite and operates when a man absolutely refuses to deal at all or refuses to supply unless subject to certain of the other prohibited conditions. Now, Sir, so far as we are concerned, there is a very great deal of value in those sections 3 and 4, albeit that there is a Motor-spirits (Regulation of Prices) Act of 1933. What we would ask is this: that the amendment, and the amendment only—that is to say, section 2 of the amending Bill—be excluded from operation concerning the articles in the Schedules of the 1910 Act—that is to say, petroleum or other mineral oil, or by-products of any such oils. If you are not inclined to go to that length, we would at least ask that motor-spirit as defined by the Motor-spirits (Regulation of Prices) Act, 1933, should be excluded from the amendment. I refer specifically to the amendment because, speaking as a lawyer, an amendment becomes and is specifically stated to be part of the original Act, and I did not wish to make a suggestion which would look as if it were going to cut out the 1910 Act. So that if any article at all were excluded from the operations of this amendment I would ask that it be specifically limited to the operation of section 2 so that it could not have more read into it than is intended. In other words, that it would not be argued afterwards that it would cut out the whole Act because the amendment was part of the original Act. Now, the difficulties arising out of attempting enforcement of the Trusts Act, particularly with regard to motor-spirits, were recognized, hence the special legislation of the Motor-spirits (Regulation of Prices) Act of 1933. This Act, together with the Commercial Trusts Act of 1910, affords reasonable protection not only to the public against excessive prices, but it also affords reasonable protection to any oil-distributor who is threatened. The existence of a competitor might be threatened or a distributor might be threatened by a competitor or combination of competitors price-cutting—that is to say, committing a breach of section 3 of the 1910 Act or a breach of section 4 of the 1910 Act. Although we have the Motor-spirits Act of 1933 on the statute-book, we say that the 1910 Act is still extremely beneficial. For instance, the Motor-spirits Act has no reference to refusing to supply on certain conditions such as are set out in section 4 of the 1910 Act. I would state a possible example of pressure being brought to bear on a reseller who has a "Europa" pump and three or four other pumps. It would be quite possible for pressure to be brought to bear on that reseller to get rid of his "Europa" pump or he would be refused supplies of other brands of petrol for his other pumps. The company I represent has a very definite danger—we have not got any concrete evidence of anything of that sort, nor is it suggested that such a thing has been attempted in the past; but it is such an obvious danger that one has only to point it out and one will see the application of it generally. We certainly do hope that the operation of section 4 of the 1910 Act will not be curtailed by the amendment because that would take away a very great advantage to any independent company which is endeavouring to conduct its business on fair and reasonable methods. Now a great deal has been said about the Trusts Act being exceptionally well drawn and so on by the late Mr. Justice Salmond, and that is true in one sense; but I think we all know the very great difficulty in enforcing the provisions, and we say if these difficulties are having added to them something akin to the provisions of section 2 of the proposed Bill it will make the position so that it will be almost impossible to obtain a conviction. Supposing another distributor refused to supply his wares to a reseller (who is also a reseller of ours) unless he would refrain from taking our goods; then we look at the Bill and the Bill says that he must be able to supply sufficient evidence that the specific case or cases against him were not unfair to the person or persons immediately affected. The question is, Who would be the person or persons immediately affected? And B., that the specific act or acts charged against him were not prejudicial to any industry carried on in New Zealand or to the public welfare. We have heard about the difficulties of Judges at Home and in America and also what has been said in regard to these chain stores; what would be the

meaning of prejudicial to any industry? Would that mean it must not be prejudicial to the industry as a whole or the industry in the narrower sense, being the business of the competitor it is sought to undermine? And, again, that the nature of the charge against him if practised or reiterated would not be prejudicial either to any industry carried on in New Zealand or the public welfare. There, again, it is really making a greater difficulty of those difficulties which have been mentioned in the cases since the 1910 Act was in force.

Mr. Sullivan.] What you are aiming at is the prohibition of the 1933 legislation?—Well, I want the 1910 Act, sections 3 and 4, preserved if only so far as petroleum products are concerned and have the petroleum products at least excepted from the operation of the amendment. Another point also is that up to the present no Order in Council has been promulgated under the Motor-spirits (Regulation of Prices) Act, and until such an Order in Council is in force, and during any period in which an Order in Council was not in force fixing the prices under the Act, then the only legal safeguard immediately available would be sections 3 and 4. We would have to fall back on sections 3 and 4 of the 1910 Act, so that you will see that particularly section 4 is, notwithstanding the passing of the 1933 Act, still of very great advantage to our company and, indirectly, to the public at large. We have assisted in getting the price of petrol reduced below what it was when we came into the business. What I say is this: if after due consideration it was felt it would not be right and proper to accede to Submissions No. 1 or No. 2, it might be there is a possibility—and I want to avoid the possibility, for even lawyers and judges differ—that the amending Bill may affect the Motor-spirits (Regulation of Prices) Act, 1933. We may have our Full Court or Court of Appeal in New Zealand absolutely unanimous on a judgment which may go to the Privy Council and be unanimously overruled by the Privy Council, so that, although eight or ten lawyers out of fifteen might say there is nothing in my point, I say you never know. I say this: the fact is that this amendment of the Commercial Trusts Act is a later statute; if it becomes law it will be a later statute than the 1933 Act and it may be argued later on that it has to some extent amended the 1933 Act for motor-spirits regulation. To that extent it will whittle away the rights—

The Chairman.] Is it suggested that petrol be removed from the Schedule?—No, I do not suggest that.

You cannot have it both ways?—Might I point out that what I am asking is only what was done on the passing of the Motor-spirits Act, 1933, page 707. This position was foreseen then and it was recognized by the House at the time that, notwithstanding the passing of the Motor-spirits (Regulation of Prices) Act, it was essential to keep the Commercial Trusts Act alive in respect of motor-spirits. See section 14 of 1933 Act: “Nothing in this Act shall be construed to affect the provisions of any other Act in force on the passing of this Act.” I think Parliament put that section in for the purpose of preserving the rights under the Commercial Trusts Act of 1910. We look upon it this way: that although there is nothing at the moment threatening us on those lines, still we wish to be safeguarded as to the future. I will not be calling any evidence.

Evidence of FREDERICK CAMPBELL SPRATT, Barrister and Solicitor, of Wellington, Counsel for the New Zealand Petrol Resellers Association and the Wellington Petrol Resellers Association.

Mr. Spratt: Before reading my statement I would draw attention to what you yourself and Mr. Ansell remarked—namely, that the lists of goods about which there is apparently so much dispute are largely outside of the Act and the Act will not affect proprietary articles other than foodstuffs. Actually, if one refers to the Schedule of the Act one sees that it covers agricultural implements, coal, petroleum products, and tobacco, tobacco having been eliminated recently, and it also includes all foodstuffs or ingredients—that is, articles of food—for human consumption and ingredients used in the make-up of any such article. As I understand the position, the only objection to the Bill arises from dealers in petrol and from what we may call storekeepers who deal in foodstuffs and also in other articles that are really not covered by the Bill. It is very important to bear that in mind, because, as I shall submit, the considerations that apply to storekeepers and grocers and, to a limited extent, to chemists, who may sell such articles of food as invalid's food, do not necessarily apply to the trade of dealers, wholesale or retail, in petrol. I just want to make one other preliminary observation, and that is in regard to Mr. Miller's letter. Mr. Miller is a petrol-reseller; he is not, and never has been, a member of the association, and he is a man who has always caused the association members in Auckland a great deal of trouble. There has been a long period of uneconomic trading due to his cutting prices and, if the wholesalers—that is, the major oil companies—have acted as he says then my clients have no objection to that action on the part of the major oil companies in that case and in those circumstances.

Mr. Harris.] In refusing to supply?—Because he was price-cutting. They are agreeing to supply him again. We may have objection to that, because on another occasion I have put before you we have had constant price-cutting over a period of years. The petrol-resellers have represented to this Committee and the Government that they have been made the chopping-block for the disputes between the major oil companies as between themselves, and later between the major oil companies on the one hand and the independent on the other. That is the position we wanted to get away from.

My name is Frederick Campbell Spratt. I am a barrister and solicitor, of Wellington, and appear as counsel for the New Zealand Petrol Resellers Association and the Wellington Resellers Association.

1. I advised my clients on the 20th August, and subsequently, with the president and secretary of the said associations, attended on the Honourable Mr. Masters and handed him a copy of my opinion.

2. At that stage we approached the subject in no hostile spirit, but rather with a view of ascertaining the effect of the proposed legislation, and of going as far as possible to meet the wishes of the Government in the matter of the Bill.

3. Petrol-resellers have for years past been in an insecure position owing to outbreaks (often prolonged) from time to time of price-cutting, with its attendant evils. More than one approach has been made to the Government, and the position of the petrol-resellers has on more than one occasion been before this Committee.

Just looking at the statement. The Prime Minister said that price-cutting was to be combated by a Bill to be brought down. If that could be done it would be a very great help to us.

I think you gentlemen are sufficiently acquainted with the position of the price-cutting in the reselling industry.

4. We regret to say that in our considered opinion the proposed Bill offers no prospect of relief to the petrol-resellers. From time to time we have urged on the Minister the desirability of dealing with the situation by means of declaring minimum prices in any locality whenever such action should prove necessary in order to control any outbreak of price-cutting. The power exists under the Motor-spirits (Regulation of Prices) Act, 1933, and is capable of easy and effective operation.

The idea is that the Motor-spirits Act of 1933 clearly, in clause 4, gives power to the Governor-General in Council to fix the maximum and minimum prices not only for wholesalers and retailers, but also to fix the price in regard to any particular locality, and our opinion is that if the Government would on one occasion only—on the next occasion when price-cutting rears its head—say in Wellington that until further notification the minimum retail price of motor-spirit is to be 1s. 9d. per gallon at every petrol-refilling station, that would be all that we require. The price would be the price that was fixed by the Board of Trade, but the Board of Trade has now, as a result of previous inquiries—departmental and parliamentary—such evidence as would enable it to check up very quickly on any situation. We find here that people are selling at 1s. 7d.; that is clearly uneconomic, and the lowest price that a petrol-station can reasonably be expected to keep up is 1s. 8d. or 1s. 9d. The Order in Council would declare that in the City of Wellington, within a radius of fifteen miles, until further order the minimum sale price of petrol shall be not less than 1s. 10d.

Mr. Harris.] Is the retail price not fixed?—The Government knows from time to time what the resale prices are.

Supposing the wholesalers dropped their prices?—That information is clearly available to the Board of Trade. I think Mr. Schmitt will agree with me that the Board of Trade can find what the position is on any article, both wholesale and retail. The people who would object would be the petrol-resellers. They know what the wholesale price is; they simply go the Board of Trade and say, "Here is the price delivered into our hands—that price is, say, 1s. 6½d. We find people selling at 1s. 7d., and that means we have to go to 1s. 7d. and we will have to go lower. Will you advise the Government to bring in an Order in Council to stabilize the price and fix it until further order." The machinery is there and it was contemplated by the Act of 1933.

It is not good to fix the wholesale too low—how about the Gilmore selling at 1s. 5d.?—The Gilmore has gone out, and there are four major companies. I would be very pleased to go into that more fully, but I did not think it was right to take up too much of your time because we have a petition which has not yet been dealt with before the House. However, I should be very pleased to go into that and show how simply that could be done.

Mr. Wilkinson.] This would not get over the whole difficulty. It is dealing with only one aspect of the case, but the Bill covers everything?—I make a suggestion at the end about that.

On the question of the practical effect of the Bill, I refer to our opinion, a copy of which was handed to the Minister and which I now submit herewith.

I would ask you to turn over one page.

OPINION *re* COMMERCIAL TRUSTS AMENDMENT BILL.

1. This Bill, introduced into the House last session, may be brought forward again. It was stated by the Prime Minister, in effect, that the Bill was intended to enable price-cutting to be combatted.

2. In order to understand the Bill, it is necessary to refer to sections 3 and 4 of the Commercial Trusts Act, 1910, and to consider the qualification of those sections proposed in the Bill.

Then I set out section 3.

3. Section 3 of the Act reads as follows:—

Every person commits an offence who, either as principal or agent, in respect of dealings in any goods, gives, offers, or agrees to give to any other person any rebate, refund, discount, concession, allowance, reward, or other valuable consideration for the reason or upon the express or implied condition that the latter person—

- (a) Deals or has dealt or will deal, or intends or undertakes or has undertaken or will undertake to deal, exclusively or principally, or to such an extent as amounts to exclusive or principal dealing, with any person or class of persons, either in relation to any particular goods or generally; or
- (b) Does not deal or has not dealt or will not deal, or intends or undertakes or has undertaken or will undertake not to deal, with any person or class of persons, either in relation to any particular goods or generally, or
- (c) Restricts or has restricted or will restrict, or intends or undertakes or has undertaken or will undertake to restrict, his dealing with any person or class of persons, either in relation to any particular goods or generally, or
- (d) Is or becomes or has been, or has undertaken or will undertake to become, a member of a commercial trust; or
- (e) Acts or has acted or will act, or intends or undertakes or has undertaken or will undertake to act, in obedience or in conformity with the determinations, directions, suggestions, or requests of any commercial trust with respect to the sale, purchase, or supply of any goods.

This section clearly makes it an essential condition of the offence that the rebate, &c., is given upon one or more of the five conditions set out therein. It does not make it an offence to give a rebate, all of those conditions being absent.

4. The Bill provides as to this section 3 that in any proceedings for an offence under that section "it shall be a sufficient defence if the defendant proves all of the following matters to the satisfaction of the Court"; and I set out these three matters. I take it you are familiar with them:—

(1) That the specific act or acts charged against him were not unfair to the person or persons immediately affected, having regard to the circumstances of the case.

(2) That the specific act or acts charged against him were not prejudicial either to any industry carried on in New Zealand or to the public welfare.

(3) That acts of the nature of the specific act or acts charged against him, if commonly practised or repeated, would not in similar circumstances be unfair to the persons immediately affected and would not be prejudicial either to any industry carried on in New Zealand or to the public welfare.

The Bill in this respect throws the onus on the defendant.

Then I set out section 4:—

Every person commits an offence who, either as principal or agent, refuses, either absolutely or except upon disadvantageous or relatively disadvantageous conditions, to sell or supply to any other person, or to purchase from any other person, any goods for the reason that the latter person—

- (a) Deals or has dealt or will deal, or intends to deal, or has not undertaken or will not undertake to deal, with any person or class of persons, either in relation to any particular goods or generally; or
- (b) Is not or has not been, or will not become or undertake to become or has not undertaken to become, a member of a commercial trust; or
- (c) Does not act or has not acted or will not act, or does not intend to act, or has not undertaken or will not undertake to act, in obedience or in conformity with the determinations, directions, suggestions, or requests of any commercial trust with respect to the sale, purchase, or supply of any goods.

Under this section the offence is a refusal to deal either absolutely or except on disadvantageous terms; but such refusal must be for one or other of the reasons set out in paragraphs (a), (b), or (c).

5. The provision of the Bill set out in paragraph 4 above applies equally to proceedings under section 4 as to proceedings under section 3 of the Act and with the same effect.

6. The question arises as to how the amending Bill will or may assist in combatting price-cutting. In the case of tobacco and cigarettes the price-cutting evil was met by deleting tobacco from the Schedule to the Act, thus leaving it open to the manufacturers and merchants to set up their own price-structure, and to maintain it without fear of proceedings under the Act, which no longer covers tobacco. Here, however, petrol is not withdrawn from the provisions of the Act, but what is contemplated is that the oil companies may, by disciplinary action or by threat of such action, prevent price-cutting. The methods are—

- (1) The refusal of rebates, discounts, &c., to offending resellers. There is no possibility of the resellers themselves exercising any power on the price-structure. They may, of course, make representations to the oil companies, but they cannot do more.

7. It must be apparent that the Bill would make it possible for the oil companies to regulate prices so as to ensure a reasonable rate of profit to resellers. But it might on the other hand make it possible to the oil companies to fix a lower rate of profit. As against this possibility, however, the Bill would require the oil companies to show that the specific act or acts charged were not unfair to the person or persons immediately affected.

The effect of that has been stressed by Mr. O'Leary and Mr. Johnston, and I suppose what they have to say there that the Act is for something, but when it is actually examined it would give little or no protection to him or ourselves. The oil companies may discriminate.

Section 4 (c) of the Commercial Trusts Act—

Every person commits an offence who, either as principal or agent, refuses, either absolutely or except upon disadvantageous or relatively disadvantageous conditions, to sell or supply to any other person, or to purchase from any other person, any goods for the reason that the latter person—

- (c) Does not act or has not acted or will not act, or does not intend to act, or has not undertaken or will not undertake to act, in obedience to or in conformity with the determinations, directions, suggestions, or requests of any commercial trust with respect to the sale, purchase, or supply of any goods.

That raises the question of what is a commercial trust, and may I submit to you, gentlemen, that each one of the major oil companies is itself a commercial trust within the meaning of the Act when it does anything which under the Act is prohibited, because section 2 defines "commercial trusts" and says it includes any firm or incorporated company having any such object or acting as aforesaid, so that if a firm or major oil company sets out to control prices, either of its own power or in combination with any other person or company, it comes in as a trust and that has been one of the safeguards of the industry and particularly the independent operators, with the fear that the major oil companies will take action under the Commercial Trusts Act.

8. But we think that the Bill goes further than is required for the reseller. In our opinion it would be sufficient if the Bill applied only to paragraph (c) of section 4 of the Act. Anything more would be dangerous to the interests of resellers.

That was the position as it appeared to us when we say the Minister and I refer back now to section 6 of my statement:—

I understand that the oil companies have made no representation in favour of the Bill, and that they are not tendering any evidence to the Committee. It would appear, therefore, that the wholesalers of motor-spirits do not seek the Bill, and my clients do not see any practical benefits assured to them by the Bill. On the contrary, they feel strongly that the Bill, if enacted, will weaken the Government's control of the oil companies.

7. My clients are not concerned with the arguments pro and con of those traders who deal in goods (other than petrol) of the classes enumerated in the Schedule to the Commercial Trusts Act of 1910. I understand that the only class of traders who are making representations are those who deal in "articles of food for human consumption, and ingredients used in the manufacture of any such article."

We respectfully submit therefore that if the Bill is to proceed then—

- (a) Its operation be confined to section 4 (c) of the principal Act, or
- (b) If that course be not favoured, that it be expressly declared that the Bill do not apply to the item in the Schedule "petroleum or other mineral oil," &c.

It is further submitted that the only practicable measure for controlling price-cutting of petrol is the exercise, when and where necessary, of the power to fix prices.

I would respectfully submit that we would prefer (b) but we prefer to exclude petroleum oil from the Bill, assuming, of course, that the Bill should proceed so far as foodstuffs are concerned.

The Chairman : They are not going to stop at that. The resellers are coming at the Government for price-fixation. We have had a number already.

Mr. Spratt : As I have said, "It is further submitted that the only practicable measure for controlling price-cutting of petrol is the exercise, when and where necessary, of the power to fix prices."

We say this : that the mere demonstration for the first time only of the power of the Government to step into a situation that presents itself to the Board of Trade and fixing the price of that article until further order would so teach the trade that it would deal with the thing adequately. As a matter of fact, although there have been very few occasions on which the Commercial Trusts Act has been invoked by the Government, the fact the Government has the power to invoke it and was willing to invoke it on proper occasions has kept certain combines in check, and we say the same thing should be made to apply to the resellers where a price-cutting situation crops up. That is all I have to say.

(REMAINDER OF "OPINION *re* COMMERCIAL TRUSTS AMENDMENT BILL" NOT QUOTED BY THE WITNESS.)

If the Bill were to be passed in its present form the giving of discounts and rebates, &c., would be made more easy and could be made to operate so as to prevent free dealing on the part of the resellers. There is the same objection to applying the Bill to paragraphs (a) and (b) of section 4. In our opinion, any modification of the Act, except paragraph (c) of section 4, should be strenuously objected to. Such legislation, if it applied to section 3, and the other parts of section 4, and if made use of by the oil companies, could only tend to segregate the retail trade into separate divisions. The object of each oil company would be to get as many exclusive resellers as possible. We should imagine that the tendency would be to disrupt the present Resellers Association and to increase the degree of pressure and of control that the oil companies could exert.

9. We think we should add that the Commercial Trusts Act is of use to the reseller if, and only if, the Government of the day, and especially the Minister of Industries, is willing to use his powers. The remedies are for penalties and injunction, but only in a civil action instituted by the Attorney-General in the name of the King. It has been held by the Court of Appeal that a breach of the Act gives no right of action to any person suffering therefrom. The proposed legislation can only weaken the hold of the Government over the oil companies.

154 Featherston Street, Wellington.

20th August, 1935.

(The Committee rose at 5.30 p.m.)

NOTES OF EVIDENCE TAKEN IN CONNECTION WITH THE COMMERCIAL TRUSTS AMENDMENT BY THE INDUSTRIES AND COMMERCE COMMITTEE AT THE PARLIAMENTARY BUILDINGS ON THE 10TH OCTOBER, 1935.

(*Chairman* : Mr. A. D. McLEOD.)

The Secretary to the Committee read the minutes of the previous day's meeting.

The Chairman : Well, gentlemen, we will take the same attitude in connection with those that are favourable to the Bill as we took in regard to those in opposition to the Bill. There has been a very large number of people writing in to me as Chairman of the Committee asking to be heard—individuals as well as associations. The objectors to the Bill, on my recommendation, got their evidence into small compass through their leading counsel, and I should be glad if those in favour of the Bill would do the same. We must endeavour to get the evidence through by next Wednesday or Thursday.

Mr. BARNETT, Solicitor.

As representing those who are supporting the Government measure I do not intend to make any lengthy address—I have no address prepared. We have consolidated into groups as much as possible the evidence which was assembled and ready for delivery this week. There are still one or two who have had notice that the Committee will sit next week who have not yet arrived, and they would like an opportunity of giving evidence.

I would just make this general statement on behalf of those supporting the measure, in answer to Mr. O'Leary : that the Act as it stands has been effective, as a protection to the public it has prevented combines and monopolies from fixing high prices. On the other hand, by the very reason that has prevented that, it has allowed to grow up and expand in a remarkable degree the price-cutting chain-store system. The extraordinary growth of chain stores has been due entirely to the protection which the price-cutter gets against the wholesaler. Now, the amendment proposed does not remove or in any way weaken the structure of the present Act ; it leaves open to the Crown the right to prosecute for exactly the same list of offences ; all the amendment does is to say that if there is a prosecution the defendant shall have the right to plea as a defence that what he did was fair to the individual and in the public interest. Now, the weakness of the opposition is that they do not want the merchant to have that right—to plead that what he did was fair and in the public interest, and that, I submit, is the weakness of the whole opposition. The apparent and obvious fairness of the amendment must be very embarrassing to those opposing it.

That is the only statement I make.

I shall call Mr. McCaul.

Mr. McCaul: I appear on behalf of the Associated Chambers of Commerce of New Zealand to give evidence and also on behalf of the following who have requested me to appear for them: There were many represented at the last week's meeting, but they had to return to their homes and they have been unable to come down to Wellington again:—

The New Zealand Wholesale Merchants' Association.
 Auckland Master Bakers and Pastrycooks' Association.
 Otago Master Grocers' Industrial Union of Employers.
 Christchurch Hardware Merchants' Association.
 South Canterbury Coal-merchants' Association.
 Manawatu Traders' Welfare Association.
 Manawatu and Southern Hawkes' Bay Master Bakers' Association.
 Manawatu Employers' Association.
 Dunedin and Suburban Coal-merchants' Association.
 Ashburton Coal-merchants' Association.
 Distributors Ltd., Christchurch.
 Royds Bros. and Kirk, Christchurch.
 North Canterbury Coal-merchants' Association.

Mr. McCaul read the following statement:—

ASSOCIATED CHAMBERS OF COMMERCE OF NEW ZEALAND.

Evidence to Industries and Commerce Committee of House of Representatives on Commercial Trusts Amendment Bill.

The Associated Chambers of Commerce has for years been endeavouring to have the Commercial Trusts Act, 1910, repealed or amended. The recent amending Bill now before this Committee goes some distance toward meeting the representations made, and is heartily supported by the commercial community.

The Committee will be familiar with the nature and purpose of the Commercial Trusts Act, 1910. This measure was introduced with the object of protecting New Zealand and vital New Zealand industries from dictation by powerful overseas commercial interests in respect of different commodities. It was never intended by the Act to deprive small traders from making a moderate rate of profit sufficient to ensure a reasonable standard of living. When a measure is drafted, its full consequences are not always realized by either those who prepare its clauses or by the Parliament that passes it, and I am sure that no one visualized at the time a future state of affairs when the Commercial Trusts Act would definitely aid certain large-scale organizations to crush out small, independent storekeepers. Yet this is precisely what has happened under the Act.

Owing to the provisions of sections 3 and 4 of the Commercial Trusts Act the small trader can obtain no protection from powerful trading organizations which, with their large capital, can afford for a while to sell at a loss with the object of putting an opponent out of business. During the last few years various sections of retail traders have suffered severely from this class of competition. If this is allowed to continue, then the effect must be that these large concerns will become monopolies—a development the Commercial Trusts Act set out deliberately to prevent, so that the Act is having the directly reverse effect intended of it. There are, then, other retail concerns, not necessarily large-scale organizations, which sell proprietary articles at cost as decoy lines.

Although the consuming public gains a transient advantage from the uneconomic cutting of the prices of proprietary articles, the best interests of the public are not served by this unfair competition, which is making a losing fight of it for the whole system of individual retail stores, causing business failures, adding to the unemployed, and increasing the burdens of the public accordingly. It is surely in the best interests of New Zealand that an efficient system of individual stores should be given a fair chance to compete with the big organizations.

The Bill before the Committee seeks to give some amelioration to the situation of the individual storekeeper in respect of the practice of cutting the prices of proprietary articles. It gives, however, no advantage or concession to independent traders beyond the right to take measures of self-protection against unfair competition—a right which they are at present denied under the Act.

I would stress the fact that the Bill leaves untouched all the provisions of the Act relating to the control of monopolies, and of operations resulting in the charging of prices which may be deemed to be unreasonably high. The powers of Government in this connection remain intact. Of the fifteen sections of the Act, the amending Bill affects only two—namely, those relating to the giving of concessions in consideration of exclusive dealing, and to refusals to deal with price-cutters. The provisions and penalties governing these matters are still retained, the Bill merely making a modification which provides that, in any proceedings taken, a defence may be raised. Whereas, under the present Act, no defence is permitted in respect of acts which are admitted under clauses 3 and 4 of the existing Act, the amending Bill provides that, in respect of actions coming within the scope of these clauses—and these clauses only—it shall be sufficient defence if the defendant proves to the satisfaction of the Court that those actions by him are not prejudicial to the public welfare, to any industry in New Zealand, or to the persons immediately affected. If he fails to establish that, then the present penalties under the Act apply.

By the proposed amendment there would be no less measure of Government control of trade practices than exists to-day under the Commercial Trusts Act. Indeed, it would appear that Government control is strengthened by the amending Bill, because whereas, under the existing Act, the onus is on Government to establish a case against a person charged with giving concessions in respect of exclusive dealing, and/or withholding supplies, under the amending Bill the onus of establishing a sufficient defence is removed on to the shoulders of the person charged. If price-cutting interests have any confidence in the fairness of their practices, then it is impossible to conceive any reason for any valid objection by them to having a Court of law determine, in this matter, what is or what is not in the public interest and welfare. Therefore, it is no paradox to say that any fundamental objections to this Bill would appear to constitute a good reason why the Bill should be proceeded with.

So much for the effect of the amending Bill, which is merely endeavouring to infuse a measure of British justice into the Commercial Trusts Act. With regard to the law on the subject elsewhere, I would respectfully draw attention to the report of the Restraint of Trade Committee, which was set up in England in 1930 by the Lord Chancellor and the President of the Board of Trade “to consider present trade practices which result in withholding from particular retail traders supplies of goods in which they wish to deal, or which prevent the sale of such supplies except upon conditions imposed by the suppliers, and to report whether in their opinion all or any of such practices are detrimental to the public interest . . .”

The Committee, after a full investigation, presented, *inter alia*, the following finding: “We have been impressed by the volume and force of the testimony as to the harmful effects of price-cutting upon the manufacturers and distributors of advertised branded goods, and ultimately, as was contended, upon the public . . . Shopkeepers in the neighbourhood of price-cutters cease to stock the goods affected, or at any rate cease to push them, with the result that the manufacturer finds his sales falling off. In the end the price-cutters themselves may cease to stock the goods, finding that they are no longer effective as a decoy. It is natural that the manufacturer who owns the brand and bears the expense of national advertising should claim in these circumstances to protect the final conditions of sale of the goods, since the prosperity of his trade is at stake . . . Our general conclusion regarding the broad principle of maintained re-sale prices for branded goods is that no sufficient case has been made out for

interfering with the right of the manufacturer to sell his goods upon conditions which permit him to name the terms on which such goods shall be resold We are quite unable to say that the interest of the public would be better served by an alteration of the law which would prevent the fixing of prices of branded goods.”

The above-mentioned report appears to be sufficient answer to the contention of price-cutting interests about the supposed evils that would ensue if there were any interference with the law of New Zealand prohibiting price-fixing and the withholding of supplies. It is surely significant that the tobacconists of New Zealand, who have been hard hit by price-cutting, and who recently secured the removal of tobacco and cigarettes from the Schedule of the Commercial Trusts Act, have since been able to stabilize the trade with satisfaction to themselves and the general public. [Read letter from New Zealand Retail Tobacconists and Hairdressers' Federation.]

The fact is, however, that with regard to the other commodities which are retained in the Schedule of the Commercial Trusts Act, the amending Bill before this Committee here to-day does not seek to give the same rights to distributors and manufacturers in New Zealand as obtain in England. All that the Bill seeks to do is to give the opportunity to private trade to put its own house in order, subject always to the jurisdiction of the Court in consequence of proceedings that may be taken at any time by Government.

We wish to make a particular point of the fact that it is in respect of proprietary articles (or branded goods) that price-cutting obtains, and the relief which business interests are seeking is in respect of proprietary articles. There would be no increase in the prices of commodities generally, resulting in an increase in the cost of living. If members of the public did not wish to purchase those particular proprietary articles they would have a choice of other similar goods, goods which would be competitive and not subject to price-protection.

Furthermore, the resale prices of the proprietary articles would be largely influenced by the prices of the competitive articles. Consequently, the cost of living would not be affected, except that those people desiring, of their own choice, to buy the proprietary article would be required to pay the resale price fixed by the importer, manufacturer, or distributor for that article. At the same time, retailers of proprietary articles would be assured of a reasonable margin of profit on those articles. Retail concerns which are at present price-cutting on proprietary lines could still continue to sell those proprietary lines, provided they observed the predetermined resale prices.

It is therefore urged that the Industries and Commerce Committee favourably recommend to the House of Representatives that the Bill be given passage this session.

3rd October, 1935.

Attached to the statement of the Associated Chambers of Commerce you will find a number of statements made by others who have been unable to attend this second meeting.

Mr. McCaul inquired from the Chairman if it was desired that he read these particular statements. He wished to facilitate the business of the Committee, and suggested that they be handed in if the Chairman was agreeable. The Chairman concurred, and the statements were handed in but not read. [After a short discussion it was decided that Mr. O'Leary should get a copy of the statements for his perusal, so that he could make any desired comment at the following meeting.]

The following statements were handed in by Mr. McCaul:—

Before the Industries and Commerce Committee.

EDGAR JOHNSTON, for North Canterbury Coal Merchants' Association.

COAL MERCHANTS.

Wholesale merchants should be allowed to refuse supplies to a dealer who is cutting prices below those fixed by the association and also to those who come into the trade for the winter months only.

The margin on which the association is working is a margin fixed between the association and approved by the Department of Industries and Commerce.

Recognized coal-dealers are in the business all the year round and are doing everything possible to retain their men in employment during the summer months.

The household coal trade is confined to about six months of the year.

Casual dealers enter into the trade at the commencement of the winter and leave the trade at the end of the winter.

Recognized coal-dealers have to make sufficient provision during the winter months to carry on during the summer and thus retain their men in employment.

The State Coal Department enjoys privileges which the ordinary trader does not enjoy, and the fact of the State Coal Department being in the retail trade acts as a brake upon unduly high prices being fixed for coals other than State.

Coal is being carried from collieries, by motor-lorry, into Christchurch and district and hawked from door to door during the winter months, to the detriment of those in the trade who are doing everything possible to keep their men employed all the year round.

There are 50 per cent. more dealers in the trade to-day than there were five years ago, and the consumption of household coal has dropped by 40 per cent. during the same period.

The public would be protected from having inferior coals foisted upon them.

The Department of Industries and Commerce receives, every month, from wholesale houses the selling-prices to retail dealers and can thus see whether the trade is treating the public fairly.

Legitimate coal-dealers are working under an award both for drivers and yard-workers. Others are able to avoid award rates.

To the Members of the Committee of Industries and Commerce.

PRICE-CUTTING AS IT AFFECTS THE SERVICE GROCER THROUGH THE OPERATION OF THE COMMERCIAL TRUSTS ACT.

Introduction.—For the guidance of members of the Committee it is desired to revert to the original purpose of the Commercial Trusts Act, 1910, and the opinions expressed by members when the Bill was brought before the House.

A perusal of *Hansard*, 1910, shows that the intention of the late Hon. Sir Joseph Ward in introducing the measure was to afford protection against certain trusts—*e.g.*, the American Meat Packing Trust—gaining a foothold in the country. The possible repercussions of the Bill were foreseen by the then member for Wakatipu (the late Hon. W. Fraser), who said, “We must not afford the opportunity for traders to be unnecessarily irritated or hampered in their operations,” to which Sir Joseph Ward replied, “Powerful combinations only are aimed at: we do not want to derange business so long as it is conducted on right lines. *Legitimate traders must be protected.*”

It is the purpose of the evidence here submitted to show that the operation of the Commercial Trusts Act has been directly opposite to the intention expressed at the time of introduction, in so far as the legitimate service grocer is concerned, and that the Act as it stands affords protection not to the legitimate trade, but to those against whom it is pressed to be directed. It is admitted that the circumstances which have arisen in the grocery trade were not present in 1910, but the Act as it now stands gave the opportunity for the introduction into the grocery business of protected price-cutters, which has already forced some traders to the wall and forced others to reduce hands. The price-cutter gained his foothold through cutting the prices of standard proprietary lines as a means of inducing custom, and, by adopting methods which could not be undertaken by the service grocer, was able to keep expenses at a low proportion. All means the service grocer has of protecting himself against the cutter are taken away by the

repressive clauses of the Commercial Trusts Act, and it is proposed to show wherein the operations of the price-cutter is inimical to the welfare of the worker, the trader, and the Dominion as a whole.

When the depression became apparent, price-cutting stores came into operation in all parts of the Dominion, and, by adopting methods which could not be undertaken by the service grocer (cash and carry, &c.), were able to cut prices on standard lines—viz., Edmond's baking-powder and others.

Some aspects of price-cutting are now placed before you:—

Tobacco.—Owing to indiscriminate cutting by cutting stores and large combines the position of legitimate tobacconists became so acute that the Government was forced to realize the injustice being done, and removed this article from the Schedule, with the result that prices for tobacco are now uniform, and a fair margin is assured to the trader.

Proprietary lines.—Manufacturers of proprietary lines have, by careful attention to the needs of the consumer, followed by judicious advertising, created a demand for their lines, and it is these, which are easily handled, that have been exploited by the price-cutter with the object of inducing custom. A few such lines which were used are Bell and Amber Tips tea, Edmond's baking-powder, and Lane's emulsion.

The cutting of standard lines has been made possible through mass buying, reduced overheads—i.e., less employees—and the cash-and-carry system, and the result is that the service grocer who buys as his requirements direct is faced with the alternative of keeping the line on his shelf or cutting the price, and whichever is adopted, a detrimental effect is had upon his business in that his turnover decreases or his profit vanishes. The decreased turnover means less hands employed, and the lost profits, less ability to pay those kept in employment.

The service grocer finds it unprofitable to handle lines which have been cut by price-cutting stores and the line is not pushed. This reacts on the manufacturer, who, in turn, suffers from the limited avenue for the disposal or distribution of his goods. The grocers' traveller finds it difficult to secure orders for lines which are cut by the price-cutter, and the smaller orders tend to make the delivery an unprofitable adjunct, so that the service grocer is forced to face the question of cutting prices or reducing hands. This latter course has been adopted in Dunedin, and numerous cases can be quoted. Efforts by service grocers to maintain their staffs have led to more disastrous effects to the community in that many have been forced out of business, and to name a few in the Dunedin district who have suffered this extremity during the past few years the following are submitted: C. O'Hara (Momonā), Anderson (Morningside), Tavendale (South Dunedin), A. McDonald (King Street), Hunter and Etheridge (George Street), J. Stewart, A. G. Lambert, A. G. Blackwood, and others, and employees who have been put out of work have been forced on to relief.

From the foregoing it is obvious that price-cutting, as it is allowed by the Commercial Trusts Act as it stands at present, is the root cause of the straitened position of the service grocer to-day. Mr. Nash, during the debate on the amendment last session, said: "The object should be to get the maximum quantity of desirable commodities and services distributed to the maximum number of people at the minimum price, provided that everybody who renders useful service in making that commodity available to the public is fairly paid for the work done." In view of this statement the question may be asked. Is the service grocer who supplies the means of distribution receiving adequate payment for the services rendered? Mr. Savage said during the same debate, "I think we ought to fix the price for certain services and see that the people are properly paid for the services they render." This matter is one that requires immediate attention.

Price-maintenance.—The Commercial Trusts Act prevents the fixing of prices of articles covered by the Schedule thereto, and it is maintained that the ability to fix prices would not be detrimental to the consumer. The choice of well-known brands of similar goods is so wide that the manufacturer, for his own protection, will see that the retail price is not fixed at too high a figure, while the exploitation of a popular line will be eliminated. If a reasonable margin of profit were assured to the service grocer, it would mean that lines would be sold at a standard price, and would allow distribution to be made through the service grocer in his own locality, and would lead to the re-employment of hands.

Appeal.—It is felt that some measure of protection will be afforded the service grocer by the passing of the amendment now under consideration. The amendment is not against the interests of the public, and it would be a real benefit to traders and manufacturers generally. As pointed out under the heading of price-maintenance, lines would be retailed at a standard price which would tend to distribute trade around the various service grocers and so lead to the re-employment of hands who had been put off.

It is common knowledge that the number of service grocers now paying income-tax is very small, and the amount paid by those who are fortunate enough to be in the position to pay has likewise shown a corresponding decrease.

The fact that numbers have been forced out of business through the operations of the price-cutter should not be lost sight of, and this appeal is directed in the endeavour to save to the business community some of those who are gradually meeting the same fate. The employee is safeguarded by the Arbitration Act and is assured of a living wage, but no protection or secured income is assured to the service grocer himself.

Otago Master Grocers' Industrial Union of Employers,
Dunedin, 1st October, 1935.

Industries and Commerce Committee.

Mr. G. STRUTHERS, Storekeeper, Cheviot.

I support the amendment of the Commercial Trusts Act.

The Act needs modifying because of the change in trading conditions.

The advent of chain and departmental stores has revolutionized trading. The result of their system has been to force individual storekeepers out of business. It may be suggested that this result is due entirely to the financial depression.

That is not true, but the advent of the chain and departmental stores has added to the depression.

The methods of the price-cutting store are:—

- (1) To eliminate services (meaning delivery, credit, accommodation, &c.), which in turn creates further unemployment.
- (2) The cutting of prices of standard lines of commodities as an inducement for the sale of their other goods, as instanced by the cutting of tobacco and cigarettes.

Tobacco Trade.—The action taken by the Government in removing tobacco from the Commercial Trusts Act has resulted in many more tobacconists going back into business and doing favourably well.

Why then cannot this protection be extended further for commodity lines and thus enable the smaller storekeepers to remain in business, creating further employment, and making all concerned more self-reliant.

We would instance what has happened under present conditions—

Since 1928 forty-eight stores have gone out of business in Canterbury, and business is now non-existent. Sixty-six store-owners have assigned their estates, gone bankrupt, or lost capital, but being continued in restricted manner. This state of affairs has been brought about by the unrestricted price-cutting that has been rampant.

A balance-sheet has been taken out showing, based on Government Statistician commodity prices, a definite loss. The continuance of this unsatisfactory condition of trading is still forcing many out of business. It is an economic law that only by showing profits on trading can business legitimately be carried on.

Costs of these prices are taken from Rattray's price-list, looked upon as the wholesale standard list for the trade, and the retail from recent advertised prices.

Other countries have found the necessity for legislation, as instanced by Canada.

This Act, coming into force 1st September, 1935, any one engaging in a policy of selling goods at prices unreasonably low for the purpose of destroying competition or eliminating a competitor, makes it a criminal offence.

Item.	Cost.	Retail Price.	Item.	Cost.	Retail Price.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
	0 1 0 $\frac{1}{2}$	0 1 2		0 0 10	0 0 11
	0 1 2 $\frac{1}{4}$	0 1 2		0 0 9	0 0 10
	0 1 2	0 1 3		0 0 5 $\frac{1}{4}$	0 0 5 $\frac{1}{2}$
	0 1 1	0 1 1		0 1 0	0 1 4
	0 0 6 $\frac{1}{4}$	0 0 7		0 0 3 $\frac{3}{4}$	0 0 5
	0 0 10	0 0 10		0 1 1 $\frac{1}{2}$	0 1 3
	0 0 10 $\frac{1}{2}$	0 1 0		0 0 11	0 1 0
	0 0 9 $\frac{1}{2}$	0 1 0		0 0 9 $\frac{1}{2}$	0 0 10
	0 3 6 $\frac{1}{2}$	0 3 5		0 0 9 $\frac{3}{4}$	0 0 10 $\frac{1}{2}$
	0 1 6 $\frac{1}{4}$	0 1 8		0 0 6 $\frac{3}{4}$	0 0 8
	0 5 3	0 5 3		0 0 8 $\frac{1}{2}$	0 0 9
	0 0 9 $\frac{1}{4}$	0 0 10		0 0 9	0 0 8
	0 0 2 $\frac{1}{4}$	0 0 2 $\frac{1}{2}$		0 0 10	0 1 0
	0 0 6 $\frac{1}{2}$	0 0 8		0 0 6 $\frac{1}{2}$	0 0 8
	0 0 2 $\frac{1}{2}$	0 0 3		0 1 5	0 2 8
	0 0 2 $\frac{3}{4}$	0 0 2 $\frac{1}{2}$		0 0 10	0 1 0
	0 0 2 $\frac{3}{4}$	0 0 2 $\frac{1}{2}$		0 1 1	0 1 4
	0 4 7	0 5 6		0 1 2 $\frac{1}{2}$	0 1 4
	0 0 7 $\frac{1}{2}$	0 0 9		0 0 2	0 0 2 $\frac{1}{2}$
	0 0 9	0 0 11		0 1 2	0 1 0
	0 0 8 $\frac{1}{4}$	0 0 8		0 1 2	0 1 4
	0 2 8 $\frac{3}{4}$	0 3 4		0 0 7	0 0 8
	0 1 5 $\frac{3}{4}$	0 1 7		0 1 1 $\frac{1}{2}$	0 1 3
	0 2 2	0 2 5		0 1 3 $\frac{1}{2}$	0 1 6
	0 0 7 $\frac{1}{2}$	0 0 8		0 0 7 $\frac{3}{4}$	0 1 0
	0 15 1 $\frac{1}{2}$	0 16 3		0 0 8 $\frac{1}{2}$	0 0 9
	0 1 2	0 1 1		0 13 3	0 14 0
	0 0 6 $\frac{1}{2}$	0 0 8		0 0 7	0 0 7 $\frac{1}{2}$
	0 0 7	0 0 8		0 1 4	0 1 7
	0 0 5 $\frac{1}{2}$	0 0 5 $\frac{1}{2}$		0 13 2	0 14 8
	0 0 6 $\frac{1}{4}$	0 0 6		0 11 8	0 14 0
	0 0 5 $\frac{3}{4}$	0 0 7		0 6 2 $\frac{1}{2}$	0 7 0
	0 0 5 $\frac{1}{2}$	0 0 8			
	2 13 5 $\frac{1}{4}$	2 17 11 $\frac{1}{2}$		3 7 2 $\frac{3}{4}$	3 18 4

Average retail mark up on list as supplied by Government Statistician, 11.48 per cent.

MR. McCAUL.

Mr. O'Leary.] Mr. McCaul, you were here yesterday when I opened the case for the opposition to the Bill?—Yes.

Did you hear what I submitted could be legally done under the Commercial Trusts Act at the present time?—Yes. It appeared to me you evaded the major issues. I am not a lawyer, I am sorry, Sir—your remarks appeared very very sketchy using a lot of legal terms.

I suggested that the trader does not need to sell the goods to any one whom he does not wish to sell them; you know that is the legal position?—Yes, provided he can prove a whole lot of things.

Have you had advice that you can refuse to sell any one, foodstuffs, petrol, or anything else, do you not know that?—Under certain circumstances.

No, under any circumstances; you can refuse to sell to any one at all, can you not?—You may just as well go out of business, and, understand, I am not a lawyer—I am very sorry.

You will admit that you can refuse to sell to anybody?—No, I do not.

Then I suggest you take advice on the matter.

Do you admit that you can fix the price and you can refuse supplies?—No, I do not know that. I am not a lawyer, but I have thirty-seven years of business knowledge in the business in which I am at present engaged, and I know that theoretically you can do thousands of things, but when it comes to the point you find that you cannot.

The way you want to get over the difficulty is disregard for personal position and, by combination and boycott, insist on your prices being maintained.—No, it is not. I know that grocers have been put out of business by these chain stores.

Have you any statistics to show the decrease or increase in the number of grocers in New Zealand of recent years?—That information will be supplied.

You act as president of the Associated Chambers of Commerce?—No. I am president of the Wellington Chamber of Commerce and a member of the Executive of Associated Chambers of Commerce of New Zealand.

You are a distributor for Bryant and May?—Yes, my company—Philips and Pike, Limited—are distributors in New Zealand for Bryant and May, Bell, and Co., Ltd.

Do you people supply National Distributors?—No.

Is it correct that at one stage you promised certain stores that you would not give National Distributors the 7-per-cent. discount that you gave others?

Mr. McCaul: You know you put that as a sort of lawyer's question—I am not a lawyer.

Mr. O'Leary.] That is put as Mr. Sutherland writes it out for me?—My experience of the wholesale and retail trade in New Zealand is that all they ask from the manufacturer is that they shall be treated as one particular class of trade—for instance, if they—Bryant and May—are going to trade with wholesalers—then they sell wholesale: with retailers, retail. The aim of my company—Philips and Pike, Ltd—and the aim of Bryant and May is that we shall be just, absolutely just, to all interests concerned, and we will not allow a big retail organization an opportunity of crushing out a small retail organization by giving them prices which will enable them to crush out opposition. I have been connected with the business for thirty-seven years—my family are a trading family—five generations have been connected with trade. Branches of my family have built up honourable business all over the world, and we are known throughout the world as absolutely fair and just traders. People know that justice will be done by our firm—in every instance we are fair, and if any one trader sets out to crush his opponent we will endeavour to shield the weaker man.

You have not answered my question. Did you promise certain stores that you would not give National Distributors the 7-per-cent. discount that you gave to others?—We will not give concessions to one retailer above another, and I have stated that that was our policy and will be our policy. We will not change our methods to suit National Distributors.

National Distributors took your matches for a number of years on the best terms?—Yes.

And did the business between you cease because you would not give them the full discount given to others in New Zealand?—You emphasize—

Will you answer the question. Is that so? The business ceased between you and National Distributors because you would not give them the full discount on New Zealand-manufactured matches?—We offer to all retailers the full discount to which they are entitled, but to big retailers we decline to give the discount that applies to wholesale merchants.

You declined?—Our sales policy provides for discounts for the small retailer, for the large retailer, and for the wholesaler.

Do I understand that you would give National Distributors the equivalent to the retail discount, but you would not give them the wholesale?—The best retail discount, not wholesale.

The business ceased between you?—On their decision.

[Mr. Sutherland explained that business in a certain respect had not ceased.]

You gave the wholesale discount to them on imported matches, is not that so?—Yes.

You only give them retail discount on New Zealand matches, yet you give them the full wholesale discount on the imported matches.—That is wrong.

In what way?—It is wrong in this way: that they received the very best wholesale terms up to a certain date on imported and locally made matches, and they received on imported and locally made matches after that date only the best retail discounts.

You make a distinction between goods imported and locally made?—No. During recent months we have executed orders for imported (safetys) from National Distributors Ltd.'s Christchurch house. They have had the best retail discount on the imported safetys.

Why the discrimination in respect of National Distributors by your concern?—Because their so-called wholesale department is merely a blind to enable them to get wholesale discounts—well we saw through the trap. It is a company with branches throughout New Zealand with a capital of £100. This wholesale Department is a blind to deceive the public.

You say, "with a capital of £100"?—I understand so.

It has a capital of £20,000 fully paid up, will you accept that?—I will accept it.

Might I suggest to you that it might be better for your case if you did not make irresponsible statements like this: "a capital of £100." I suggest you withdraw it.—I certainly withdraw it. At one time it had a capital of £100.

Mr. Sutherland.] Yes, for one year?—I was not informed of the change. £20,000 is not sufficient for a wholesale concern trading like this. It is absolutely wrong and very unsound.

Mr. O'Leary.] Irrespective of the capital, you do not withdraw your statement that the wholesale department is a mere blind for the retail organization?—No.

Mr. Boulton, in support of the amendment, read the following statement:—

Before the Industries and Commerce Committee.

THOMAS BAKER BOULTON, Manager of Fletcher Humphreys and Co., Ltd., Christchurch, Merchants, Tea Blenders and Packers.

I personally and my firm support the proposed amendment to the Commercial Trusts Act.

Proprietary Lines.—My company own and control the proprietary registered brand, "Amber Tips" tea, a nationally advertised article, which has been on the New Zealand market since 1901. We have a central establishment in Christchurch employing over forty hands, and our business dealings extend right through the Dominion. Our brand and name "Amber Tips" is widely and favourably known, and under the present state of the law that fact is being made to operate not to our advantage, but to our distinct disadvantage. The whole position is anomalous and unreasonable to a marked degree and is made possible, by an Act which was passed with the object and design of preventing either the public or traders being exploited. The principal Act, instead of being the beneficial measure that it was intended to be, is in a marked degree working to the detriment and loss of many people by enabling a system of price-cutting to come into existence to the disadvantage of traders generally. I would not like it to be assumed for one moment that my firm objects to anything in the nature of fair and legitimate competition. It

recognizes the advantages of this both from the point of view of making the trader keep abreast of the times and from its beneficial operation in the interests of the consuming public.

Cut-throat competition, however, can be a distinct menace to the mercantile life of the community in many respects. It lowers the quality of the goods sold, it drives the high quality goods more or less out of the market, and incidentally it inflicts injury on a large section of the tax-paying community and undoubtedly tends to swell the volume of unemployment.

Though the defect in the Act applies generally, I will particularize by giving you briefly the history of this class of competition as it has affected our brand "Amber Tips" tea.

History of our difficulties.—For many years we could claim to enjoy a very large consumer demand for the brand. Price-cutting, from time to time, has always more or less been with us, but up to 1924 was spasmodic, and did not last long. In 1928 a general price war was in force in Manawatu, Wairarapa, Hawke's Bay, and Wanganui Districts, and leading proprietary brands were being sold at cost price, and in some instances below. At the request of many retailers we undertook to see every retailer in the districts with reference to our brand and endeavour to persuade them to stop the insane cutting. We were successful in our efforts, and a standard price was faithfully observed by every retailer for four months—from December—but in the New Year a chain store opened shops in Palmerston North and Masterton. These people refused to adhere to the price agreed upon, with the result that our tea was again cut to cost or thereabouts. In Auckland our experience was the same, spasmodic cutting from time to time, but after reasoning with the retailer we were always able to bring about a better feeling with one another, but here again the chain store opened up and at once cut the price.

In Canterbury for many years no trouble occurred, till the opening-up of a chain in 1928, when our tea, and other lines, were cut to cost, or thereabouts; the same thing happened later in Otago.

Friction caused by Price-cutting: Damage to Valuable Goodwill.—This cutting of our brand in so many parts caused endless friction with retailers, who demanded that action be taken to put a stop to it. Legitimate traders do not want to handle a line showing no profit. But the Commercial Trusts Act prevented us from saving our brand. Unrestricted price-cutting of our brand was very damaging. It is a fact that retail price-cutting of a proprietary line injures rather than benefits the line. Cases were reported to us where the cutting led buyers to think there was something wrong with the article and another brand was purchased, where previously "Amber Tips" had been looked upon as a standard for quality at a standard price.

Its Effect on Retailers.—We had evidence of retailers who, to kill the sale of our brand, upon which they were getting no profit, placed it next carbolic soap or any other goods that would taint, never exposed the brand for sale and insidiously suggested to customers the brand was now of inferior quality, and generally a more or less boycott was in force. This bad feeling was entirely engendered by the price-cutting of our line by chain stores and was very damaging to our trade.

English Conditions.—In England a man has the right to deal with whom he pleases and may refuse to sell his goods except on such conditions as he may think fit to impose.

In New Zealand the Commercial Trusts Act, 1910, makes it obligatory for merchants to supply retailers whose conduct in business ruins the merchant's lines. It is a curious fact that price-cutting a standard line does not increase sales, because legitimate traders lose interest in it when they cannot handle it at a profit.

It might be pointed out that in the case of a patented article the owner of such article has the right to attach conditions of sale, and refuse to supply those who do not abide by same.

Price-control in England.—In Great Britain price-control has been in force in the Drug trade since 1896, Publishers Association since 1900, Stationers Association since 1905, Motor traders since 1913, Grocers P.T.A. since 1923, and Tobacco trade since 1931, and latest reports indicate that the movement continued to expand.

A Guarantee to the Public.—The packers and manufacturers of standard proprietary brands have, by careful attention to detail, quality, price, and long years of trading, with a very large expenditure on advertising, built up a valuable goodwill owing to the wide-spread demand from the public, and the price-cutter seizes upon these brands to cut to much lower than the marked prices, even to cost or below cost, to draw customers to their shops in order to sell them other goods, non-proprietary, unbranded, unknown goods, or bulk, upon which a good profit is to be had. It is by this cutting the cutter builds his business, to the very grave detriment of the brands to cut. It is a well-known fact the more popular the product the wider its distribution and sale, and the more does it attract the attention of the price-cutter.

Effect of Unrestricted Price-cutting.—Unrestricted price-cutting can ultimately have a very damaging effect upon a standard proprietary brand. Cases are known where the cutting led consumers to think there was something wrong with the goods, as they thought they were being sacrificed, where for years previously the article had been looked upon as a standard for quality at a standard price.

The sale of a well-known proprietary-line which has come into public favour for its quality and by judicious advertising is used by price-cutters to attract custom to their shops, on the grounds no doubt that as they are selling a well-known proprietary line at cost or less than cost, that therefore the price which they charge for their other articles is correspondingly low. In this way the people trading with the price-cutter make a grievous error. It is, however, the man who has built up a good business in respect of an article on fair and legitimate lines who is unduly penalized. There ought to be a provision by which a trade can protect its members against the unfair trading methods adopted by the price-cutter, and to enable this to be done the Commercial Trusts Act requires to be drastically amended. If, for instance, a person or firm were to decline to sell to the price-cutter or to any person who would refrain from resale except at a certain figure, such person or firm and the people dealing with such person or firm on such conditions would at once become members of a commercial trust and guilty of an offence under the Act.

Price-maintenance of proprietary brands would be strictly governed by your competitor, who in many cases packs a similar article and consequently selling-price must be influenced by that of your competitor.

The choice of well-known brands of almost similar goods is so wide that the public is amply protected against exploitation. Price-protection leaves the consumer a very wide choice, and if the price of a proprietary article seems too high, he can purchase non-proprietary non-branded goods, grocer's own packs, or bulk, but the proprietors of standard brands, in their own protection, will take care that prices are fair and reasonable.

Price-control does not mean Increased Prices.—Price-maintenance does not in the main necessarily mean increased prices, but the maintenance of reasonable standard prices for standard proprietary quality goods, with a possible lowering of prices of other lines. It is submitted that the present restrictions imposed by the Act are undesirable as being one impediment to better trade conditions. Retailers have been ruined by the unrestricted price-cutting, with heavy losses to merchant packer and manufacturer, loss of revenue to the Government, and must have added to the numbers of unemployed.

There is nothing immoral in protecting your trade to enable many to make profits, and yet the Commercial Trusts Act would indicate it was so. It is contended this Act was placed upon the statute-book owing to the ramifications of the American trusts, the measure being designed to protect our primary producers. It was, in effect, for the protection of legitimate trade, but owing to its far-reaching provisions has allowed the price-cutter to work his will, to the serious detriment of the many other traders.

It is claimed that as the tobacco traders have been given protection against the price-cutter the same measure of protection should be granted all other traders. The small retailer fills a want in the community, he spends his money locally, and generally takes an active part in the social affairs of his district, and is therefore deserving of protection, to permit him to earn a reasonable living.

It might be pointed out that cutting chains have succeeded in getting upon many wholesale lists, and have used the extra discounts to cut prices to what means cost or almost cost to the small trader.

It is submitted that the operation of price-maintenance could not mean unfair or high prices—firstly, owing to competition; secondly, the desire of the packer and manufacturer for steady uniform prices; thirdly, the refusal of the consumer to purchase; and, fourthly, the power given under the Act to regulate.

In South Africa it is reported there is a law wherein, say, a chemist wishes to depart from the usual goods stocked by a chemist and sell, for instance, tobacco, he must apply for a license to do so, and permission carries with it an annual license fee. In effect, there they believe in the "shoemaker sticking to his last." Again, in Germany there is a law under which prosecutions can be instituted for unfair competition, such as, presumably, securing preferential discounts and cutting prices, to the serious disadvantage of the small trader.

Report of English Committee.—It is desired to refer to the Committee set up by the British Government in 1930 to inquire into a report upon certain trade practices—to wit, price-maintenance—whether detrimental to the public interest, and, if so, what alterations in the present law were necessary. The report is fully dealt with in the statement presented by the New Zealand Master Grocers' Federation, and I fully endorse their evidence.

In conclusion, I may say that a great deal of water has passed under the bridge since the 1910 Act was passed. This is apparent from the instances which I have mentioned and from the general trend of cases which come before the Courts in England and other parts of the British Empire. The question of price-cutting and the ill regulation of prices can inflict a positive hardship on the mercantile community. This fact is touched upon in the following remarks uttered by the late Lord Haldane in the course of a Judgment in the House of Lords in 1914:—

"But an ill-regulated supply and unremunerative prices may, in point of fact, be disadvantageous to the public. Such a state of things may, if it is not controlled, drive manufacturers out of business, or lower wages, and so cause unemployment and labour disturbances. It must always be a question of circumstances whether a combination of manufacturers in a particular trade is an evil from the public point of view."

The Act which was framed to prevent monopolies is to-day used as a cloak for retail monopolies, more harmful than any contemplated when the Act was passed.

Mr. Boulton: Mr. Chairman, I desire to make this general statement in support of the amendment to the Act on behalf of Messrs. Royd Bros. and Kirk, packers, of Christchurch, also on behalf of the Canterbury Traders' Welfare Association, an association of traders particularly in the grocery trade with a membership of some three hundred.

Mr. O'Leary.] Yours is a very old-standing firm?—Yes.

You say that your turnover has fallen considerably owing to the operation of chain stores; what would be your estimate of the loss in turnover in your brand alone?—It is very difficult to answer that question, for the reason that during the period of our loss in trade through price-cutting we have had the depression and our largest buyers were always workers. It would be very difficult to arrive at a definite figure; in fact, I would be unable to do so.

Mr. Ansell.] In your evidence you say, in regard to firms who have been cutting prices in various districts, that leading proprietary brands were being sold at cost price and in some instances below?—These people refused to adhere to the prices agreed upon, with the result that our tea was again cut to cost or thereabouts.

Did you consider refusing to deal with these people?—Yes, we did consider that. They wanted to name the terms they should buy and sell our goods. We declined.

On page 5 you say, "If, for instance, a person or firm were to decline to sell to the price-cutter or to any person who would refrain from resale except at a certain figure, such person or firm, and the people dealing with such person or firm on such conditions—would at once become members of a commercial trust and guilty of an offence under the Act." Upon whose advice do you make that statement?—That would be on the advice obtained.

Were you here at the opening of the case when Mr. O'Leary made his statement?—Yes.

Mr. O'Leary had made the statement that any trader can, without committing a breach of the provisions of the Commercial Trusts Act, refuse to sell to any one . . . "he can impose on the purchaser . . . to retail at a particular price" (quoting from Mr. O'Leary's statement).—Yes, subject to the subsections of the Act.

Your statement to the Committee is that the Commercial Trusts Act prevents you from imposing upon a purchaser the price at which he can sell an article?—Yes, that is how we were advised.

You have read, I presume, the Commercial Trusts Act—section 4, illegal refusals to deal—you know this section, and you still say that you become a member of a commercial trust if you attempt to dictate prices.—Under certain conditions.

It is probably more of a legal matter than one for us to discuss. I just wanted to make sure of your opinion. I would obtain advice on that. [Legal position discussed with Mr. O'Leary.]

Mr. McSkimming.] What is puzzling me is in regard to this proprietary brand of Amber Tips tea: you say, Mr. Boulton, that you took legal advice and you were informed that it would be illegal for you to refuse to supply to any retailer who would not adhere to your prices?—That was the advice given.

I notice that what Mr. O'Leary stated yesterday was directly contrary to that. I know that is also the opinion of leading counsel in Dunedin, because I had an opinion passed over to me some months ago, and it agrees with what Mr. O'Leary has stated.

Mr. Healy.] Have the retailers with whom you have been dealing for some time suggested cutting off their orders unless you refused to supply these price-cutters?—At one time I had a lot of that from the retailers. They point-blank told us that they would take no interest in the brand.

Had you isolated instances of that?—They were all over New Zealand.

Mr. Sullivan.] Is "Amber Tips" your own proprietary brand?—Yes.

Do you sell to other merchants?—Yes.

Do you sell direct to the retailers?—Practically to the merchants.

[*Mr. Sullivan* discussed further the legal position brought up by Mr. Ansell and remarked that perhaps it was because of the fact that Mr. Boulton's firm sold to the merchants and not to the retailers direct that the misunderstanding of the legal position had occurred.]

Mr. Boulton : I might mention that we do not sell to the merchants ; the merchants carry stocks on our behalf. I am not saying that we cannot control the prices of our tea now—that was before.

Mr. Ansell.] You did make that statement ; you referred right through your evidence to the fact that were your firm to decline to sell to the price-cutter you would be guilty of an offence under the Act.

Mr. Sullivan.] If Mr. O'Leary's statement of the legal position is correct, you have no grudge against the Act ?— Yes we have ; we have a grudge that we have to carry on our business in a manner that is unreasonable ; we have to adopt a certain method to protect something which we have spent years to build up, which is our own property, which no one need buy unless they like.

If you have already the power now—which Mr. O'Leary states you have—then the provisions of the amendment are a wash-out. Might I suggest that it is not an effective power ?—No it cannot be used effectively at present.

What do you say to the statements made by Mr. O'Leary and the other witnesses giving evidence against the Bill that they are making substantial profits ; they have demonstrated to us by figures that they are making good profits and that is because of their good organization and the cutting out of certain services to the public—giving credit, delivering orders, &c.—

Mr. McCaul (Interjection) : Low wages.

Mr. Sullivan.] Witnesses have shown that they are paying above the award wages, but they are cutting out certain services to the public. Their organization is so efficient that it enables them to sell at a lower price ; they submitted to us figures showing that they are making substantial profits. They also make the point that if prices were fixed they would be making too high a profit, what have you to say to that ?—In many lines there are so many brands of a similar character which a trader has to keep ; competition would prevent this. There may be a few lines on which a man could make good profits, but take tea for instance—it would be impossible owing to the many competitive brands on the market.

[*Mr. Sullivan* respectfully suggested to the Chairman that the legal position in the matter previously mentioned should be obtained at an early date in order that the cross-examination of witnesses and also the deliberations of the Committee could be carried out by the members in possession of the necessary information.]

[*Mr. O'Leary*, in reply to a question from Mr. Sullivan, stated that no decision had actually been given on this point ; the opinion expressed had been his own, but it was also the opinion of other lawyers. Mr. O'Leary suggested that the Crown Law officers be asked for advice.] [Copy of the departmental report produced for Mr. Sullivan—who said that it appeared that the view of the Department was contrary to Mr. O'Leary's. Discussing the matter further, Mr. O'Leary remarked that the Department could get a declaratory judgment in regard to the point. "I might have had some hesitation in putting forward the opinion as my own, but I do know that it is the opinion of other lawyers much more eminent than myself."]

The Chairman informed Mr. Sullivan, in reply to a question, that at the present stage they had only the opinion of the Department ; they had not the opinion of the Crown Law Office.

(Continuing cross-examination of THOMAS BAKER BOULTON.)

Mr. O'Leary.] Mr. Boulton, not on your particular matter, but generally, you make this oft-repeated statement that price-cutting is used to attract business to the detriment of the manufacturer of that particular line. Do you know of any proprietary lines that are being cut at the present or have been cut over recent months ?—No, I cannot tell you that I know of any.

Will you cast your memory back and go back to the last incident of that kind you can recall ?—There may be other proprietary lines on the market that may have been ; I cannot recall.

Can you recall of your own knowledge the last occasion on which a proprietary line was cut in the way you say ?—No, I cannot give you any definite aid.

Mr. Boulton, does not that rather weaken any statement you may make with reference to that. It looks as if you are talking from heresay. Can you recall one incident in the last ten years of the wholesale cutting of a proprietary line ?—Yes, go back to 1928 where our brand was cut by a chain store when they opened shops in Christchurch. I have their original advertisement to prove it.

The one that you do recall is your own ?—Yes.

How long is it since you supplied tea to the National Distributors ?—We have never supplied National Distributors in the course of their existence.

So you cannot make any complaint of National Distributors or the Self-Help being responsible for your position—having cut your line ?—They have obtained it from the other merchants.

They have had it of recent years ?—They have not been able to get it.

For how long ?—Since 1930.

For five years they have not had your tea ?—No, but they had it for six years before that.

You cannot suggest over the last five years any price-cutting of theirs that has affected your business ?—You have the cumulative effect to bear in mind. Because it has stopped at a certain time it does not follow that the injury has stopped. It goes on.

How do you prevent them getting supplies ; you refuse to sell, yet you say they get it elsewhere. How did you stop that ?—By carrying stocks all over New Zealand.

I am afraid that does not convey very much to me.—We control it.

Carrying stocks all over New Zealand and appointing the holders your agents ?—And moreover they on their part always used to demand that they be placed on our wholesale list, which we refused. They have asked repeatedly to be placed on your wholesale list ?—Yes.

And they had offered to sign an agreement that they would not sell to a retailer who is on your black list?—We never came to that position, we did not discuss that.

They were simply on your black-list and you would not have anything to do with them, is that the position?—That is the position, we did not care to do business—only on our own terms.

You did fix a price, of course, for your Amber Tips tea?—Yes.

What is it per pound, first grade retail?—3s. 4d.

And for second grade?—2s. 10d.

Would I be correct in suggesting that your tea is a luxury tea, notwithstanding that Mr. Sullivan apparently consumes it?—That is a matter of opinion.

There is tea selling retail at 1s. 10d. and 2s.?—I dare say you might be able to get it lower than that.

Apart from being a proprietary line, do you accept it that it is a line covered by the Commercial Trusts Act—it is a food?—Yes.

It is a food and covered by the Commercial Trusts Act, and you have had no hesitation in fixing the price for retailers have you?—Yes.

You do not think you are breaking the law when you do that?—We did not know, but we took the risk.

I suggest to you you are not breaking the law when you did that?—There was a lot of doubt cast upon our action.

I suppose your difficulty is this: not in fixing the price, but in maintaining it. That is your trouble is it not?—Not to-day.

That has been your trouble?—That was our trouble.

And just what would be the most effective method of maintaining the price for your tea? Price-fixation—is that adhered to?—The most effective method of maintaining it, yes.

The amending Bill taking the necessary steps? That is what I would like to know. Assuming the Bill gives you the power to take the necessary steps, what are those steps to preserve your price-fixation?—Under the amending Bill we would have the power to request that agreements be signed.

I suggest to you that you can do that at the present time?—You are only talking about my own particular brand, but I am not so much concerned with that as with proprietary lines in general.

I am putting it to you quite bluntly that what you want the power to do is this: that if a retailer fights by cutting the price on one article you want him cut off from supplies of other articles?—No, that will rest entirely with the Government.

You remember the P.A.T.A. that was intended to operate in New Zealand? Was it not the intention that the price would be fixed and if the retailer broke the price fixed for certain articles he was cut off from supplies of other articles?—We took no part in that discussion. I understand that that was a copy of the British method.

I suggest to you that if you wanted to maintain your price that is your weapon?—Yes, but I would submit that I am dealing with proprietary brands, and I have said in my statement that if the public has not the price there are hundreds of other brands, especially in tea that they can purchase.

It does not matter whether it is proprietary brands or anything else, it is food?—You could not have a fixed price for tea.

How do you consider this Act will assist you, Mr. Boulton, to get to this stage where you have written agreements with retailers and your distributors. Now, then your Amber Tips teas have got into a retailer's stores and you find he is not maintaining the price of 3s. 4d. You want to deal with him, and how does the fact assist you to deal with him?—Well, it will remove any doubt that exists at present by making it perfectly clear that whatever we do we do with our eyes open—we know the penalties.

I told you what you would do—that is what I wanted to get from you. The price is fixed, and if a man does not adhere to it you could refuse to sell it. What would be your next step?—Refuse to sell.

You would be getting other people to refuse to supply him?—Of course, they are our stocks all over New Zealand, and we nominate the selling-price. I may say that we have no cut in it to-day.

Presented by W. Tuck, Master Grocer, Christchurch (representing Tucks Ltd. and Star Stores, Ltd., Christchurch).

Price-cutting as a method of business can only be effected by two means—viz., by a considerable reduction in the gross profit and probably capital, or a reduction in the various services rendered to the public.

With the first we are not concerned, but the second reason is a direct cause of much unemployment to-day. Cheap foodstuffs and household articles which are to be seen in the department store and cut-price shops are frequently manufactured in one-man premises free from the supervision of the Health Department or the factory inspector. The proprietor works from daylight till star-light, and far into the night, while his competitors, who have complied with all the requirements of the various Government Departments and have well equipped factories, are compelled to reduce their staffs. The direct result of retail price-cutting. So much for the manufacturing end.

The retailing is no less concerned by the elimination of delivery, order-calling, credit, and other services, the price-cutter is able to dispense with one-third of his staff, and still do the same amount of business (if he cuts enough). The proportion of his staff that was employed would then be unemployed.

It will thus be seen that even the most ardent opponent of price-fixing cannot work on no gross profit.

Another new and very interesting phase of the unemployment issue is raised in the Canterbury Grocers' award, now before the Court, in which it is agreed that the proportion of juniors to seniors shall be reduced. This will result in a considerable number of boys being dispensed with ; almost without exception they will not be replaced with men.

Price-cutting virtually concerns every section of the community, and in as much as it reduces the margin of profit of any one under any given line, from the primary producer to the manufacturer and retailer, it reduces the standard of living of each in turn.

Primary producer, manufacturer, and retailer, receive less for their labour ; each must contrive how to reduce expense. The primary producer dismisses one of his men, and the maid in the house, adding two to the unemployment as a result. The farm is not so well cultivated, the stock is not so well cared for, and this farm, which was prosperous and thriving, becomes poor and profitless.

Passing on to the manufacturer, if he is getting a fair margin, he will have money to spend on improvements and his factory is kept in good repair and order, inside and out. Worn machinery and conveyances are scrapped and new purchased. Welfare work and benefit schemes are probably initiated, while better wages are always paid by thriving industry.

Where prices are cut the other side of the picture is seen. The factory is poorly equipped and in bad repair. Minimum wage for employees. No bonuses, no benefit funds, accommodation kept down to the minimum laid down by law. Frequent changes in the staff have been caused by a financially pressed employer seeking to get more than a day's work out of employees. Frequent clashes with labour, late employees starting "one-man" factories and cutting prices still further, and the factory becomes in the same position as an "under-rate" worker who cannot earn standard wages on account of some disability, poor in appearance, poor in ability, poor in the class of work produced.

Coming now to the retailer, price-cutting has been probably more injurious to him and caused the dismissal of more employees than in primary production and in manufacturing. Before the days of chain and department stores practically all grocers were conducted under the service system—that is, men collected orders weekly, and twice weekly ; these were booked and delivered, thus giving employment to the men who collected the orders, clerks, and delivery men. The introduction of the cash shop at cut prices eliminated these service items and these order collectors ; clerks and drivers became unemployed. When the writer changed over from service to cash, of sixteen five were dismissed—namely, two order collectors, one driver, one clerk, and one boy.

Ten years ago in Christchurch, practically every suburban store had a motor-van and senior driver. To-day these have been largely replaced by a boy on a cycle. The boy is usually one of the storekeeper's sons.

Here lies the crux of the question. Should the right of retail price fixing be granted to the manufacturer ? Then the tendency will be to compel retailers to compete in service rather than in price and that automatically means a larger staff, and more prosperity for everybody concerned.

True the purchaser will have to pay slightly more for the few proprietary lines for goods which would only amount to one or two shillings per week in the average household budget.

The Government, however, recognizes, in the application of the unemployment levy and sales-tax, that those who are working must help to keep those who are unemployed, so that although price-fixing would mean a very slight increase in the cost of certain lines yet it would be the means of bringing a considerable number of more men into regular employment in the grocery trade.

Evidence of ALBERT EARNEST KINCAID, Managing Director of Kincaids Limited, Grocers,
Christchurch.

I am president of the Canterbury Master Grocers' Association, and I am giving evidence on behalf of the larger "Individual grocers."

My association is of the opinion that the present legislation is detrimental to the best interests of both traders and the public and consider the suggested amendment to the Act to be necessary, and in the best interests of all concerned.

I do not wish to go over the ground covered by other delegates, but just to state one of the most serious difficulties which is common to larger individual grocers and is mainly a matter of employment.

My firm employs sixty-one hands, made up as follows :—

Senior hands of over twenty-five years service	.. .. . 14
Senior hands of under twenty-five years service	.. .. . 20
	—
Total senior hands employed	.. .. . 34
Junior hands—boys and youths	.. .. . 14
Females	.. .. . 13
	—
Total	.. .. . 61

Our weekly wage bill is £200 9s. 9d.

Each year we have engaged some boys, and several of the juniors are approaching seniority. We do not put off youths as they approach seniority. The proportion of seniors to juniors is becoming greater each year as the juniors come up.

We have now arrived at a position where we cannot afford to pay any more senior hands, and our problem is what to do. Are we to dispense with some of the older hands who have had over twenty-five years of service to their credit or the younger men, many of whom are married with young families ? We would much prefer to keep on all our hands, and if we could get a small profit wages could be increased.

I am giving the Chairman confidential figures, showing that the profits of the business are such that action along the lines indicated must be taken in the near future unless profits can be increased.

The present legislation prevents manufacturers and packers from nominating a minimum resale price for their goods. This results in price-cutting, as many important lines are sold in Christchurch at cost price.

The suggested amendment would enable manufacturers and packers to nominate resale prices which would show some profit to the reseller, with which to meet his overhead expenses.

Mr. Tuck : Some one has asked a question about individual grocers forced out of business. The particular witness who put this in is not here. This is a list prepared in Christchurch of grocers out of business since 1928, also grocers and confectioners, and the second list shows their assets.

Statement presented by Mr. F. A. L. COOKSON, representing Royds Bros. and Kirk (Christchurch), Ltd., Packers.

The policy of "cutting" traders is to select standard advertised articles prices of which are well known to consumers and use them as "leaders" by selling at cost or near cost with the object of conveying the impression that everything else sold in that shop is equally cheap.

The average consumer purchaser of groceries knows only a few retail prices—butter, sugar, flour, bacon, and eggs would probably constitute the list apart from standard advertised goods; it therefore follows that the cutter must select something well known if his "cutting" tactics are to be successful, and in every case that is what he does.

In the case of Raven tea the advent of the chain store did not immediately result in the cutting of price, as by a friendly arrangement between us these stores did not stock it. However, all other well-known brands were cut by them, and we then had two alternatives to choose from—(1) to keep Raven at the standard retail rate; (2) to allow it to be sold at or about cost. By mutual arrangement between retailers we choose the former course, and the following table shows the effect on sales:—

January–March, 1928	..	..	..	..	..	..	..	100
" 1929	..	..	..	..	..	..	..	58
" 1930	..	..	..	..	..	..	..	50
" 1931	..	..	..	..	..	..	..	45
" 1932	..	..	..	..	..	..	..	57
" 1933	..	..	..	..	..	..	..	93
" 1934	..	..	..	..	..	..	..	110

Raven tea is packed by hand-labour, and during the years 1929, 1930, and 1931 our staff was reduced in the same proportion as sales indicate.

We do not claim that this decrease is entirely due to cutting tactics, as, in the search for profit, most retailers at that time began selling cheap bulk teas; it may also be claimed that the general depression was partly reposable, but it is significant that the figures given coincide with the period of cutting and begin to improve when other proprietary teas adopt the system of price-fixation.

It is also significant that sales of advertised proprietary packs increased under price-fixation, while sales of cheaper bulk teas decreased—this indicates consumer acceptance of standard brands at standard prices.

Now, this cutting of prices was widely advertised as a whole-hearted desire, on the part of the chain stores, to assist the worker who, it was suggested, had been robbed under the service system. Apparently Raven tea was not considered necessary to the worker by the largest chain-store group, as none of their stores stocked it until towards the end of 1934. Then in the southern suburbs of Christchurch cutting broke out and three units of this chain group commenced selling Raven tea at a "cut" price, forcing individual stores in the same area to do likewise; the cutting was confined to this area, and Raven tea was not even stocked by the other units of this chain group, so it is therefore apparent that the introduction of cutting tactics was meant not to benefit consumers, but to wreck competitors. As Raven tea was not legally protected against the cutter our business was upset all over Christchurch because all retailers were expected by the consumer to charge the cut price advertised in the affected area—this reaction damaged only the regular handlers of Raven tea, as the outside units of the chain did not stock it. An amendment of the Commercial Trusts Act whereby the fixation of prices became legal would not increase price to the consumer, as we are compelled by competition to give good value; bulk teas can be bought at all stores, and if our price were made too high we would lose our market. In this connection we would mention that the blending of Raven tea is done in New Zealand, all packets, tins, and printing are produced by New Zealand labour and machinery, while employment is given to packers, salesmen, and office staff.

To show the result of price cutting I attach hereto a list of grocers, bakers, and confectioners forced out of business since 1928, and a list of businesses assigned. This list is not complete, but is sufficiently lengthy to demonstrate the evil result of unrestricted price-cutting.

F. A. L. COOKSON,
Representing Royds Bros. and Kirk (Christchurch), Ltd., Packers.

GROCERS OUT OF BUSINESS SINCE 1928.

Arrowsmith, J. H., 138 Colombo Street.	Thomas, A. E., Ashburton.
Bishop, T. S., Mount Somers.	Munnings, J. and A. W., Lincoln Road.
Boardman, A. G., North Brighton.	Mulholland, F. B., Lincoln Road.
Capstick, J., Selwyn Street.	Templeton, Herbert, 20 Leinster Road.
Croucher and Co., Hills Road.	Ward, C. C., Colombo Street.
Croft, S. R., 336 Colombo Street.	Williams Bros., 428 Cashel Street.
Danholt, Mrs., 123 Ferry Road.	McCreanor and Co., New Brighton.
Davidson, G., Akaroa.	Terry, H., Lincoln.
Gray, J. D., North Avon Road.	Withers and Son, Southbrook.
Ferguson, G. D., 416 Ferry Road.	Smith, W. D., Cashel Street.
Goodwin, H., 376 Colombo Street.	Wilson, J. H., 224 Ferry Road.
Fleming, F., 403 Madras Street.	Patis, H. G., Redcliffs.
Gwyn, T. V., 129 North Avon Road.	Smith, C. H., Sumner.
Hendren, T. J., Peverill Street.	McMullan, L. P., 403 Madras Street.
Hanson, J., 261 Riccarton Road.	Wilson, T. L., 142 Armagh Street.
Holland, Mrs. F. L., 20 Riccarton Road.	Peters, G. W., Sumner.
Gudscell, J., 288 Lincoln Road.	Stanlake, R. A., West Melton.
Prisk, W., 151 Armagh Street.	Siverstsen, F. P., Ashburton.
Lowry, Mrs. A., Westerfield.	McKenzie, R. H., Colombo Street.
Miller and Co., Sefton.	Rowan, W. V., and Co., Southbridge.
Moir, J. Y., Cheviot.	Orchard, A. E., Highbank.
McFarlane, M., Akaroa.	Jowett, J., 336 Colombo Street.
Olorenshaw, P., Oxford.	Keen Cash Grocery Co-op., 78 Edgeware Road.
Manchester Bros., Ashburton.	

BAKERS OUT OF BUSINESS SINCE 1928.

Boot, L. L., Hereford Street.	Needham, S., 270 Lincoln Road.
Blodorn, H., Manchester Street.	Slack, J., 372 Colombo Street.
Hobbs, A. B., Nursery and Ferry Roads.	Clements, W., Woodham Road.
Matthews, F., 443 Colombo Street.	Harvey, A., Colombo Street.
Morgan, F., and Son, 26 Smollett Street.	

CONFECTIONERS OUT OF BUSINESS SINCE 1928.

Foss, P., 698 Colombo Street.	Goldsmith, L. A., 135 Worcester Street.
Fisher, J., Colombo and Gloucester Streets.	Jones, P., 210 High Street.

BUSINESSES THAT HAVE ASSIGNED THEIR ESTATES, GONE BANKRUPT, OR LOST THEIR CAPITAL, BUT STILL BEING CONDUCTED IN SAME PREMISES.

Foss, P., 698 Colombo Street.	Burgess, W. T., Yaldhurst.
Jones, P. H., 210 High Street.	Gale, Mrs., New Brighton.
Owens, G., 686 Colombo Street.	Lloyd, J., Leeston.
Wardell, Mrs. J., St. Asaph Street.	George, D. P., Barbadoes Street.
Pokinghorne, K. T., Edgeware Road.	Jamieson, A., Ferry Road.
Robinson, L. R., Fitzgerald Avenue.	Smith, A. E. W., Cranford Street.
Sutherland, W. J., West Melton.	Brown, J., and Co., Sumner.
Witty, Mrs. E., 151 Bealey Avenue.	Bates, H. G., Sumner.
Aitken, A. J., Lyndhurst.	James, Mrs., Rangiora.
Graham, R. G., Methven.	Linklater, Miss, Kaiapoi.
John Hay and Co., Sefton.	Smith, C. H., Sumner.
Kennedy, R., Hanmer Springs.	Allen, J. D., Randall Street.
Mason, J., Chertsey.	Alston, Mrs., Antigua Street.
Moir, J. Y., Cheviot.	Bocock, F. A., Selwyn Street.
Mackie, D., Kaikoura.	Croft, C. K., London Street.
Salt, C. H., Pigeon Bay.	Eldridge, E., Opawa Road.
Sullivan, T., Domett.	Knight, C. L., Colombo Street.
Stubbs, A. W., Oxford.	McIntyre, —, Worcester Street.
Wilde, C. K., Hanmer Springs.	Ross, A. G., Averill Street.
Agar, C. H., Lyttelton.	Moore, A. W. H., Oxford.
Wilson, Alan, Ashburton.	Pocock, G., Dunsandel.
Baker and Rattray, Warrington Street.	Lamberton, J. W.
Canterbury Industrial Co-op., Colombo Street.	Ashton, Mrs., Kaikoura.
Dowell, T. S., Lincoln Road.	Chamberlain, R., West Melton.
Davidson, G., Corner Idris and Jeffrey's Roads.	Chambers, —, Harewood Road.
Gudscell, J., Lincoln Road.	Narneiss, Mrs., Parnassus.
Jennings, R., 382 Montreal Street.	Cash, J. J., Methven.
Leney, G., Norman's Road.	Howard Bros., Fernside.
Madden, C. M., Linwood Avenue.	Lord, A. J., Cashel Street.
McIlroy, J. W., Manchester Street.	Sheffield, D., Parnassus.
Rosewarne, Mrs. J. W., Warrington Street.	Templeton, R. J., Motukarara.

Mr. Healy.] Mr. Tuck, you state here that cheap foodstuffs in the department stores and cut-price shops are manufactured by one-man premises. What do you mean by that?—A man who is dismissed from a position, or is put off on account of financial difficulty on the part of his employer. He immediately starts manufacturing some line, foodstuffs or otherwise, and he works all the hours that there are. He then sells the line in competition with his late employer, who complies with all the regulations of the various Government Departments.

Is a man like that able to insure all his equipment and so on?—No. Most of his work is done at night.

They are only small lines, I should say?—Comparatively speaking, there are quite a large number of these men, and it is injurious that some of the department stores specialize in going to men like that for their supplies of confectionery and other lines, which are fairly easily put up by a man and his family.

How many shops do you control?—Six shops.

Do you say the result will be in a considerable number of boys being dispensed with and they will not be replaced by men?—There are quite a number of shops in Christchurch with which I am acquainted, both general and department, who have dispensed with boys and seem to be financially unable to replace them by senior men.

You made a statement here that is rather alarming, not that I dispute it—that is, when a store changed over from service to cash, of sixteen men five were dismissed. That goes to show that the chain store on the cash system—which I presume yours are—is going to result in a tremendous amount of unemployment throughout New Zealand?—That is definitely and absolutely correct. I can prove it with the figures given yesterday. The number of employees in the Wellington district of the Grocers' Union coincides with that fact, and many men who previously were in business themselves and not attached to any union, and are now employed by the chain stores and have joined a union.

Mr. Wilkinson.] In regard to the list which has been handed in showing the number of people who have gone out of business, there is no list showing who has taken their places—new businesses as an offset?—I have no knowledge of that list. It was compiled by somebody else, and I just put it before you.

You were able to reduce your prices in altering the nature of your business. Did not that bring you into the category of price-cutting yourself?—Yes. Until up to that time we were carrying on quite successfully as service, but on account of the chain-store method of selling we were compelled to change over.

You were forced into the position?—That is so.

I ask you whether you consider the Self-Help stores and Woolworths and McKenzies to be in the category of price-cutters?—Yes.

Mr. Ansell.] Just one question; you were present when Mr. O'Leary opened his case. Among others, he made a statement that if the proposed legislation did not affect you it would have the effect of enabling high prices to be fixed to the detriment of the consumer; and also Mr. Sutherland made the statement that if the legislation were placed on the statute-book, generally speaking, prices would be raised by at least 20 per cent. You say in your evidence that the purchaser would have to pay a little more for a few proprietary lines and goods which would amount to one or two shillings a week. What would be your reply to Mr. Sutherland?—I would say definitely that that is a matter which lies in the choice of the buyer. Oatmeal, 4 lb. bags, which are retailed at 1s. 6d. That is a luxury line. Nineteen out of twenty people purchase rolled oats loose at a rate of 4 lb. for 11d. Take a similar line, a $\frac{1}{2}$ lb. of Bournville cocoa, which is retailed at 8d. That is a luxury line which is not purchased by the man referred to in this Committee previously—the man on the bread-line. There is loose cocoa at 10d. per pound—admittedly the quality is not so good, being from ground beans and not from specially selected beans as the Bournville is. Carry that illustration a little further, instead of buying Amber Tips tea at 3s. 4d. per pound, people buy loose tea of various grades for 1s. 10d. up to 3s. per pound, so that the man on the bread-line who is seeking to be thrifty would not in any way be affected by the carrying of this amendment, which only seeks to establish the right of the owner of a proprietary line to control the selling-price of his article. It is recognized with any article in common use the price charged for it might be raised perhaps 50 per cent. or 100 per cent. with an increase in quality of only 5 per cent. The thrifty person can well buy the same article loose or in bulk at a lower price than that asked for the proprietary line.

Can I put it this way; you are in the same class of business as Mr. Sutherland, do you dispute his statement that prices would rise?—Yes.

Mr. Sullivan.] Do you think there is a relationship between the bad times we have been passing through and the consequent reduction of the people's income, and the development of the chain stores which are cutting out the service stores? Supposing things were prosperous and people had good incomes, I presume that only the service stores would endure under those circumstances?—That is definitely so, Mr. Sullivan. The coming of bad times affected the retailer just as much as any other person in the community, and frequently to reduce his expenses he turned over to the cash system of business in order to save himself. A large number of people who had had their incomes reduced 10 per cent. to as much as 50 per cent. naturally went around seeking the lower-priced articles they could obtain, and these they could obtain in the cash shops.

Take the relief worker. Supposing, for instance, that parliamentary action has enabled the fixation of prices and prices were so fixed that it had the effect of eliminating the cash-and-carry businesses, what would be the effect of that on the relief worker?—In my opinion, competition in the grocery trade—and in other trades of which I am not so well aware, but particularly in the grocery trade—competition would be shifted from the price to the service field. When I reduced my employees by one-third, it reduced the service. Over a period I would have to restore that service and restore those employees to work. So far as the relief worker buying goods is concerned, speaking from experience of the class of goods purchased by the relief worker, he is a person who is seeking to make the amount of money he gets go to the best advantage and he buys articles in bulk—he does not purchase the proprietary articles. The little that he gets would be unaffected by having to pay more for goods.

You are definitely of opinion that the coming of the cash and carry has added to unemployment?—I have given evidence on that point when we changed over from the service to the cash and carry.

What is your answer to Mr. Sutherland in regard to the increase in the number of members in the union?—I attribute that to the fact that a large number of small storekeepers have been put out of business by the cash-and-carry people and these men are now employed and have joined up with the union in Wellington. That is one explanation that can be given to that. The whole problem is a budgetary one, and if the people could pay for the service they would have it. The statement was made yesterday

by one witness that if this amendment were carried five hundred employees would be out of work. In reply to that I would like to draw the attention of the Committee to a case that happened in the South Island recently. A large chain of stores passed into the hands of the receivers, and tenders were invited for the sale of their stores. I and others tendered for those stores, and to my knowledge there were four tenders placed for the whole of the stores. In each case also the manager placed a tender for his respective store, so that you will see that not one person would be put out of work. Moreover, if the managers of those shops had become the purchasers a considerable number of them would have turned the cash business into a service shop, and that would have necessitated them employing more men. I maintain that if a concern had good business then the direct effect would be to increase employment, because a number of those men would seek to capitalize their good will by extending credit and delivering.

Mr. O'Leary.] Mr. Tuck, how many stores is your company interested in?—Six.

All in Christchurch?—Yes.

Do you agree that there is a demand for the service or credit stores in addition to the cash-and-carry businesses?—

Both must be with us?—Yes.

Mr. Tuck, what is it you hope will be attained by this legislation? What will you be able to do: it will contract your business and prevent what is called price-cutting?—Get a better net profit.

How are you going to obtain it?—In raising the price of proprietary lines on which to-day we are getting a low margin of profit. There are a large number of lines mentioned in National Distributors' list on which we only obtain a low margin of profit.

They go from 80 down to 16 per cent.—That is so; they are specially selected lines.

How are you going to see that these prices are raised? You want to deal with somebody who is preventing you getting a profit at the present time; how are you going to do it? So long as it is fair and in the public interest you will combine to see that that man either complies with the price-list or does not get supplies?—I am not concerned with the machinery.

You will have to provide the machinery?—I think the method would be that we would not sell De Witt's pills (which sell to-day at an extremely low margin) unless we had signed an agreement to maintain a certain price.

If he does not do that you would like to see him not only lose his supply of De Witt's pills, but be cut off from other supplies—to bring pressure to bear?—No, Sir.

You do not? All you want is to be able to insist that a price that is fixed is kept by the person who has signed?—I would like to state with the owner of Amber Tips tea or De Witt's pills should be able to say, "This is my line into which I have put a life's work and I want that price fixed."

Or you do not get my commodity?—Yes.

That was the foundation of the proposals of the P.A.T.A.?—Yes, which I definitely opposed.

Would you oppose anything in this Act whereby a man would be punished through other lines if he did not obey the dictates of the supplier of a particular line?—Yes.

So that if without affecting the present Act you can fix a price and cut off supplies if the man does not maintain the price, you would be satisfied?—If only one line had the right to refuse me that line if I refused to keep up the price.

I take it you can do that at the present time?—Yes.

You will be quite happy if you are satisfied with that and because you are not a P.A.T.A. man you will not agree to the use of coercion by cutting a man off on the other lines?—I would not agree to that.

I am pleased to hear that you are still consistent. You gave evidence on the P.A.T.A. inquiry?—Yes, it will be found on page 110 of the inquiry.

What is your system of business?—Cash and delivery and wrap up.

Were you originally a credit grocer?—Yes, I changed my system in 1921.

Have you found the change over satisfactory?—Yes.

You seem to be in the same position as Mr. Norrie. Did you hear Mr. Norrie's evidence as to the effect of his change over?—Yes.

Can you corroborate him?—In general I can corroborate all that he said.

Did you find your own turnover increase under the cash system?—Yes.

You wish to produce certain figures for the Committee?—Yes, I hand in a certificate from an accountant showing the proportion of overhead charges to turnover.

In 1921 you were a credit grocer?—Yes.

Actually you find you have been able to largely reduce prices to the public?—Yes. When I first introduced that system I went on the basis of reducing every price approximately 10 per cent.

Do you yourself do any importation?—Yes, a good deal.

And so you eliminate the wholesaler on those lines?—Yes.

Do you purchase for cash or obtain a month's credit?—It varies. Some firms give four or six weeks' credit, and others require net cash; others, again, require weekly payments.

But you can always get better terms if you pay cash?—Yes, even with a merchant who does a credit business. He will always allow $1\frac{1}{2}$ per cent. if you pay on the invoice.

In your opinion, can a cash business be carried on side by side with the credit business—I mean, do the public want both?—Yes; there is a demand for the credit business. There is a large class of people who will not fetch their own goods or pay cash. They prefer a canvasser calling for orders which are to be booked.

In regard to the question of proprietary articles and patent medicines, I think, in your experience, twenty or thirty years ago the chemists hardly handled patent medicines?—I would not say it was so recently as twenty years ago, but many years ago it was considered to be a breach of professional ethics for a prescribing chemist to sell anything.

It has been stated that Creme de Menthe tooth-paste was an article which was put off the market. What was your experience in regard to that?—A representative from Australia offered me minimum lots of six dozen at bed-rock prices, which I purchased on the definite understanding that an extensive newspaper advertising campaign was to be entered upon. This undertaking was never at any time carried out. For that reason I returned the tooth-paste to the merchant, and it was ultimately sold at any cost the retailer could procure to quit the line. Messrs. Rattray told us that soon afterwards the proprietors went into liquidation. The line was never on the market.

How do you view the operations of the P.A.T.A. as regards your own business?—I am very much against it. It would compel a man like me, who operates on an average of 12 per cent., to retail at approximately the same prices as businesses which operate from 17 to 35 per cent.

Your main attraction, of course, is your price?—It is my only attraction.

I suppose grocers' commodities are pretty well the same everywhere?—There is a wide variation in quality. Christchurch, on the whole, demands a far better quality than Wellington.

Have you ever carried on business in Wellington?—No.

Then what is your qualification for presuming to talk about the quality of goods required by people in Wellington?—In walking about the streets I notice the quality of goods displayed in the grocers' shops.

You have looked in the windows, but not inside the shops?—That is so.

Mr. O'Leary.] Now, if you people are able to do what you hope to be able to do if this amendment is carried by the raising of prices, it would force Mr. Sutherland and the Self-Help to sell on the same prices as businesses which are earning 17, 20, and 30 per cent.?—As I have already explained, the proprietary articles are different—De Witt's pills, Beechams pills, &c. It would not affect lines like butter, sugar, flour, &c.,

That is a matter on which I am unable to come to holds with you. Generally speaking, if you are able to fix and maintain a price, would it compel the cash-and-carry people to sell at a much higher price?—I maintained definitely in my evidence that the rise in price to the bread-line worker would amount to nil.

If the P.A.T.A. came into operation, you state it would compel a man like him who operates on an average of 12 per cent., to retail at the same price as businesses which operate on 17 to 35 per cent.?—That would apply to definite lines; take the medicines which we have to sell at the same prices as the chemists.

At least you must state it would apply to proprietary foodstuffs. It would result in their selling at a higher price by those concerns which operate on an average of 12 per cent. or less?—We have to choose the lesser evil of two—that is, to sell at cost price, or even less or, on the other hand, taking a fair profit with a fixed price. Of the two evils, the sound business man has no option but to choose the latter. At the present time butter is being sold at 5d. per pound if it goes with a pound of tea. That automatically means that people who continue that go out of business, and I contend that the lesser evil is to fix a price at which a man would not ultimately go out of business.

You had changed over to cash and carry before the Self-Help commenced in Christchurch?—That is correct.

Are your stores and theirs bound by the awards?—That is correct, and I may say that there is only one man on my staff who is not paid over award rate. I have not even taken off the 10-per-cent. cut.

You do not doubt Mr. Sutherland's statement as to the benefits he allows? He says that where prices are cut the other side of the picture is seen in business; no benefits, and conditions kept down to the minimum required by law. You do not doubt the statement which Mr. Sutherland gave us yesterday as to the benefits his staff get?—One of my men was taken from me by the Self-Help with the promise of the possibility of getting £7 a week. I was paying him £4 10s. He left or was dismissed after about three months with the Self-Help and he never at any time got more than the minimum.

That might be true, but do you doubt the correctness of the data put before us yesterday?—Do you not want to answer that?—I will answer my own way.

Never mind then.

Just one other thing, what are the incidents you have seen of these proprietary lines that have been sacrificed just as a draw?—Principally patent medicines.

Can you say what the particular medicines were?—They were all the popular brands—De Witt's pills, Beecham's pills.

Sacrificed by whom?—By everybody.

Including the Star Stores?—Yes.

That is your own?—No. Mine is "Tucks."

Of course, that cannot continue, for it would mean ruination to the retailer if he continued selling at cost or under cost?—It is manifest that a number of them have gone out recently, and no less those who have come back, which I suggest is a very poor way of putting matter before this Committee.

Mr. Wilkinson.] The witness referred to the fact that certain pills were proprietary articles. Can he explain the difference between articles such as pills and goods such as flour, butter, and sugar? That is, those items which are called proprietary, are they not controlled by the manufacturers in the same way as the pill proprietor controls his goods?—Flour and sugar are bought in bulk and sold after having been weighed up by the grocer. They cannot be termed proprietary articles.

In lots of places in New Zealand these articles are sold in the original bags—pounds of butter, bags of flour, bags of sugar. Are they not sold in the same way? What is the difference between pills and the flour and the butter and sugar?—I do not think there is any. There is comparatively little flour sold in the manufacturer's container—the greater portion of the flour is sold in bags.

In the country it is sold in the original bags and the bags are printed with the proprietor's or the manufacturer's name.—In that case, I presume the manufacturer fixes the resale price of the article.

There. It would apply to the relief worker?—The bread-line worker always purchases the smaller quantities made up by the grocer. One of the principal methods by which flour was sold prior to the introduction of the cash and carry stores was in 7 lb. bags under the name of the Miller. Now, that 7-lb.-bag trade has been eliminated and it is now sold in 7 lb. packets weighed up by the grocer, who is able to sell it at considerably less price.

That applies to the towns. The country people do not buy those small quantities, they buy by the bagfull.

Evidence of Mr. C. J. FORBES, Christchurch.

Commercial Trust Act passed for protection to public as a whole, not any one section. The public consists of producers, manufacturers, agents, wholesalers, retailers, and consumers, all of whom are in a greater or lesser degree employers of labour.

The intention of the Act was good as trading was then operated, but conditions of trading have changed vastly since, and the pendulum has swung to the opposite side.

It was not conceived at that time that producers, manufacturers, &c., would need the protection that is so vitally needed now, owing to the advent in this country of chain and department stores.

This type of trading has persistently reduced the prices paid to producers, manufacturers, &c., and so far as the smaller of these were concerned has ultimately forced them on to a bare existence, if not actual extinction.

Many manufacturers or packers of lines, well known to the public, because of years of effort and energy, found their lines being ruthlessly cut because of their non-agreement to lower prices for these large stores and chains, as against those older traders who had so materially assisted in the building up of the goodwill towards these lines.

Evidence can be produced to prove that, having built a reputation for price-reduction on these well-known lines, they are now turned adrift and not stocked, but their own lines carrying a far greater margin of profit put in their place.

Evidence can also be produced of these chain stores, after having been given better terms of buying, agreeing to higher and controlled prices for same, thus gaining a double benefit for themselves, and forgetting those to whom they had promised a lower cost of living.

Another method of recouping to themselves some of the losses thus sustained was through their employees.

Why were workers covered by an award offered an inducement to resign from their unions? Why were shop-managers asked to sign a separate and unfair agreement at the risk of losing their positions in cases of refusal? Why was the proportion clause so strongly fought?

Why, also, are different prices charged in different localities?

Why, also, are department stores allowed to handle grocery lines with lower-paid wages to their assistants than the Grocers' award. This applies to many other trades as well.

In conclusion, may I venture the opinion that the proposed amendments do not in any way violate the intention of the Act itself, but do honestly give a protection to the public never previously anticipated.

Mr. Healy.] What happened in connection with fixing the award?—I happened to be one of the assessors to the grocers at the Conciliation proceedings, and the shop-managers' class and the proportion clause were very strongly fought by the chain-store people. They were the only two clauses we were unable to come to agreement on in the Council and they were referred to the Arbitration Court.

You say all the workers covered by the award were offered an inducement to resign from their unions?—I have it here.

We attach hereto a copy of an agreement which we intend to have sent out to all shop-managers with the object of the staff and ourselves working in harmony; and so on.

Then it goes on to say:—

We sincerely hope that as a result of arranging with other unions you will form an industrial union of your own, elect your own officers, elect your own secretary, but need not have a paid official, and I would be pleased to assist you in any way. I hope you will not misunderstand me and think it is my endeavour to throw your unions over, but I do suggest I will do all in my power to assist in the formation of such a union to safeguard your interests. I will not assist you in any way if you link up with the Grocers' Union.

What is the outcome of it?—Well, of course, I cannot tell you. I believe the outcome of it was that the majority of the shop-managers refused to sign. However, not being an employee, I cannot tell you.

You think they separated the shop-managers from the award?—Yes, it is done now; there is an award. It is a matter of ten months since those conciliation proceedings and the matter was referred to the Arbitration Court. That Court took six months to decide on it, and last week we got information that the award had been made. A separate class was made bringing the shop-managers under this award.

What do you say was the purpose of that endeavour to isolate the shop-managers and form a special union?—I presume it was to weaken the power of the Grocers' Assistants' Union.

You would make a suggestion that way?—I would not make a suggestion that way.

You have evidence of different prices for different localities?—I have it here. It may be informative to know that this list immediately followed this other Self-Help list, which was published in November of 1934. This one immediately followed it, and it refers to Beckenham and Sydenham. That is my own list for the latter. I am in Beckenham.

What is the explanation?—The explanation in Sydenham is that their manager left and started in opposition. So far as the Beckenham man is concerned, I understand he was dismissed and started a shop in opposition to the shop he was working at, and he also started a shop in Wilton Road. The reason is to squash that man out of business. Personally, I am not so much concerned whether he goes out of business, but I am up against his competition, and you, gentlemen, all know when prices are cut and when they are not cut. To my mind, prices are cut when articles are sold at a price which does not show a margin of profit.

Did the manager who went into business on his own cut prices?—He was forced to.

Which came first?—Actually the manager started in business first, and immediately he started this was the gun that was fired.

Mr. O'Leary.] The managers were granted separate unions or Arbitration?—No, not in Christchurch. I cannot say about Wellington.

I am informed that the Arbitration Court permitted the creation of a separate award for shop-managers.—I do not know about Wellington.

I am informed that it applied in Christchurch. That is all right, but the fact remains, Mr. O'Leary, that the shop-managers are at present brought in under the scope of the Grocers' Assistants' award in Wellington and Christchurch. There has been a lot of talking. I was up here last week, but I was not able to be here yesterday. You have to look at the thing from a reasonable point of view. Mr. Wilkinson mentioned about flour; whether or not the majority of people did not buy flour in bags, but you know as well as I do. One of my colleagues was representing country storekeepers and was unable to be here to-day. The whole point is that the prices and the whole of the advertising in the newspapers goes out into the country districts, and when the people in the country see the price for flour or any other line to be less than their storekeeper is charging them, they think he is "having them," but it is not so at all. There is no doubt that many suburban storekeepers have gone out of business—it is a wonder that many of them have had the capital to remain in as long as they have. There is no doubt, also, that if the war continues much longer many more will go out of business. In Christchurch there are grocers' shops empty and nobody has gone into them.

Mr. Wilkinson.] Does the witness say that small quantities of flour packed in paper bags would be cheaper than flour in the original bag?—Yes, that is the case.

I think the bulk would be cheaper?—You can practically buy a 7 lb. bag of flour to-day at the same rate as you could buy a 50 lb. bag before.

Mr. Barrott: There is only one other witness on the grocery side.

The Chairman: There are other gentlemen, but I told them there was a chance of their being heard. They are representing the New Zealand biscuit and confectionery manufacturers. I might say that the Committee has applied for leave to sit this afternoon, so you will have to come back after lunch. We would not be able to complete with you before 1 p.m.

Evidence presented by HERBERT J. M. BARLEY, of Wellington, Grocer, representing Wellington Master Grocers' Association.

The Master Grocers' Association supports the amendment to the Commercial Trusts Act.

Some grocers have had to give up business through the unfair competition and the need for some protection. Before the advent of the chain and departmental stores the various businesses were in the hands of industrious men who were supporting families, and the bigger shops were employing married men at a rate of pay that enabled them to keep themselves and their families. Price-cutting by chain stores has driven a lot out of business and has forced those still carrying on to put assistants off.

The rapid progress made by chain stores is based on unfair trading and crushing out competition. The chain shops do not make a profit, but the companies running them make money by getting discounts on big orders which the small traders cannot get. Managers engaged on profit-sharing cannot make profits in the shops because of the price-cutting.

The system creates untold friction in the trade and prevents grocers from employing married men assistants or from making a reasonable living.

In five years price-cutting stores reduced grocers' assistants in Riddiford Street alone from twenty-nine to eighteen, meaning reduction in wives supported from fifteen to seven, and children from twenty-nine to five. Most of those put out were forced on relief.

I also have a list of grocers, managers, assistants, wives, children, and dependants supported by the trade in Riddiford Street before the advent of these stores.

GROCERS, MANAGERS, ASSISTANTS, WIVES, CHILDREN, AND DEPENDANTS SUPPORTED BY THE TRADE IN RIDDIFORD STREET, WELLINGTON SOUTH, BEFORE THE ADVENT OF THE CHAIN STORES.

	Grocers.	Managers.	Assistants.	Wives.	Children.	Aged Parents.
Campbells	1	1	11	5	14	..
Bertenshaw and Horn	1	..	..	1	3	..
Their assistants	1	..	..	..	..	2
Porters .. .. .	..	..	2	2	5	..
Wylies	1	..	2	1	..	..
Reduction Stores	1	..	6	1	3	..
Phillips	1	..	2	1	..	..
Jennings	1	..	1	1	1	..
Barleys	1	..	3	..	..	..
	1	..	2	1	3	..
	9	1	29	13	29	2

GROCCERS IN RIDDIFORD STREET AFTER THE CHAIN STORES HAD BEEN OPERATING A FEW YEARS (ABOUT 4) TAKEN FOR THE ARBITRATION COURT.

	Grocers.	Managers.	Assistants.	Wives.	Children.	Aged Parents.
Wylies	1	..	2	..	..	1
Reduction	1	..	3	1	..	..
Phillips	1	..	1	1	..	..
Jennings	1	..	3	1	..	..
Barleys	1	..	1	1	3	..
Self-Help --						
Gordon Street .. .. .	..	1	1	1	2	..
Riddiford Street .. .. .	..	1	3	1	..	..
Star Stores .. .. .	..	1	2	..	..	..
Hoopers	1	..	2	..	..	..
	6	3	18	6	5	1

I was first hand in Campbell's city shop for eighteen months. Campbell's staff were just as efficient as the assistants in the three big chain store firms that I worked for in England.

There are some districts without an award. The grocers in those districts especially need this amendment to protect them against the excessive overtime worked by some managers where there is no restriction. The departmental stores are now selling grocers' lines, and with the cheaper girl labour they are cutting prices so low that they will seriously retard the reintroduction of married assistants into the trade. The fixation of some proprietary lines will protect employers from unfair competition and help the trade to employ more senior employees. Since the advent of these stores some big wholesale crockery and hardware firms have had to go out of business, and wholesale drapery firms have had to dispense with married employees to cut down their overhead to meet this cheaper girl labour.

The departmental and chain stores are dispossessing the married men. These men, their wives, and growing families are not nearly the market they should be for primary producers, manufacturers, and all kinds of traders. Our young men are prevented from entering the state of matrimony, and that affects the builders and their eighty allied trades. These firms are depopulating the Empire. There are 12 per cent. less children in British schools than twenty years ago, and our educational authorities anticipate a serious fall in the number of children in our schools. The Act wisely says that the welfare of the public means the people engaged in the trade. To deprive employers and employees of their just remuneration and employment is to the detriment of the public. The departmental stores will make all the distributing trades a blind alley if left uncontrolled.

Dr. R. Dey says:—

The birth-rate of Great Britain and New Zealand has now fallen below that of France. On the basis of the present figures there will be 4,000,000 children in British schools in 1948, compared with 6,000,000 in 1913. By 1976 the population of Great Britain will be 33,000,000, against 45,000,000 to-day. Italy and Germany will have 90,000,000 by 1976, and to increase her population she has suppressed departmental and chain stores, but that is too drastic. To save the country from decay like Rome, Egypt, and Babylon, or a violent revolution like France and Russia, the same proportion clause will have to be introduced into shops, offices, factories, and warehouses. Overtime unpaid for, short weight which firms have got away with for years, and the inability of the department to stop illicit and Sunday trading is seriously retarding the propagation of the race and curtailing the internal trade of the country enormously and throwing the burden of relief on the State. Only the Government can bring in this reform, but in the meantime this amendment will save some businesses from bankruptcy and protect employees from loss of employment.

Mr. Healy.] You heard the evidence yesterday? Mr. Sutherland, senior, or some witness, gave evidence quite contrary to your evidence here. You state that some districts are without an award, and that the grocers in those districts especially need this amendment to protect them against the excessive overtime worked, especially by managers?—I would like to point out that when the chain stores started in Newtown excessive overtime was worked by the managers and staff, and quite recently there was a case of excessive overtime in Kilbirnie. A policeman walking along the street at two o'clock in the morning happened to go to a chain store and saw a light in the shop. He asked the man what he was doing there and was informed by the man that he was the manager. The policeman wanted this particular man to bring someone along at two o'clock in the morning to identify him. I would point out that in one particular chain store in Newtown the manager worked all day Sunday for nine months. I can give you the name of a Justice of the Peace who will corroborate that statement. I can give you the name of a grocers' assistant who will corroborate it also. The Justice of the Peace lived close to this particular man and he has seen him go to his business. I happen to be a trustee of the church next door to the shop, and the man I refer to was in his shop nine Sundays out of ten.

The Chairman.] How long ago?—That would be about nine or ten years ago. An award would get over this difficulty. The managers work this overtime, and I do not think the executives of the chain stores know actually how much overtime these men work. They have no idea of it.

Mr. Wilkinson.] The witness has given us figures in regard to the decrease in the birth-rate in different parts of the world. Does he think these chain stores are largely responsible for that?—Absolutely. I am convinced of it.

If the general public is getting goods so much cheaper, would it not tend to increase the birth-rate?—No, for the simple reason that warehouses and manufacturers have had to put off hands because these people are getting their trade.

The general public is getting goods cheaper and that should increase the birth-rate?—The reason for that is that warehouses have had to put employees off because the chain stores people have got the trade. Most of the people previously employed were married men.

The witness has given figures in regard to the people put out of employment owing to the operations of the chain stores, but he does not give any figures of the people employed by the same chain stores to offset it?—On this list there are grocers, managers, &c.—

Yes, but surely they did not all go out of employment because of the chain stores?—Campbell's manager, Mr. Reid, who bought the business, said that he could not possibly pay senior wages and compete with the junior labour and the long hours overtime worked by the chain stores.—Now I can quote the figures to-day.

These figures show the number of grocers after the chain stores had been operating, but does that include the people employed by the chain stores?—Yes. I took the record a couple of days ago and it is practically the same.

	Grocers.	Managers.	Assistants.	Wives.	Children.	Aged Parents.	Total.
Before chain stores	9	1	29	13	29	2	83
About four years later	6	3	18	6	5	1	39
8th October, 1935	6	6	13	6	..	..	31

LIST OF GROCERS, ETC., 8TH OCTOBER, 1935.

	Grocers.	Managers.	Assistants.	Wives.	Children.	Aged Parents.
Hoopers	1	1	1	..	..	..
Reduction Stores	1	..	2	..	..	..
Osborne	1	..	2	1	..	..
Phillips	1	..	..	..	..	..
Jennings	1	..	2	1	..	..
Barleys	1	..	1	1	..	..
Self-Help—						
Gordon Street .. ..	..	1	1	1	..	..
Riddiford Street .. ..	..	1	1	1	..	..
Star Stores .. ..	..	1	1	..	..	..
Dilloways—						
Bank Corner .. ..	..	1	1	1	..	..
John Street .. ..	..	1	1	..	..	..
	6	6	13	6	..	..

NOTE.—None of the above persons engaged in the trade are supporting children.

(The Committee adjourned at 1 p.m.)

10TH OCTOBER, 1935, (AFTERNOON).

The Chairman (Mr. McLeod) in opening the meeting remarked on the difficulties of members in getting away from the House at the present time.

Witness : Mr. J. M. BARLEY, Grocer, Wellington (Cross-examined).

Mr. Wilkinson.] Could not some of the difficulties that you have outlined be got over by an award providing for so many adult persons and so many juniors?—I would like to point out that I am referring to departmental stores; employees visible in four departmental stores were 102 girls and only 20 men; an enormous proportion of girls are employed and these girls are selling grocery lines. These departmental stores are doing a big proportion of the trade—employing girls at low wages.

The Chairman.] Is there not an award?—There is an award specially for the departmental stores. They employ cheap girl labour.

Mr. Wilkinson.] Would not an award suitable in both instances get over the difficulties to some extent?—Yes, that is perfectly correct. That would be the solution of the whole trouble. The same award—instead of the Shops and Offices Act and the Factories Act—would remove all the difficulties.

Mr. Ansell.] According to your view the success of the chain stores is based on cheap labour?—Yes.

On the last page of your statement you say, “The departmental stores are now selling grocers' lines, and with the cheaper girl labour they are cutting prices so low that they will seriously retard the reintroduction of married assistants into the trade.” What wages are paid to these girls?—They are not paid £4 5s. per week, which is an assistants' wage.

You are of the opinion that girl labour has displaced men and wholesale firms have therefore had to go out of business?—Yes. (Penultimate paragraph of statement.)

Mr. CHAS. E. BOON read the following statement :—

EVIDENCE TO THE INDUSTRIES AND COMMERCE COMMITTEE BY THE MASTER BAKERS' ASSOCIATIONS OF OTAGO, CANTERBURY, WELLINGTON, AND AUCKLAND.

To assist the Committee and to shorten proceedings before the Committee as requested by the Chairman, I have, since the hearing was adjourned, taken the opportunity of summarizing the position on behalf of the Master Bakers' Associations of Otago, Canterbury, Wellington, and Auckland.

All those associations support the proposed amendment to the Act, and desire me to point out—

The proposed amendment does not do away with any of the offences created under the principal Act. It is still open to the Crown to prosecute for any of those offences. The amendment merely places in the hands of the alleged offender an available defence. To establish that defence an offender must prove that this action was not unfair, was not prejudicial to the baking industry or to the public welfare, and that similar action as commonly practised in similar circumstances would not be unfair or prejudicial to the public welfare.

Surely the rights given by the proposed amendment to establish that defence before a Court of law cannot be considered unjustified.

The trade's experience may be summarized in this way :—

Wages are fixed by an award. The price of flour is stabilized. To a large extent, therefore, overhead is predetermined, and with a predetermined overhead price-cutting must inevitably end in disaster. To-day bread is being used as a decoy line by traders not wholly engaged in the baking industry. It is sold at a price without any relation to the cost of production. Rival chain stores in Auckland are using bread as powder and shot in the price-cutting war between themselves. The effect is ruinous to the baking trade. Experience has shown that the price-cutting baker inevitably faces his creditors with a deficiency. One individual who last session opposed the New Zealand Master Bakers' petition assigned his estate with a deficiency of over £6,000.

The inability under the present law to refuse supply plays into the hands of the financially unsound.

Recently a baker forced to meet his creditors with a deficiency was granted extended credit to enable him to carry on. He immediately announced a reduction of $\frac{3}{4}$ d. per 2 lb. loaf, thus forcing solvent bakers to compete at a price which must ultimately end in insolvency. No combined action could be taken without committing an offence under the present Act. Under the proposed amendment combined action could only be taken if it was justified as not being unfair to the individual and not being prejudicial to the public interest.

The original Act was framed to suppress monopolies. It acts now as a protection to those engaged in a desperate fight to set up retail monopolies. The damage that is being done to trade generally by the retail price-cutting outweighs any benefit to the public generally. The inability of various trades to protect their own industry is assisting the retail monopolist.

Witness : CHAS. E. BOON.

Mr. Wilkinson.] Why do bakers sell bread to grocers?—Grocers are the legitimate channels for disposing of bread, and bread-bakers consequently have not got the matter in their own hands.

Why have they not been able to do so?—They do in other parts of New Zealand, but it is not general.

If it is done in some parts of New Zealand, why is it not done generally?—I am not to know.

It can be done. If it is not done, whose fault is it?—I am not saying that it is only the chain stores.

Where does the fault lie?—A good deal of the fault lies with the bakers themselves, I admit that.

You think that the amendment will give you more power?—It certainly would be of assistance.

You do not say that without it you cannot keep on?—It has been a definite drawback.

The Chairman.] In what way do you say that the amendment would assist you?—We have always regarded that if we refused goods to an individual for price-cutting it was illegal.

Mr. Harris.] You are a commercial trust?—

The Chairman.] You are from Christchurch?—Yes.

To what extent do you have in Christchurch what they had in Auckland when we last inquired into the matter—a hawker of bread? Does that exist to-day?—It has never been very prominent in Christchurch.

We had a strong complaint from Auckland at this time against the practice because it was impossible to compete against this type of trader who paid no rates, had no shop, and practically no expenses?—We have not had that experience to any extent in Christchurch.

Mr. O'Leary.] You seem to accept the view that an individual trader can refuse to supply?—Yes.

But you think that when it gets into the realm of a combination then you are committing an offence under the Commercial Trusts Act?—Yes.

You hope that under this Act as amended you will be freer to combine to exercise your wishes on the whole?—Yes.

Witness : Mr. PAGET.

Mr. Paget read the following statement :—

EVIDENCE TO BE SUBMITTED TO THE PARLIAMENTARY COMMITTEE ON PROPOSED AMENDMENTS TO THE COMMERCIAL TRUSTS ACT BY THE NEW ZEALAND RETAIL TOBACCONISTS AND HAIRDRESSERS' FEDERATION (INCORPORATED).

360 Lambton Quay, Wellington, 3rd October, 1935.

The executive of the New Zealand Retail Tobacconists and Hairdressers' Federation (Incorporated), assembled in Wellington on September 3rd and 4th of this year, discussed the proposals of the Associated Chambers of Commerce, with regard to the amendments of the Commercial Trusts Act, and unanimously agreed as follows :—

That after ten months of successful price-fixation in the tobacco trade, we affirm the principle of price-stabilization, and support the action of the Chambers of Commerce.

In putting on record the success of stabilization in our trade, we would draw attention to the absence of friction or irritation in the trade or with the public when the change took place.

We know of no section of the retail tobacco traders that would revert to the old style of cutting, and the uncertainty from day to day, what lines will be slaughtered next. Moreover, all traders reported remarks by many different customers, upon the satisfaction of having one price for each line in all shops alike.

There may be detailed improvements which many of us would like to have made, but we are unanimous in affirming the principle of price stabilization, and its necessity, if the thousands of small traders, their employees and their dependents, are to maintain a reasonable standard of living.

We would also remind those interested that the most prosperous and contented years in England were the years of the small traders, in their thousands all able to make a modest but comfortable livelihood, and it is such a livelihood we retailers seek to have secured to us and our employees.

Witness : Mr. PAGET, representing the New Zealand Hairdressers' and Tobacconists' Federation (Incorporated).

Mr. Paget : I have as a member of the associations and federations of tobacconists been before you several times. You were good enough to say that you thought you had done with us, but this time it is rather a pleasure to be able to say "thank you" instead of "why cannot you give something." We have been before you so often—but at last Parliament removed tobacco goods from the Schedule to the Commercial Trusts Act, and then you said "get away and go and settle your own differences and do not come back again." You also threatened us that it could easily be put back in the Schedule. It is a great pleasure to be able to come and say, on behalf of the federation, that we have got a measure of stabilization which has given a great sense of satisfaction, that has hurt nobody, and has been a measure of justice all round. It is also a great relief on my part to note our organization is unable to supply definite statistics—that since stabilization we believe that there are about four hundred men back in the tobacco trade. I can tell you, definitely that there are at least ten in Wellington; and that there are several more employees engaged. Apart from that, although we are far from satisfied with our rates of profit, we are definitely satisfied that a trade, full of difficulties and full of irritations, has been put on a very much sounder basis, and it is absolutely definite that the public have not grumbled at the change; it is absolutely definite also that retailers have not made a fortune—I do not know anybody who has. The retailers want more profit than they are getting, but in an attempt to get more profit they would not jeopardize the stabilization fixed as it is at present.

Mr. Harris.] Under price-stabilization, as you call it, in your trade apparently it has been possible to come to what you regard as a satisfactory arrangement for the sale of tobacco and cigarettes, both from the standpoint of the shopkeeper and the public generally?—Exactly.

The fact does still remain that in the removal of tobacco and cigarettes from the Schedule to the Commercial Trusts Act it is now possible for a combination of merchants so to act as to increase the price against the consuming public?—The arrangement is between retailers, the merchants, and the manufacturers, and manufacturers certainly can, at the present time, to some extent, dictate our prices and our terms, but what we have found is this: that competition has kept prices down.

Is there any competition at all; are you not all on the same footing?—There is decided competition between the manufacturers and agents. The position is this: that prices are stabilized at a reasonable rate, otherwise the market would have been flooded with dozens and dozens of other lines which would probably have broken down stabilization. No one can say that any of the tobacco or cigarette prices are unreasonable; and that is why, because the manufacturers must recognize that there is always further competition waiting for them.

You have limited competition?—What has taken place is that a number of other lines would have come on to the market; but with the arrangement now made that competition is removed. I am glad to say that all sections of the trade have kept profits within bounds—they keep prices well within bounds; the result is that we have eliminated competition except perhaps in the wholesale trade. The manufacturers still have their output to keep up, and the market is more or less limited; they have had to keep within bounds. It would be absolutely disastrous for the manufacturers to raise prices unreasonably.

What would be the result if the manufacturers, the distributors, and the retailers decided to raise the price of the present 6d. packet of cigarettes to 8d.?—In six months you would have a flood of 6d. cigarettes from overseas, from outside people altogether. The same thing happens if by raising those

prices from 6d. to 8d. you raise the retail profit considerably, you would have a flood of shops stocking those 8d. cigarettes. Already there is a very considerable increase in the number of people selling tobacco, which is all to the good, although it is not to the good in my own particular case.

It has had the effect of increasing the number of retail tobacconists?—Definitely; I have no hesitation in saying that.

In your experience all the tobacconists have profited by the change?—They say it is better not to go back to the old policy, but it is hard to make decent profits. I was talking to one or two in respect of what we call the old prices—the higher prices before the Act.

Have you any knowledge of how the alteration would operate in foodstuffs generally?—I have studied these things to some extent when I first went into the matter for the tobacconists, and my opinion is this, and I put it for what it is worth: that where you may protect proprietary lines there are always bulk lines—unbranded lines that you will not protect from competition. For instance, Mr. Wilkinson was asking about flour: Now, then, supposing you are a flour-manufacturer and you put up a 7 lb. bag—a special brand of flour known as “Snow Drift”; and you say this particular brand is to be sold at a definite price—you have registered the name and gone to the expense of advertising the line—that does not prevent a man going to the grocer or storekeeper and buying 7 lb. out of a sack.

You can do that now?—Yes. We put this matter before your Committee some time ago that proprietary lines should be free from the Schedule to the Commercial Trusts Act so that people who introduce such a line may regulate the sale, and from our experience and our studies—we were discussing it the other day—we decided we could not see any mischief in the stabilization of prices.

Do you suggest then, for instance, we should remove, say (some particular brand, Kellogg) (?) bread, and leave in bread generally?—Quite so. Where a man brings out some patent bread, whether it is in tins or not—it has separate packing perhaps and is specially advertised—I should say it would be quite possible to remove that line without removing bread generally. That is how it seems to me; I do not pretend to be an expert.

There used to be a bread in Auckland many years ago which was not sold at the regular price?—“Bermaline.”

Mr. Healy.] You stated that there had been a good increase in the number of employees since the price-fixation, can you give us the figures?—Our secretariat is not sufficiently developed to be able to give you statistics—we have not been able to get figures from the country. I know that in all the towns of any importance there has been an increase, but I cannot tell you in regard to the small country towns.

As regards the fixation of prices in the tobacco trade, what would be the general average of the increase? Would the increase be about the same for cigarettes and tobacco?—Yes. There was a small increase in some of the pipe tobaccos and none in the loose tobaccos. Loose tobaccos in the tobacco trade are very largely sold just as bulk flour.

Mr. Wilkinson.] You cannot give us the percentage of increase in the prices?—About $\frac{1}{2}$ d. per ounce, roughly, in possibly 50 per cent. of the loose tobaccos and about 50 per cent. of the tin tobaccos. In about 50 per cent. of the pipe tobaccos you would be paying about $\frac{1}{2}$ d. an ounce and the wholesale price to the tobacconists would be about the same; but at the same time there was a slight increase in the excise duty. Since then some of the imported tobaccos have already gone up $\frac{1}{2}$ d. an ounce—only certain ones, and that is quite recently.

You have not finished with that yet?—We are a progressive body; and you as a business man will realize that a certain overhead is necessary. Our overhead on turnover or output is about 12 per cent.—not very big. For ten months the retail trade has been working on an average profit of 12 per cent. on turnover of tobacco goods.

You still require more profit, which indicates a further rise in prices eventually. You state that there are four hundred more men in the tobacco trade to-day than there were before the alteration?—That is the estimate.

Would that four hundred include a proportion of men engaged in hairdressing?—We are not referring to the hairdressing. There may be a proportion of hairdressers who have gone back to the tobacco trade. There are ten more men engaged in selling tobacco in the Wellington City (proprietors). I am speaking of new businesses, and I can add to that a further one—that is, eleven that I know of and I do not get about very much.

According to that there is no additional number of men employed in the older shops?—There has been a certain addition to the employees, but I cannot tell you to what extent. The additional number are employed mostly in new businesses—men who had been out for some time and saw an opportunity of getting back.

The Chairman.] I think your previous petitions to the House and to this Committee were for price-fixation were they not?—We asked for price-fixation under the Board of Trade Act for, I think, three years running, and then we asked for removal from the Commercial Trusts Act. The last petition, I think, was for action under the Board of Trade Act and the Committee saw fit to recommend our previous requests, and, as I said, told us to go and settle our own differences now that they had granted the requests.

That is correct. Your original request was for price-fixation?—Yes.

Then later on you applied for your goods to be removed from the Commercial Trusts Act, and the decision was that an attempt by you to settle your own difficulties would be preferable to the Government fixing prices. You were also warned at the time that we still retained the power to bring you back into the Commercial Trusts Act at any time if we found you doing anything in a way detrimental to the public good—that is the main issue in the amendment.

Mr. O'Leary.] Apparently the retailers are very happy under the present position so far as tobacco is concerned?—Compared to what we were.

The method of vending tobacco is uniform—cash over the counter?—Yes, practically speaking.

Will you concede to me that a retail business in which the whole of the business is so done is in a different position to another trade, like grocery, where you have different types of vending? The larger man may not be able to do the same thing as you?—I cannot see that.

I suggest that the reason is no uniform method of vending?—I do not see that uniformity of vending has anything to do with it.

I suggest it must have. Is not your business equivalent to 100 per cent. cash and carry—your tobacco-vending?—Yes.

Have your members seen the agreement which was put in by Mr. Sutherland? Have they been called on to sign it?—I was not here when it was put in. These agreements are purely in the air; they are purely under discussion as a means of maintaining our price stabilization.

I do not know whether you have the latest amendment; fairly drastic is it not?—They are very well drawn up—

So well drawn up that you will not sign them at the present time?—That I cannot say, I have not been asked to.

But you have seen it? How long have the agreements been under review?—Just a few weeks. They are still in the air.

They are still in the air as to whether your members will sign them or not?—We have asked for agreements for sale so as to maintain stabilization—they are drafted as a basis for discussion. I do not know whether the letter which accompanied them is there, telling us that they were put forward as a basis for discussion; and discussion is still going on, and amendments in the matter of advice and control are already being printed.

I suppose you and the members of your association are not so simple as to think you are going to get away without signing this agreement or something similar?—We can get away easily without signing this agreement if we wish to. We have affirmed the principle of an agreement. We have not finished discussing the details, and I may say that I am not in a position to discuss the details.

I will just read you one clause of the statement: "Any member of the association . . . with a person, firm, or company . . . on such terms and conditions as he shall think fit." (See agreement.) That is fairly drastic. [Mr. O'Leary read A, B, C, and D, of agreement.]?—I am sorry I am not in a position to discuss them in detail. The documents have been drawn up by eminent counsel, and eminent counsel do confuse the layman.

I cannot see any confusion to eminent counsel. If clause 40 is carried into effect there would be no flooding of the market with cheap cigarettes in New Zealand would there?—No, as suggested to Mr. Wilkinson. As far as I can see it, it is purely a manufacturers' arrangement, with which we have nothing to do.

I commend to you the perusal of some of your own agreements before you come along to give evidence?—We have no agreements.

This is what they are going to impose on you, you know. You are a retailer. [Mr. Paget dropped the agreements on the floor.] They are like that exactly—they may be dropped. They may go through and they may fall to the ground. They are drawn up for three groups, and they would go through undoubtedly if there is reason between the three groups, without reason and moderation between these three groups they will not go through.

Who are the three groups?—Retailers, manufacturers, and wholesalers—the retailers of New Zealand.

What is going to happen if the retailers are reasonable, but the merchants and the manufacturers are not?—I am afraid the merchants and manufacturers might find themselves in the soup. I do not anticipate any grave difficulty.

I think there will be a difficulty?—We all realize that there are difficulties but, of course, difficulties crop up in everything. Grave difficulties cropped up in the first stabilization, but we have all worked to make a reasonable, fair, and equitable position, and it has turned out all right so far.

You say that a number of new shops have been opened since the price stabilization?—Eleven.

I understand that a number of these are open shops financed by individuals who do not attend there themselves; they employ one or two girls?—I do not know of any.

Open shops are everywhere?—Girls who are not the owners may be employed in the shops.

Let us keep to the point. Do you know that a number of these shops are shops financed by individuals who do not attend the shops?—Absolutely, no. I say it is not so; definitely it is not so. I can give you more information; I do know.

You ought to.

Mr. Paget: It is a definite fact that the open shops do employ girls, but they are not run by girls who have no interest in the business or the owners of which are absent.

The Chairman.] Is it not a common thing to call in an officer of the Department to assist you in straightening out difficulties that occur in trade? I know that that has been done. Their services are available to try and smooth out difficulties?—I know that your Department has been consulted a good deal, and in this connection—in fact, in many of our association matters—we have always had the greatest assistance from your office.

Statement read by Mr. C. V. SMITH :—

Hon. A. D. McLeod,
Chairman, Industries and Commerce Committee,
House of Representatives, Wellington.

DEAR SIR,—

In giving evidence before this Committee, we wish to confine our remarks to the present operation of the Commercial Trusts Act as it affects the relations between members of our association and merchants.

Although the New Zealand Biscuit and Confectionery Manufacturers' Association is, under the meaning of the Act, a trust it should be pointed out at the offset that as there is a number of manufacturers outside the association, and as some of these have a considerable output their competition prevents our association charging exorbitant prices, or in any way forming a monopoly.

At association meetings prices and discounts are agreed on, and members are under an honourable agreement to observe these. It is in the observance of these prices and discounts that we find the Act placing us in an anomalous position. As mentioned above, the association decides what discounts shall be given to merchants. These discounts are given to merchants for the express purpose of covering their overheads, distribution, and selling costs, but, unfortunately, in many cases this discount is used to take away direct business from manufacturers. This is done mainly in two ways—firstly, by the merchant giving away part of his discount to the retailer; and, secondly, by giving freight concessions. As our travellers are bound to sell at the prices and on the terms laid down by the association, you will appreciate that the action of these merchants in giving away part of their discount and allowing freight concessions means that our travellers are being underquoted, and we think you will agree that it is a distinct anomaly that a merchant should be allowed to quote a manufacturer's line at a lower price than that manufacturer himself can quote, unless, of course, he is prepared to break his agreement with other members of the association.

It might be argued that if merchants are giving away part of their discount, then the discount they receive is too great. We should state, however, that the discounts given to merchants are $7\frac{1}{2}$ per cent. on biscuits, $7\frac{1}{2}$ per cent. on chocolates and confectionery, and 5 per cent. on chocolate tablets, and, in our opinion, these are only reasonable in view of the costs of conducting a distributing business. It is possible, or course, for a merchant to use the margin available on other lines to cover his distribution costs.

In addition, we would stress that the splitting of discounts is not done by every merchant, but we know that the discount-splitting activities of some cause the various merchants' associations considerable trouble, and that any legislation passed which would allow us to control discount-splitting would be warmly welcomed by the leading merchants.

As the Act stands at present we cannot take any disciplinary action against a merchant who is not abiding by our terms of sale, and as this fact is well known to merchants the position is growing steadily worse. If as an association we had the power to insist that merchants abided by our terms of sale, or, in other words, sold our goods on the same terms as do our own travellers, this splitting of discounts could be stopped very quickly. Although it would be quite possible to obtain concrete evidence of individual cases, we do not think that it is necessary, for we have had frequent admissions from merchants that they are adopting this practice, and that they are within their rights in so doing.

The following figures for 1933 and 1934, which represent the purchases from members of the association by those receiving wholesale discount, will show how the position is developing. It is unfortunate that total figures of the association are not available for the years prior to 1933 :—

Purchases by Merchants : 1933, £402,812 ; 1934, £452,158 ; Increase per cent. $12\frac{1}{2}$.

Further, we would like to point out that there would not be any increase in prices were we allowed to insist that merchants retained any discount allowed them.

In conclusion, we would like to stress that all we are asking in supporting the amendment is the right to conduct our own businesses, a right which is denied us under the Act as it stands at present.

For and on behalf of
N.Z. Biscuit and Confectionery Manufacturers' Association,

(Sgd.) A. C. HOLMES.

„ C. V. SMITH.

Continuing Cross-examination of Mr. C. V. SMITH.

Mr. Wilkinson.] In the second paragraph you say that your competitors have considerably increased their competition against the association. Does that not mean that if you did not have that competition you would raise your prices?—Although we have an association of fourteen members, there are, roughly, thirty-six manufacturers in New Zealand, and although we have this association it therefore by no means controls the trade of New Zealand.

It seems to indicate that without competition there would be a fairly heavy increase in prices?—It probably reads that way, although I think it was put in for the purpose of discounting the word "trust." We would like to stress that we require the right to conduct our own business in our own way.

Do you not think you have a fairly full right of doing that at the present time?—It is well known to most members what is going on all over New Zealand. In Palmerston North and other centres it is quite impossible for manufacturers to get direct business because the Palmerston North merchants

are always delivering freight-paid to the shops, and we can take no action as an association with these merchants.

That is mostly the fault of the people concerned in the business. [It says here that "At association meetings prices and discounts are agreed on, and members are under an honourable agreement to observe these?"—Members are under an honourable agreement to observe them.

There is a Merchants' Association, is there not?—There is a Merchants' Association.

They have some disciplinary powers to control these people?—I wish they had, and the Merchants Associations would be the first to say they wished they had. The matter has been brought up before the Hon. Mr. Masters, and we were told it was quite useless for us to take steps against the merchants under the Act. Merchants receive $7\frac{1}{2}$ per cent. discount off list prices, but they can go out and quote retailers list prices less 5 per cent. Our travellers call on the shops, who say, "Why should we buy from you when we can buy your lines cheaper from somebody else?"

Mr. O'Leary.] Mr. Smith, is it not a disadvantage that you and those associated with you are a commercial trust? Is not that so?—Under the meaning of the Act.

You say you want to run your own business in your own way, but that is not quite right is it? You want the right to combine with other people to direct how somebody else shall run his business. It is a combination of you who want to fix your prices, and by that combination you want to control the next person, do you not?—You are forgetting the second part of the first paragraph. Although we are an association we are not strong as associations go in New Zealand. There are others outside of the association, and to a certain extent they fix the prices. As Mr. Wilkinson said, if the whole lot were in the association we would definitely be a trust. It would be better to say we were a trust within the meaning of the Act than to say we were not.

If you are a commercial trust you are limited in what you can do. A commercial trust means any number of persons, and I take it that two people could be a commercial trust having as its object that of controlling, determining, or influencing the supply or demand or price of any goods, and your association really wants to influence the price of goods if it can?—Definitely no. All we are asking for is to control merchants from giving away their discount. The price of goods would not be influenced. There seems to be no reason why a manufacturer should not be able to deal direct with the retailers, but the position is that we cannot do that because the retailer—I do not say all retailers—will say, "What is the good of buying from you when we can buy cheaper from the merchants?"

There is nothing to prevent you doing it: you could deal with the retailers if you wanted to?—Not and remain in the association.

Then you tied yourself up—no one asked you to go into the association?—Can I put the question back to you? I think you will agree that it is in the interests of the public that the association is there, and it is obvious what would happen from the employment point of view if the association broke up.

Apparently what you want to do is to combine?—Starting at the last line of the first page:—"As the Act stands at present, we cannot take any disciplinary action against a merchant who is not abiding by our terms of sale, and as this fact is well known to merchants, the position is growing steadily worse," &c.

You want to be free to take disciplinary action against a merchant who is not abiding by the price agreement?—We want to be able to say, "If you can give away 5 per cent., then apparently $2\frac{1}{2}$ per cent. is sufficient for you. Here is $2\frac{1}{2}$ per cent. discount. That is all we are asking for.

If he would not agree to that you would cut off his supplies?—No, only take away his discount so that he could not give discount away.

Your discipline would be to deal with various people on different terms?—Actually the action that would be taken would be that if we found a merchant quoting our lines less 5 per cent. we would say, "Your discount is apparently too much and $2\frac{1}{2}$ per cent. appears to be sufficient for you."

You want to discipline him?—Yes.

Apparently that is the desire?—In disciplining the merchant we are not increasing prices.

If you gave him a lesser discount it would cost him more for goods?—It would not cost the public any more, and I think he would come into line very quickly.

The Chairman.] "I should say that a manufacturer or distributor may refuse to supply his goods to a retailer who unfairly cuts the price. He could not, however, refuse to supply because the retailer will not agree to enter into a price maintenance agreement." That is, an individual can come under the commercial trusts?—Our point is that we have no trouble with the retailer: our troubles are with the merchants. We want to deal with more retailers and our trade is gradually going: our travellers call on shops, we deliver the goods to the shops, and we are asked to put the account through the merchants. The merchant takes the commission, and we do all the work. It is steadily getting worse.

Mr. Wilkinson.] You can refuse to supply, of course?—You can see what would happen in an association. Supposing one firm starts refusing supplies and another firm starts taking the same action there would be a case under the Act, for it does not take much to prove collusion if you find all members taking it into their heads to refuse supplies to a certain shop. One manufacturer could do so, but if two did there would be collusion.

The Chairman.] Will the proposed amendment enable you to get over that difficulty: are you suggesting that it will?—It has that effect because any case of injustice goes to the Minister.

Mr. O'Leary.] To the Supreme Court?—The bulk of the merchants want this badly. Mr. Wilkinson referred to associations.

The Chairman. The Wellington manufacturers are asking to give evidence on Wednesday morning—That is, next week.

Mr. Wilkinson : The gentleman referred to trade organizations—that is, the Merchants' Association, is it not? I was wondering if you could ask the Merchants' Association to give evidence. We would like to question them on some of these matters.

The Chairman : It would be valuable.

Mr. Wilkinson : The Merchants' Association is a distinct body of merchants. Statements have been made that the wholesale Merchants' Association have been instrumental in preventing a certain firm obtaining the best price for goods. We should have their reply to that.

The Chairman : They made no application to be heard apparently, although I take it that association will be in existence in Wellington.

Mr. Wilkinson : I think the Committee should advise them of the situation.

The Chairman : We should have a witness called.

Mr. Wilkinson : Certain statements have been made and they call for an answer.

Mr. Smith : You could pass this evidence over to the Merchants' Association and the president could give information on it.

Mr. Wilkinson : I do not think it is a matter of support. We have questions to ask the Merchants' Association outside of the evidence given here.

The Chairman (to Committee Clerk) : You will find out who the association is. The Committee desires to have points raised during the investigation it is making.

(The Committee adjourned at 4.20 p.m.)

NOTES OF EVIDENCE GIVEN BEFORE THE INDUSTRIES AND COMMERCE COMMITTEE AT THE PARLIAM-
ENTARY BUILDINGS ON THE 16TH OCTOBER, 1935, IN CONNECTION WITH THE AMENDMENT TO THE
COMMERCIAL TRUSTS ACT, 1910.

Meeting opened at 3 p.m.

Chairman : The Hon. A. D. McLEOD.

Witness : GORDON McINTOSH FRASER.

I am managing director of the Burgess, Fraser, and Co., Ltd., Merchants, of New Plymouth, Hamilton, and Hawera. That firm is a member of the Auckland Merchants' Association and also of the Wellington Merchants' Association. I personally am a member of the executive of the New Zealand Merchants' Federation, which body consists of the four Merchants' Associations of New Zealand—Auckland, Wellington, Dunedin, and Canterbury. Each of these bodies is represented on the executive by one member selected by themselves, and one other member is appointed at the meeting of members each year. The representative of the Wellington district is president of the association—Mr. Paterson—for whom, as you know, I have to apologize. He is absent in the South Island, and he has asked me to take his place; he was requested by the Committee to be present.

Mr. Barnett (solicitor), (to Mr. Fraser).] Mr. Fraser, does the federation support the amendment?—Yes.

Do the associations of New Zealand fully support the amendment?—Yes.

Would you tell the Committee why the federation and the associations support the amendment?—The present legislation, in our opinion, prevents effectively manufacturers and agents maintaining efficient control and discipline over persons and merchants generally who are guilty of dishonourable practices. Gentlemen, may I trespass for a moment, and explain our intolerable position. I do not want to bore you with a lot of trade details but could you for a moment imagine yourselves invited for a friendly game of cards and when you get there what do you find but a number of people who owe you money—people who if they lost could not possibly pay; people who would cheat. Gentlemen, you can realize that such a position would be intolerable. Well, that is the position that is going on in the trade in New Zealand to-day, and at present we have no redress.

Would you tell the Committee shortly how this lack of discipline reacts in the association in relation to discounts?—Discounts for foodstuffs are small; they are based on a regular overhead for an average turnover or an estimated turnover. Hence when trade decreases you expect discounts to rise, but that is not the position, and the amount allowed is no longer adequate to cover overhead.

How do you expect to improve the position if the amendment is passed?—The members of our association control neither the wholesale nor the retail price; they consider that is a matter for the manufacturer, but we are prepared to take any legal steps in carrying out any agreement a manufacturer may impose on our members. If such a position arises it is carried out in an honourable manner.

It is suggested that any measure of price-fixation will react in an upward tendency in the cost of living; what is your reply to that?—Well, gentlemen, I am not an economic expert; you know it is a very wide question. As to whether it would have no effect on the retail price I am not prepared to say, but I think any such increase would be compensated fully by a decrease in unemployment. We are living on the people getting from £5 to £7 a week—better prices mean better times. Anything that increases such a class is of benefit to us. If there is a possibility of the present position being improved, it should be thoroughly investigated.

Mr. Harris.] Can you give the Committee one illustration of these dishonourable practices to which you refer?—I could give you several illustrations, but it would be dangerous to do that at a Committee. I have an invoice in my pocket with which I could demonstrate to you that the position

I mentioned does exist. [After discussing the invoice at some length the witness said that in this particular instance a secret rebate was given and that could be seen by the folio number.]

Mr. Healy.] In the evidence of Mr. Sutherland, jun. he said to the Committee that National Distributors were the largest wholesale house in New Zealand; would you say that is correct?—We all say that in New Zealand more or less—at least, any one who does a very good business.

Is that statement correct?—He has 145 shops—he might be. You see we do not know other merchant's turnover.

Mr. Wilkinson.] Mr. Sutherland, sen., stated that his firm—National Distributors, Ltd.—were not allowed to become members of the Merchants' Association. Is that correct?—I will be quite frank. Have I Mr. Sutherland's permission to tell the Committee what happened? [Mr. Sutherland apparently approved.] This question was brought up about eighteen months ago. I met one of the members of the association, and he said to me, "What do you think has happened? Mr. Ben Sutherland wants to join the Merchants' Association! We want to find out what the game is. Do you think it is serious?" I said that it was worth some investigation as Mr. Sutherland has 145 shops. We might get something out of it of benefit to us. He said, "Are you serious" and I replied, "Yes." [It was eventually decided that Mr. Fraser should go out to Mr. Sutherland's home to discuss the matter one afternoon. Subsequently Mr. Fraser arranged that a motion be moved at one of the association's meetings recommending to the serious attention of the Wellington Association that Mr. Sutherland be proposed as a member—the meeting resulted in the motion being ruled out of order and that was the end of it at that time. The question resolved itself into a discussion in regard to Auckland v. Wellington.] I understand it was afterwards discussed by the Wellington Association, but I was not there.

Mr. Harris.] He was not accepted as a member?—They ruled that he was not a merchant within the meaning of our definition. The members had various reasons against it.

Would that apply to wholesale?—Yes, it was National Distributors who were suggested as a member.

Mr. Healy.] Was an actual application ever made in writing?—Possibly, I think there was.

Mr. Wilkinson.] You spoke about discipline.—Yes, for the want of a better name. I mean prevention of dishonourable methods.

Mr. Sutherland made a statement to this effect that he was originally on the best of terms in regard to Australian Dried Fruits, getting 12½ per cent. discount, but these terms were reduced and he had to pay an ordinary grocer's prices. The allegation was that political pressure was used by the Merchants' Association?—My answer to that is that you know more about political pressure than I. It is ridiculous. My experience of the political pressure of the Merchants' Association is that we would certainly not have enough pressure to influence any Parliament or Government. I do not think he was serious.

The allegation was made by Mr. Sutherland that political pressure would be brought to bear on the position?—No. We would not have that power; we had nothing to do with it. There is no truth in that. He probably referred to that trip to Australia of Mr. Stronach Paterson. We had many difficulties with the Australian Fruit Board for a long time, and it was decided that Mr. Paterson and I should visit Australia for the purpose of interviewing the Australian Government Fruit Control Board. It would be impossible for our association to have the power that Mr. Sutherland suggests. It was also rumoured that we told the Australian Government to remove Mr. Sutherland's name from the list and if they did not do so pressure would be brought to bear, but there was no truth in that: we never took the suggestion seriously. The distributors in New Zealand for the Australian Fruit Control Board, which included Henry Berry, and Co., Adams Bruce, and some other big merchants, as well as our own members were not satisfied with the system adopted by Australian Dried Fruits, and it was imperative that some one should go to Australia to put our point of view. It was therefore decided that Mr. Paterson and I should leave by the "Monowai," but we certainly would not have the power to do as was suggested in regard to Mr. Sutherland. I became ill and was unable to go. One of the Boards suggestions was to abolish the list and supply any one buying four hundred cases in one delivery. Mr. Sutherland could do this, and to this extent was affected as this suggested alteration was dropped.

Statements were made by Mr. Horsburgh and Mr. Sutherland that many grocers would be out of employment if the amendment went through—Mr. Sutherland employed five hundred grocers—because of increased profits?—You see, I am personally more familiar with the country store business, and that is a different type to the cash and carry, but I do not think they will ever go out of business. At Bell Block there is a very tiny store with seventeen customers—farmers—and they owe £990.

These figures relate to town businesses. Mr. Horsburgh said one hundred would be out of a job.—I think such statements are silly exaggerations.

Do you think that if this amendment is made law it would be in the interest of the general public?—I do sincerely. Conditions all over the world are changing and we are all getting new remedies; if there is a possibility of improvement we must explore every avenue. If there is a reasonable chance of improving the conditions it will repay us to try out that scheme.

Would not the increase in prices affect the general public?—It might. Any increase would be in articles sold at unpayable profits and even so would be gradual, and it would be compensated by better times and better wages.

Do you think it would help to increase wages?—Yes, and that would improve the position generally. We do not cut wages; we pay the very best we can, and good wages assist the general public in giving it increased purchasing-power, which is to our benefit.

Mr. O'Leary.] I take it from your remarks that you would not want to discipline your own members?—No, our own members do not occasion us very much trouble.

If the Bill becomes law and you are able to discipline the people you desire to, what form is the discipline going to take?—Well, it would vary according to the circumstances.

His supply would be cut off if you thought it necessary?—Not necessarily, but that would be a most effective method.

The discipline, to put it plainly, would be by boycott?—No, no. It would be wise discipline; the first step would be to speak to him nicely.

I suggest to you that the discipline would really be by boycott: you would cut off supplies?—That would be an effective means. It would be an extreme measure as a last resort.

You think that this Act will give you the power to increase prices?—No. All we want is power to deal with the person who is cutting prices which he has agreed to maintain.

And you would deal with them in what way?—According to the merits of the case.

Your association is the same old merchants' association that was in existence many years ago?—I wish it was, but times have changed.

When did you come into existence?—I do not know exactly. I have been in the merchants' business for thirty-five years—the merchants were fined £10,000 in the sugar case, and the association discontinued.

Did the association go out of business then?—Yes. This association is possibly an association reconstructed of similar people.

The people whom I represent—National Distributors—say this: that from 1931 to May, 1934, they were endeavouring to be placed on the best wholesale list with this Australian Dried Fruits Board, and that in May, 1934, they were placed on the best terms?—Yes.

That their being there did not last very long, and their being taken off the list followed a visit to Australia by Mr. Paterson, president of your association, and—

Mr. Fraser: Do you suggest it had some connection? We have no say whatever in who goes on that list.

Mr. O'Leary.] They say that they were taken off the list after a visit of Mr. Paterson and Mr. Talbot to Australia. You were to go, but you got ill?—Yes.

They were informed that the Board in Australia was induced to take them off the list by Mr. Paterson, and that it was represented to them that if they were not taken off the list New Zealand merchants would wait on the New Zealand Government in connection with the matter. You were not there?—No, but I know that we would have no power to influence the Government (of New Zealand) in that direction.

The person who could tell us what happened is not Mr. Fraser?—Mr. Paterson could tell you that I was in touch with the whole business.

If you appeared in a Court of law, I suggest that your evidence would be ruled out as hearsay.

NEW ZEALAND MASTER GROCERS' FEDERATION, BY J. HEATON BARKER.

I would at the onset point out that, having regard to persistent requests made to the Government by the New Zealand Master Grocers' Federation to amend the Commercial Trusts Act, it has been actuated by a very earnest desire to give effect to its policy—namely, not merely to live and let live, but rather to *Live and help live*—I repeat myself—to *live and help live*.

Whilst in seeking an amendment to the Commercial Trusts Act we are here very definitely in the interest of the grocery trade of the Dominion, we, we would like it to be distinctly understood, are actuated by a very sincere desire to conserve the interests of the general public.

In other words, we claim the right of any industry, without interference, to govern itself wisely and in the public interest.

To the thoughtful mind it must be abundantly clear that the price-cutter is not helping to reduce the cost of living because his practice is totally uneconomic. Price-cutting destroys the sound trading that importers, manufacturers, and distributors have built up by years of careful well-managed marketing and advertising, and to reduce all concerned to the one lever of unprofitable trading is wrong. Summed up, the benefits of price-cutting to the public are fleeting: its depredations to trade permanent and profound. Price-cutting, by whatever name you call it, smells just as rotten.

The Commercial Trusts Act as at present constituted gives full license to the baneful price-cutters. Because of this fact, the federation seeks to secure amending legislation.

Grocery and the Provision Merchant, one of the leading trade journals published in England, points out that the price-cutters' main objective is to enrich himself at the cost of the landlord, the housewife, and her children, whether they be babes in arms or youngsters in their teens. His motto in life is invariably, "Damn my relations, friends, and acquaintances—business or otherwise—provided I am all right." The said journal goes on to state that maintenance of price-levels does not mean profiteering, but it does mean assuring the public of sufficient funds with which to buy daily requirements.

I respectfully submit that the manufacturer should have an inalienable right in the goods he manufactures from the time they leave his factory until such time as they reach the consumer. He should have the right, seeing that the goods are his, to sell them on such terms and conditions as he considers expedient. The purchaser still remains free to decide for himself whether the terms offered

are reasonable or not, and if he decides they are not, then it is open to him to place his orders elsewhere. Whilst we contend the manufacturer should have the right as stated, we equally contend that any price-maintenance agreement must be unquestionably fair to the public as well as to those who are parties to it.

May I here quote from the annual report of the Department of Industries and Commerce, I think for the year 1930: "Indiscriminate and consistent price-cutting, regardless of profit or loss, is uneconomic, and can lead only to one end—the elimination of those financially least able to stand it. Provided a retailer or other trader is performing a real and necessary service in connection with the distribution of goods from the manufacturer to the consumer, then he is justly entitled to a reasonable profit or reward for his services, and price-cutting which tends to reduce what is a reasonable profit is illogical and uneconomic." The Department later in the report very rightly draws a distinction between price-competition and price-cutting, and states, "Persistent price-cutting, in contradistinction to price-competition, must eventually lead either to retirement from the field of commerce or to the Bankruptcy Court." Unfortunately the Department had nothing to say in regard to those who, as a result of the price-cutters' tactics, have suffered loss, even though they may have managed to meanwhile remain in business. Here let us emphasize what a former Minister of Industries and Commerce pointed out—namely, that when losses such as we have referred to occur they finally have to be borne by the general public—a fact too frequently ignored.

The *Times Trade and Engineering Supplement* published a letter addressed to the Ironmongers' Association, wherein the writer pointed out that it was obvious "That any system of price-control which enabled one to maintain a solvent position is beneficial to the public, to the nation, and to the manufacturer." The said writer further pointed out, "It is advisable for the manufacturer so to control his retail price that the smallest dealer in the most remote place can sell the product on equal terms with the largest and most active dealer in the greatest centres. In our judgment, it is largely for this reason that manufacturers have protected their distributors by one or another of the systems which are known generally as price-maintenance."

In a memorable case which came before the United States Supreme Court, Mr. Justice Holmes expressed himself as follows: "I see nothing to warrant my assuming that the public will not be served best by the company being allowed to carry out its plans. I cannot believe that in the long-run the public will profit by this Court permitting knaves to cut reasonable prices, for some ulterior purpose of their own, and thus to impair, if not to destroy, the production and sale of articles which it is assumed to be desirable that the public should be able to get. The conduct of the defendant falls within the general prohibition of the law. It is fraudulent and has no merits of its own to recommend it to the favour of the Court."

It is not out of place to here point out that some years ago the United States Chamber of Commerce conducted a referendum in which nearly 75 per cent. of the votes passed were in favour of legislation permitting resale-price maintenance. This is all we are asking for, being, if considered desirable, quite willing for manufacturers to submit prices for the approval of the Government through the medium of the Department of Industries and Commerce, thus ensuring public interests being protected.

There is no need for me to here make reference to what was known as the Capper-Kelly Bill of the United States of America which, having been passed, was subsequently proved to be *ultra vires*. It is equally unfortunate, too, that the National Recovery Act was in some respects also *ultra vires*, but in principle we contend it was sound, affording as it did each industry the right to frame what is termed its own "code." This was a move in the right direction and much good has resulted, therefrom, several of the States having already passed what is commonly known as a Fair Trade Bill, which deals most effectively with price-cutting and many other evils which have characterized the grocery trade in the United States of America.

It is not now out of place to refer to the position as it is in England to-day, and in so doing to point out that in 1930 a report dealing with the whole question of price-maintenance was prepared by a committee consisting of the following gentlemen: Mr. Wilfrid Arthur Greene, K.C. (Chairman); Mr. Alexander Johnston, J.P.; Professor David Hutchison Macgregor, M.C.; Mr. William E. Mortimer; Mr. John Edward Singleton, K.C.; Mr. Alexander George Halkden, J.P., M.P. This report was subsequently presented to the Lord Chancellor and the President of the Board of Trade. I respectfully submit it is the most important pronouncement ever made, dealing with price-fixation in relation to the restraint of trade. That committee, be it noted, was set up to consider "present trade practices which result in withholding from particular retail traders supplies of goods in which they wish to deal or which prevent the resale of such supplies except upon conditions imposed by the suppliers, and to report whether in their opinion all or any of such practices are detrimental to the public interest and, if so, what alterations in the existing law are necessary to prevent the continuance of such practices."

I now desire to deal with the report, from which I have extracted the following:—

Survey of the Subject.

The trade practices which we were required to investigate are of the following kinds:—

- (a) Those which result in withholding from particular retail traders supplies of goods in which they wish to deal; and
- (b) Those which prevent the resale of such supplies except upon conditions imposed by the suppliers.

Where the withholding of supplies is used as a method of enforcing the fulfilment of conditions imposed by the suppliers the two kinds of trade practices are clearly inseparable. The greater part of our attention was in fact devoted to considering this case, the conditions which suppliers sought to impose relating almost exclusively to the prices to be charged by the retailer.

Existing Law on the Subject.

The right to combine in defence of, or in support of, trade interests is recognized just as is the right of a man to contract with whomsoever he pleases. Some forty years ago Lord Justice Bowen said in the course of a judgment, "If peaceable and honest combinations of capital for purposes of trade competition are to be struck at, it must, I think, be by legislation, for I do not see that they are under the ban of the common law." The law remains the same to-day. It cannot be doubted that there has been a tendency for combines or combinations to increase in number and in importance. This tendency may be attributed partly to an effort on the part of manufacturers of some classes of goods to deal with price-cutting, an individual manufacturer is not in a strong position in this respect, whilst a combination of manufacturers of a particular class of goods may be very powerful and able to secure its object to a large extent by withholding supplies of goods from retailers who do not conform to conditions imposed, or from wholesalers who supply such retailers.

If the real purpose of the combination is not to injure another, but to forward or defend the trade of those who enter into it, then no wrong is committed, and no action will lie, although damage to another ensues, provided that the purpose is not effected by illegal means. To put it in another way, there is nothing illegal in an agreement by a number of manufacturers to the effect that they will only supply goods to a trader who observes conditions which they think right to make part of the bargain of sale of such goods.

Extent of the Practice of Resale Price Maintenance.

We found that the imposition of conditions upon retailers and wholesalers regarding the resale prices to be charged is a widespread and growing practice among manufacturers.

In general, the goods which are thus price-maintained belong to the class of branded goods which are distinguished by bearing the manufacturer's proprietary label or trade-mark. Not all branded goods are, however, price-maintained, and we were informed that of the goods stocked, for example, by an ordinary grocer, one-sixth might be branded goods not subject to price-restrictions, one-third price-maintained branded goods, and the other half non-branded goods, including bulk goods not regulated by the supplier in regard to retail prices.

Reasons for Adoption of System of Price-maintenance.

The evidence placed before us shows that the system of price-maintenance was adopted to prevent what the manufacturers of branded goods, and to a great extent also the wholesale and retail distributors, regarded as serious evils resulting from advertised branded goods being sold at free prices.

Effects of Price-cutting on Retailers and Manufacturers.

The effects of direct price-cutting upon the trade of retailers in the immediate neighbourhood of the cutter are obvious. The possibility of harmful reactions upon the individual manufacturer is little less evident. Where a particular shop cuts the price of an advertised branded article, neighbouring shops can only sell the article if they do likewise.

If the price is cut to a point which yields little or no profit to the retailer, he either ceases to stock the article, or if he is compelled to stock it in order to meet the insistent demands of his customers, he at any rate refrains from displaying it and endeavours to push the sale of some other article yielding a larger margin of profit. The manufacturer finds that his sales fall off. In the end the price-cutters, finding that the article is less effective as a bait than it was formerly, decide to resort to something else for that purpose. The net effect is that the price-cutter has succeeded in diverting to himself a more or less substantial part of the value of the advertising done by the manufacturer.

Many of those who furnished written or oral evidence to us laid stress upon the significance of this feature; and undoubtedly it has played an important, if not the most important, part in the development of the price-fixing movement. We were impressed by the volume and unanimity of the evidence relating to this matter. There can, we think, be little doubt that the effects of price-cutting have been severely felt by manufacturers, wholesalers, and retailers alike. These effects have shown themselves in a large number of trades, and the evidence as to the experience of all trades concerned was in substance the same. There can, in our view, be no doubt whatever that the system of price-maintenance, which has grown up independently in a number of trades, is aimed principally at the elimination of the effects in question, and to regard the system as one direct primarily, or indeed to any real extent, to the imposition of excessive prices upon the public is in general to view it from the wrong angle.

Differences in the Application of the System of Price-maintenance.

The resale price maintained by the suppliers of branded goods is usually a minimum price which sellers are not allowed to undercut. Occasionally it is a definite price which may be neither undercut nor exceeded.

Method of Enforcement.

To enforce the observance of retail prices fixed by him, the manufacturer does not, as a rule, rely upon legal remedies.

As a general rule, and in so far as he really tries to enforce the maintenance of his prescribed prices, he does so first by persuasion, second by threat of withholding supplies, and third by the actual withholding of supplies.

Trade Associations.

The difficulties encountered by individual manufacturers seeking to maintain resale prices has led in a number of trades to the formation of associations for the purpose of detecting and putting a stop to price-cutting.

The Grocers' Proprietary Articles Association was formed in 1923.

Occasionally, as in the case of the Grocers' Proprietary Articles Association, only the particular manufacturer whose prices are cut may be required to withhold supplies.

The Proprietary Articles Trade Association.

The essence of the Proprietary Articles Trade Association plan for dealing with cutting is that if the fixed minimum prices of a single manufacturer are cut all manufacturers (and also wholesalers where prices are cut by a retailer) undertake to withhold supplies of all listed goods.

Effect of the System of Price-maintenance.

Before proceeding to discuss the public interest in relation to the trade practices which we have investigated we propose to consider broadly the effect of the system upon the position and inter-relation of the manufacturer, the distributor, and the consumer.

Position of the Manufacturer.

Under the price-fixing system, as under conditions of unregulated resale prices, the manufacturer sells his goods in more or less free competition with other manufacturers to the wholesale or retail trader. If he has a popular trade-mark or has spent large sums in advertising, so that his goods pass easily and quickly into consumption, he may expect to obtain a better price than otherwise, or to dispose of a larger quantity. In any case he must, under conditions of price-maintenance, charge a price uniform to all, subject perhaps to discounts—*e.g.*, for sales in quantity, for cash payment, or for window displays made by the retailers.

Whereas the manufacturer of bulk and unbranded goods ceases to be further concerned as soon as he has sold the goods to the wholesaler or retailer, the manufacturer of price-maintained branded goods continue to be interested until the goods pass into consumption. As he aims at getting the goods into the hands of the public at a fixed price the distributors' margin must be fixed and it must be fixed at a figure which will encourage, or at any rate not discourage, the mass of distributors to stock the goods and to undertake, and perhaps to push, their sale. On the other hand, it may be assumed that it is not in the manufacturer's interest to allow to the distributors an unnecessarily high margin. The width of the margin will depend upon all the circumstances of the case and upon his policy.

Fixing of Retailer's Profit.

In general, the manufacturer has to bear in mind that his goods may be in competition with similar branded goods of other makers, with goods sold by the retailer under his own label and with unbranded goods; and the profit margin which he allocates to the distributor as well as the final selling-price to the consumer may be assumed to be influenced by these circumstances.

The Proprietary Articles Trade Association refuse to place on their protected list articles in respect of which the percentage margins proposed to be allowed to the wholesaler and retailer fall below a certain minimum.

Position of the Wholesaler.

The wholesaler is, under modern conditions, in many trades a factor of diminishing importance, the tendency being increasingly for manufacturers to sell direct to retailers. The wholesaler can, however, seldom be entirely eliminated; and, while the larger retailers may buy direct, the smaller retailers often find it advantageous (having regard to prices or other considerations) to buy through middlemen. The wholesaler who trades in price-maintained branded goods buys from the manufacturers in quantities sufficient to obtain best terms, and sells to the retailer at a price which is usually prescribed by the manufacturer. Practically, nevertheless, the wholesaler may be regarded as trading on a fixed margin. He has thus no opportunities in the branded-goods trade of performing what are sometimes regarded as the distinctive functions of a merchant—that is to say, of buying supplies in a cheap market and selling them in a dear market. It has not been suggested, however, that he feels any objection on this account to dealing in price-fixed goods, provided the margin allowed to him is adequate. His opportunities for making large profits are certainly diminished, but so are also the chances of incurring heavy losses. The wholesaler appears to be on the whole less directly interested in price-fixing than either the manufacturer or the retailer. So far as we could judge, his point of view in regard to the question is not widely different from that of the retailer, particularly the small retailer, in whose existence and prosperity his interests are, of course, closely bound up.

Position of the Retailer.

We pass now to consider the position of the retailer. Although in case of price-maintained goods he has no say as regards the price he has to pay for the goods or the price at which he may sell, he is in theory quite free to decide whether or not he will stock price-maintained goods, and, if so, which particular goods; and he is therefore in theory also free to refuse to stock those which do not yield him what he regards as an adequate profit.

He may lose a customer if he does not stock a particular proprietary article which is asked for by name. On the other hand, he has considerable power of influencing demand by salesmanship. He can choose which article to exhibit prominently in his windows and on the counter, and when a particular brand is not asked for he can sell the brand which yields him most profit, or an article under his own label, or a non-branded article.

He is by no means wholly under the thumb of the manufacturer of branded goods.

Another effect of the price-maintenance system upon the retailer is that competition with other retailers ceases to be on a basis of price in so far as proprietary goods are concerned, and in so far as the prescribed retail prices are observed. No doubt price is seldom the sole basis of competition, but as a result of the price-maintenance system all those aspects of competition which are comprised in the word "service" are of much greater importance than formerly. In the case of non-price-maintained goods, of course, competition on a basis of price continues, in so far as it is not checked by agreements among retailers themselves.

We were informed that in certain trades the fixing of retail prices at figures yielding a reasonable profit to the shopkeeper has mitigated the incentive which existed under conditions of price-cutting for the shopkeeper to make exorbitant profits on non-proprietary articles of a kind whose quality and value could not be readily judged by the public. Price-cutting, we were told, by promoting such practices, is prejudicial to the best standards of business conduct.

Position of the Consumer.

The position of the consumer in relation to price-maintained goods is similar to that of the retailer in so far as he can refuse to buy any particular brand of goods and buy instead other brands or, where such exist, non-branded goods. We were informed that a point which has also been told in favour of the brand system in recent years is the careful and hygienic way in which many branded articles are now packed.

Another point which was put to us by several witnesses relates to the psychology of the consumer in relation to price-cutting. We were told that where the prices fixed for branded goods are not enforced consumers lose confidence in the quality of the goods, in the reasonableness of the price ordinarily charged, or in the good faith of the manufacturer. Conversely, it was stated that consumers are very ready to buy price-maintained goods provided they regard the price as reasonable, and that they appreciate the knowledge that they can buy similar goods at the same price wherever they happen to be. The price-maintenance system, we were told, tends to promote an atmosphere of harmony between the retailer and his customer and to make selling easy and expeditious.

Practices directed to controlling the Number and Qualifications of Retailers.

So far as we can ascertain, it is uncommon for associations to impose exacting tests in regard to admission to the ranks of recognized retailers or to pursue a policy aiming at a definite limitation of their number. The regulations appear to be intended, as a rule, rather to keep out any who are not likely to conduct a regular business or a business which will attain a reasonable standard of efficiency, or to effect a distinction between wholesale and retail trade.

Meaning of "Public Interest."

We do not think it necessary to try to define very precisely the meaning which we attach to the words "public interest" in matters of this kind. In the first place we have to consider whether in existing conditions the trade practices operate in such a way as to produce effects harmful to the efficient and economical service to the public. This implies that regard must be paid not merely to the question whether goods are being supplied to the public cheaply and plentifully, but also to the question whether the effect of the practices upon the producers and distributors of the goods is such that they can continue to produce and supply the goods with undiminished and, if possible, increasing efficiency.

But in the second place there is another consideration which appears to us to be of at least equal importance. The extent to which the exigencies of the day and the trend of social and commercial development may justify legislative interference with the freedom of contract and the right of combination is a matter which attracts acute controversy. But where a particular form of interference is asked for we conceive that the burden of justifying it upon grounds of public policy as distinct from individual grievance lies upon those who advocate it, and that we ought only to recommend a change in the law if we are satisfied that it would be in the public interest. It appears to us that the maintenance of freedom of contract and the right to combine is as much a matter of public interest in the sphere of commerce as it is in that of employment. It is inevitable that this freedom should lead to hardship in individual cases.

General Result of the Evidence.

We have been impressed by the volume and force of the testimony as to the harmful effects of price-cutting upon the manufacturers and distributors of advertised branded goods and ultimately, as was contended, upon the public. The selling of branded goods at abnormally low prices in order to attract customers to buy other goods tends to disorganize and antagonize the retail trade. Shopkeepers in the neighbourhood of price-cutters cease to stock the goods affected, or at any rate cease to push them, with the result that the manufacturer finds his sales falling off. In the end the price-cutters themselves may cease to stock the goods, finding that they are no longer effective as a decoy.

It is natural that the manufacturer who owns the brand and bears the expense of national advertising should claim in these circumstances to protect the final conditions of sale of the goods, since the prosperity of his trade is at stake.

The retail price fixed for branded goods is not always as low as the price charged for similar qualities of unbranded goods, though no doubt it is sometimes as low or lower. The mere fact that a somewhat higher price may be charged for branded articles than for non-branded articles of the same quality does not, however, in our opinion, condemn the system. For the branded article is sold with such warranty of quality as is implicit in the brand label, while the unbranded article is sold without any guarantee, unless it be that of the retailer. Where the purchaser feels confidence in the judgment of the retailer with regard to quality and in his integrity he may, of course, in some cases, expect to obtain an unbranded article cheaper than a branded article of similar quality.

Disadvantages of the System of Price-maintenance.

It must be recognized that the price-maintenance system has disadvantages from the point of view of the public, though in our opinion such disadvantages are incidental and are not such as would justify a withdrawal of the right of the manufacturer to sell his goods subject to conditions as regards prices to be charged on resale.

It does not seem to us to be in itself unreasonable or contrary to the public interest for the exceptionally efficient or exceptionally well-placed retailer to be able to obtain branded goods only on condition that he undertakes to observe the uniform price fixed by the manufacturer in the interests of his trade. The charging of uniform prices is a practice commonly pursued by manufacturers who sell their output through their own shops, notwithstanding that overhead costs vary as between different shops.

All the considerations to which we have drawn attention are presumably weighed by the manufacturer when deciding whether to enforce uniform retail prices, and it does not appear to us that his interest in this respect diverges from the interest of the public.

The Retailers' Margin.

We saw little evidence of competition for retailers' custom being carried so far as to result in any considerable or undue widening of retailers' margins as a whole. Wide margins may be given in respect of particular articles, and certain manufacturers give special discounts to retailers who undertake to give window displays. On the other hand, there is a tendency in some trades to discourage undue competition for retailers' favour. Thus the Proprietary Articles Trade Association informed us that they have refused to place on their protected list articles offered with a very high retailer's margin, intended to induce chemists to give a preference to the article, though they added that they would raise no difficulty if the article were of the character of a luxury. Generally the representatives of manufacturing interests who gave evidence before us maintained that the margins allowed to the retailers were not more than adequate for the purpose of enabling the goods to be efficiently distributed.

Effect of the System on the Efficiency of the Retail Trade.

It is, we suppose, generally agreed that there is room for improvement in the organization of many retail trades, and may be in some areas there are more shops supplying certain classes of goods than are necessary. No doubt the entire abolition of price-maintenance would lead to the disappearance of many small retail shops, but it does not follow that these would be the least efficient or the least useful. A small shop may be operated on as low a basis of overhead costs as a large shop, and yet by virtue of greater financial resources and of the greater range of goods traded in, the latter may be able by price-cutting to ruin the former.

Retail Margin on Branded and Unbranded Goods.

We collected no elaborate data comparing retailers' margins on branded and unbranded goods, but we found that in the trades which we particularly investigated the retailers' margin of profit upon price-maintained goods is generally not higher than it is on similar unbranded goods, and is in many cases considerably lower.

In so far as there is effective competition between different brands or between branded and unbranded goods, the possibility of unreasonably large profits being made is presumably diminished.

Effect of the System of the Provision of "Service" by Retailers.

A further aspect of the price-maintenance system to which we must here refer is the emphasis laid upon the alleged desirability in the public interest of placing competition among retailers on a basis of service instead of price. The word "service" in this connection includes not merely such points as the giving of credit and delivering goods at customers' houses, but also, more widely, the keeping of a comprehensive stock of goods and of a conveniently arranged and situated shop; the giving of advice to customers who ask for advice; and "after-sales service," such as the exchanging of goods found to be unsuitable and the effecting of small adjustments. It is claimed that the price-maintenance system enables enterprising and efficient retailers to serve the community more effectively in all these various ways.

On the other hand, it is contended that in many cases the effect is to induce the consumer to accept service which he does not really require, or to make him pay for service which he does not accept.

There is much to be said for both sides on this question, but there is nothing so compelling as of itself to lead us to form an adverse opinion on the system of price-maintenance.

General Conclusion as to the System of Price-maintenance.

Our general conclusion regarding the broad principle of maintained re-sale prices for branded goods is that no sufficient case has been made out for interfering with the right of the manufacturer to sell his goods upon conditions which permit him to have the terms on which such goods shall be resold. We have dealt with some of the disadvantages and drawbacks of the system, and we must not be taken as finding that the prices charged to the public and the margins allowed to the retailer are in all cases reasonable, but we are quite unable to say that the interests of the public would be better served by an alteration of the law which would prevent the fixing of prices of branded goods.

Trade Combinations.

In connection with this question we have carefully considered the power of bodies, such as the Proprietary Articles Trade Association, which comprise manufacturers producing a very large part of the output of particular goods, together with wholesale and retail distributors.

There are two aspects of the activities of such a combination. One is the operation of an effectual boycott against persons who, in breach of their contracts or otherwise, sell at cut prices. The other is the possibility of a ring to raise prices against the public. As to the former aspect, we do not feel that there is ground for interference with the Proprietary Articles Trade Association or other such bodies if they forbid their members to supply persons who have broken their contracts or who have otherwise engaged in price-cutting.

As to the latter aspect, however, the possibility of developments such as we mention is obvious. The evidence before us did not show that up to the present any of the bodies to which we refer have developed their organization in such a way as to create a dangerous condition approaching a monopoly. None the less, this is a matter which should always be borne in mind in connection with any action which may be taken to guard the public against harmful effects of monopolistic combination, and any developments in the direction indicated should be carefully watched.

General Conclusions.

We hold that the ordinary right of freedom to contract ought not to be withdrawn without some compelling reason.

We do not regard the price-maintenance system as free from disadvantages from the public point of view, but we are not satisfied that if a change in the law were made there is any reason to think the interests of the public would be better served.

Though the withholding from retailers of goods in which they wish to deal may cause grievances and in some cases no doubt hardships, we do not consider that any compelling reason for a change in the law has been established.

We are here to-day to seek for the manufacturers of a trade-marked or otherwise identified article the right to make legal contracts with the distributors, both wholesale and retail, to maintain the retail price of his products. This will ensure a fair price for his goods and will at the same time ensure, as it should, to the wholesaler and the retailer, a fair return for the services they render. This would also achieve, what is more important, that competition would to a very large extent be placed on a quality basis, every manufacturer having the greatest possible incentive to put into his products the very best of material as, when price-cutting is rife as at the present time, manufacturers, with a view to bringing prices down, are tempted to reduce the quality to which action the Government, as guardians of the public interest, should be strongly opposed.

I claim, Mr. Chairman and gentlemen, that the rights which are accorded the British manufacturer we have a right to claim for the manufacturers of the Dominion. Under the auspices of the Federation of Grocers' Associations of the United Kingdom, supported by the National Federation of Produce Merchants, Ltd., the North of England Wholesale Grocers' Association, the Provincial Wholesale Grocers' Association, the Wholesale Distributors' Association, there is a Grocery Proprietary Articles Council (formerly known as "the Grocers' Proprietary Articles Association") the object of which has definitely been price-maintenance. This Council has the support of some of the best-known manufacturers of the world—I venture to mention a few whose names will be familiar to all present: Bovril Ltd., Brown and Polson, Ltd., Cross and Blackwell, Ltd., Foster, Clark, Ltd., W. P. Hartley, Ltd., Lea and Perrins, Ltd., Maconochie Bros., Ltd.

It is quite true that there are price-cutters and price-cutters, but what we are anxious to deal with is predatory price-cutting. The dictionary's definition of predatory is: "plundering; deceptive; injurious; preying upon others." Analysing the true position in the Dominion, I suggest the number of predatory price-cutters is, comparatively speaking, small, but that is no reason why they should be tolerated any longer. Others, some like sheep following a bad lead, have cut prices for what they consider to be self-preservation.

Some four or five years ago the Hon. Mr. de la Perrelle, I think the then Minister of Industries and Commerce, expressed himself as follows: "The policy of cutting prices of some commodities to unpayable levels in order to attract trade is a reprehensible one and can be justly condemned on the grounds of being opposed to good business practice. The varying methods by which individual units in the same class of business conduct their business make it exceedingly difficult to devise any comprehensive measure which would apply an effective remedy to check unfair trading practices." Some years ago an attempt was made to form a Proprietary Articles Trade Association in New Zealand, but, unfortunately, the Government did not allow it to proceed. Their action in denying the right to form such an association would have not been so serious had the Government offered some substitution; unfortunately, successive Governments have stood by seeing the evil of price-cutting perpetually on the increase and, respectfully may I add, sheltering themselves behind the statement that owing to the varying methods by which individual units in the same class of business conduct their business, "nothing can be done." I would here state that all we definitely ask for is the right to fix a minimum price, to suggest varying prices—one for the cash-and-carry grocer, another for the grocer who sells for cash and on credit, and still another for the grocer who sells for cash, gives credit and delivers—would prove impracticable. You, Mr. Chairman and gentlemen, will appreciate the difficulty in regard to other than a minimum price when I point out that a company running chain stores would find matters very complicated seeing that in some instances they undertake to deliver goods and in others they do not do so. I suggest that to differentiate is impossible, and details such as these can well be left to the manufacturers acting in conjunction with the wholesale and retail trades.

A well-known company, in an advertisement which appeared within the last few days in the daily press, ventured to tell members of Parliament that they could not expect to be re-elected if they proved false to the interests of the people by voting for the amendments to the Commercial Trusts Act which, if passed, so the company claims, "will increase the price of food and the necessities of life without increasing wages." A statement such as the foregoing is worthless in view of the evidence which I have already submitted following the investigations made in the Old Country. The advertisement further states that the division-list will show the names of those members who are the friends and supporters of those who are out for exorbitant prices, profiteering, and the establishment of combines and trusts. There is no justification for such a slur upon those who are assembled here to-day with one object in view—to conserve the interests not only of manufacturers, wholesale and retail distributors, but equally too of the public and who have a desire, as already expressed, not merely to live and let live, but to live and help live.

The *New Zealand Herald* early this year, in dealing with this question of a fixed-price system pointed out that the leading example in New Zealand is the State price fixing in connection with road-transport system. Brief reference, too, was made to the fact that following an amendment of the Commercial Trusts Act fixed retail prices were now applied to all the best-known brands of tobaccos, cigars, and cigarettes. The *Herald* went on to say: "There are many signs that the fixed-price system for proprietary lines of goods is steadily extending. It is a corollary in many cases of the nation-wide advertising undertaken by manufacturers and their representatives. The public is becoming more and more accustomed to ask for nationally advertised goods, feeling that both their quality and uniformity are guaranteed. It is quite prepared to pay a uniform price for such goods." Mr. Chairman and gentlemen, I respectively submit the grocers of the Dominion are entitled to equal consideration to that afforded the tobacconists. These traders unanimously recognize the great benefit controlled prices have been to the trade. Surely if the Government is to be consistent it must accord those whose interests are represented at this inquiry the right of dealing in the same way with price-cutting of grocery commodities as it did with price-cutting in the road transport system.

Now a word in regard to the question of wages. It stands to reason that if those in whose interests we are here to-day are unable to get a reasonable return for services they render there is naturally no possibility of any increase in the wages now payable under existing awards. Unless some relief is afforded it will make it increasingly difficult to pay the present rate of wages. May I here point out that the majority of those engaged in the grocery business are supporting the federation in seeking an amendment to the Commercial Trusts Act.

Included in the majority are several chain organizations and, with one exception, speaking for Auckland, I am definitely assured that the chain stores operating there are whole-heartedly in favour of the amendment asked for. Whilst on this question of wages it is not unreasonable to point out that they are as determined by our labour legislation, and if given rates of wages have to be paid it is not unreasonable that those called upon to pay the wages shall have the right to take such steps as will ensure them securing the wherewithall to enable them to pay the award wages.

I close with two quotations, one from an open letter addressed to President Roosevelt, the other from Gordon G. Hair, an American editor. In quoting from the open letter addressed about two years ago by business men of America to President Roosevelt, I suggest that the statements contained therein apply almost with equal force to the condition of things that has been prevailing in our Dominion. The business men in the letter under review state that "Farmers, manufacturers, wholesalers, distributors, retailers, and consumers—banks, financial institutions of all kinds, municipalities and States, as well as our national Government, are all caught in one vicious circle of price-cutting which has demoralized industry and undeniably contributed more than any other cause to the present depression."

The letter goes on to point out that reduced incomes have been the result of organized predatory price-cutting; it further states that unemployment can be directly traced to the same source. These American business men then proceed to state that "Business is only business when it earns a profit. Without profit business ceases to be business and becomes public philanthropy."

"The man who poses as a public benefactor because he cuts prices, when in reality his action adds to the suffering and privations of millions, must be checked."

Gordon G. Hair, one of the ablest editors in America and publisher of the *Southwest Wave*, writing in regard to the evils of price-cutting, said: "Millions of people in the United States to-day are unable to buy the necessities of life though prices of all commodities are low. Yet, thousands of merchants are forcing prices lower and lower—not at the request of consumers, but in an effort to 'beat the other fellow'—and are throwing more and more people into the ranks of unemployed."

Price wars and chiseling rackets resulting in low prices are bad conditions, say those engaged in these practices. In the very same breath, these business men say, however, that these wars are "good for the consumer". But, are they?

Millions of unemployed cannot buy at any low price—no matter how low.

They have no money for the recognized necessities of life; they have no jobs or prospects for jobs; they must beg for the sake of their children because underselling has resulted in wholesale bankruptcy of million-dollar organizations, large and small producers, manufacturers and retailers. The unemployed have no buying-power and cannot have any as long as low prices are keeping them out of work.

(Mr. J. HEATON BARKER completed the reading of his statement.)

[At this stage, a copy of an advertisement was handed in to the Chairman by Mr. Wilkinson.]

The Chairman.] We had a mere statement about this advertisement, but no copy of it has been handed in previously, and this is the first time that the advertisement has been formally brought to my notice as Chairman. Mr. Sutherland, I would like to ask you a direct question: Did you or your organization assist in any way in the publication of that advertisement?—I wrote it and inserted it.

You are fully aware of the penalties that Parliament can inflict?—Pardon me, the Committee was not appointed then.

It is immaterial when the Committee was appointed.—I am prepared to stand by any penalty.

Mr. Wilkinson (to Mr. J. Heaton Barker.)] The witness seems to have the idea that his principals are gaining something by the Bill. He says, "I would respectfully submit that manufacturers should have the right to fix prices and sell on such terms and conditions as they choose . . ." I would ask whether they have not got that right already?—Only partially; a manufacturer might go to the retailers and sell to them on condition that they sell at a fixed price to the public, but the manufacturer cannot go to the wholesaler and insist that he sell at a fixed price to the retailer, the retailer in his turn to sell at a fixed price to the public. That is the way it is at present.

Thus the amendment to the Bill would give the right of combination?—It gives us the right.

Do you not think that fixing prices will increase prices?—It might in some instances, certainly where the prices are being cut, but, generally speaking, no.

If that power were given, would it not be possible for people to combine to fix prices at a high rate?—No; competition would keep the prices down. There is competition amongst manufacturers—take a line of boot-polish: you could not fix the price of that exceptionally high because the other manufacturers would not agree to it.

The only safety to the general public would be that there would be no combination?—They could do that, but there is no chance for profiteering.

There is no real safety to the public?—There is safety to the public because the manufacturer can be proceeded against, and he has to prove that his action is not detrimental to the public interest.

Some one has to prosecute?—Yes, some one has to prosecute him, but I think it is possible.

The public has no right to institute a private prosecution, and where would the safety of the public come in if the law gives power to the merchants to combine?—There seems to be no difficulty in the Old Country. Incidentally, I have here a list of prices as published in England by the Grocers Proprietary Articles Council. There are no exorbitant profits. I have not got the wholesalers' list.

I am not saying there is too much profit or anything like that. You say that the chain stores in the Auckland district are asking for this amendment? There is no evidence?—No.

Are you prepared to give us the names of a few?—Blue and White Stores; Beale's Stores.

There is no proposal to take away any of the present privileges in this Bill?—No.

You seemed to indicate that in one of these paragraphs?—No, I think you are referring to the manufacturers in the Old Country.

Following on the question put by Mr. Wilkinson under the heading of enforcement, on page 82 you make reference: "As a general rule, and in so far as he really tries to enforce the maintenance of his prescribed prices, he does so first by persuasion, second by threat of withholding supplies, and third by the actual withholding of supplies." I understood you to say to Mr. Wilkinson that it would not be legal in New Zealand: is it legal in New Zealand?—Absolutely.

It is legal in England and legal in New Zealand?—That is so. The manufacturer can fix the price of the retailer, but he cannot fix the price to the wholesaler and at the same time say the price the retailer shall sell to the public.

On page 80 you refer to predatory businesses. You say that the number is small. What class of businesses do you suggest could come under the category of "predatory price-cutters"?—Well, those who will seize upon a well-known brand and sell it at cost or very close to cost in order to act as a decoy. For instance, it is a well-known fact that bread has been sold at cost price in order to act as a decoy for other business.

Mr. Wilkinson: I would like to ask you, Mr. Chairman, whether the Farmers' Union has been asked to give evidence?

Mr. Healy: Mr. O'Shea is here to give evidence.

Mr. Wilkinson: Any Labour organizations? Have they been asked to give evidence?

The Chairman: They have had their chances. The Committee has been open to anybody who wished to give evidence, and I early took the opportunity of endeavouring, through my Committee Secretary, to get information as to who wished to give evidence.

I think the beginning and end of this matter, Mr. Barker, is that former Committees constituted similarly to the present Committee (and I have been Chairman for four years) have been persistently pestered with petitions asking for price-fixation, price-fixation by the Government for many of these articles now in dispute, and in every case the Committee reported against price-fixation by the Crown. However, they recommended that a full investigation be made of the Commercial Trusts Act with a view to bringing down legislation which would remedy the evils which we were convinced existed. The amendment proposed is undoubtedly the result of this Committee which time and again has heard complaints and had petitions put in to it. It has been thought that an amendment with an additional clause which would force on the price-fixer the necessity of proving its reasonableness would be the only safeguard. That, of course, will be a matter of opinion not only in this Committee, but in the House as well?—We would have preferred Sir Francis Bell's amendment, which would have thrown the onus upon the Government.

Mr. O'Leary: Mr. Barker, you gave evidence at the Proprietary Articles Trade Association inquiry in 1927, did you not?—I believe I did.

It will be found on page 73. You advocated that permission should be given to the association to operate in New Zealand: you admit that?—Yes.

And the essence of that association is set out in your memorandum on page 6, quoting from the 1930 report: "The essence of the Proprietary Articles Trade Association's plans for dealing with cutting is that if the fixed minimum prices of a single manufacturer are cut all manufacturers (and also wholesalers where prices are cut by a retailer) undertake to withhold supplies of all listed goods." That is what you advocated?—I did advocate that.

And do you still advocate that?—What I advocate to-day is a fair-trade association.

In 1927, in advocating the P.A.T.A., you advocated that that principle should be allowed to operate or that that method of business should be allowed to operate not only the P.A.T.A., but any goods that are covered by the Commercial Trusts Act, did you not?—Yes.

Well, do you not advocate that now?—No, I am not advocating that now.

Have you changed your mind? Do you not want this essential principle of the P.A.T.A. to apply to foodstuffs?—I am not asking that.

But you did in 1927?—Yes.

Is there any reason why you have altered your views on a matter of this kind?—There may be reasons, but it would take a long time to explain them.

Is there more chance of getting what you are asking for now?—Yes.

You said in 1927: "In conclusion, I submit for the consideration of the Committee the desirability of amending legislation which shall extend the scope of the P.A.T.A. in relation to those goods which at present it is prevented from dealing with, so that the manufacturers and distributors shall have a right to demand a measure of protection against the ignorant and reckless trader, the number of whom would appear to be rapidly on the increase." You also said that the prices should be approved of by the Department of Industries and Commerce: do you still want that?—No; it seemed that we could not get that, and we would not ask for it.

Mr. Ansell put it to you—and I submit that he was quite correct—that the position is different in England because there is no Commercial Trusts Act. Is that not so?—Yes.

Now, this inquiry from which you quote was set up in 1930, and I suggest that behind this there must be a great dissatisfaction in connection with the present position that enables price-fixation without remedy. Would you not read that from the fact that this important Commission was set up to investigate it?—Yes. I want to say here in regard to the Commercial Trusts Act that what we have asked for is the removal from the Schedule of the foodstuffs which were affected by the Cost of Living Act in 1915, which I think the Chairman will admit was definitely a war measure.

I do not think that is right. In the original Act of 1910 the Schedule shows specific articles of food ". . . Meat, fish, flour, oatmeal, and other products or by-products of the milling of wheat or oats." That was in 1910?—But in 1915 everything went in.

Yes, that is so. The inquiry into the cost of living sat in 1912, and it cannot be said to be a war measure or the result of anything to do with the war. The cost-of-living inquiry sat in 1912, which was two years before the war?—The Bill was passed in 1915.

You were wrong in saying that foodstuffs were put in in 1915?—I used the term "foodstuffs" in its more comprehensive sense.

Evidence of Mr. ALEXANDER PATTERSON O'SHEA, Dominion Secretary, New Zealand Farmers' Union.

Mr. O'Shea: I would like to apologize for not having prepared a statement on this matter, but we were unaware that we were able to give evidence. There was no notification in the press, and my executive were in ignorance of the fact that they could make representations. There are two resolutions which I would like to read to the Committee. The first is—

Resolution of the Auckland Branch of the New Zealand Farmers' Union, October, 1935.—"That this executive strongly opposes any alteration of the Commercial Trusts Act that would lead to the further exploitation of the consuming public by commercial organizations of any kind."

The second resolution was one carried at the Dominion Executive meeting, and I might say my explanation at the opening would cover this.

Resolution of the Dominion Executive of the New Zealand Farmers' Union passed Wednesday, 9th October 1935.—"That the Farmers' Union strongly protests against the passing of any legislation on the lines of the Commercial Trusts Amendment Act this session and/or until the community has had time to appreciate powers to be given under that amendment and the effect upon them, and that copies of the Bill be obtained and sent out to provinces, together with reports from the executive upon them." (*Wellington.*)

There is a very strong feeling of antagonism to this measure in the Farmers' Unions—just exactly how strong we have not had the opportunity of ascertaining—because as I have said, we were unaware that we were able to do this. It is generally felt by the executive that this is aimed at the small trader, and for that reason is not in the interests of the bulk of the members of our union, and obviously so if a combination can be used to fix prices or to boycott. I should have stated that we have obtained a legal opinion on the matter, and that opinion was to the effect that the amendment would be incapable of interpretation if it had been made by a subordinate legislature—that is, if it were incorporated in a by-law. For instance, we were informed by a gentleman of some standing in the legal world that it would be held in the Supreme Court to be incapable of interpretation. It seems to us that it would open the door for combinations against the small trader, and where a man is a country shop-keeper and there was possibly a chain store held by a merchant in the district, the latter could squeeze the small trader out with consequent effect on the farmers of increasing their prices.

Mr. Wilkinson.] I take it that your main object is to delay the passing of the measure until we have further considered it?—That is so.

You have taken active steps to obtain the views of your branches throughout New Zealand?—We were unaware that this Committee was in progress.

The Chairman: I understand that a notice went out.

Mr. Schmitt: The Secretary of the Industries and Commerce Department sent a notice out to the Dominion Farmers' Union on 5th September.—Possibly through the changeover in the administration of the union the matter was overlooked. It may have been sent out, but as far as that is concerned it would not have helped us very much because our executive meetings are some distance apart.

The Chairman: The Committee sat for the first time on the 4th and 5th September.

Mr. Wilkinson : I can quite understand that the New Zealand organization would require time to consider a matter of this kind.

Mr. Barnett.] You will admit that the main object of your organization is the fixation of a satisfactory price-level for primary products?—That is so.

And yet you come here and say that the secondary industries should not have a similar right—

Mr. O'Shea : Not at all. We say that working a boycott and restricted dealings and those methods which have universally been regarded as un-British should not be allowed to apply in the community.

Mr. Barnett.] Except on behalf of the primary industries?—Not at all.

Have you read the Act?—Yes, I have read the Act.

Have you read the amending Act?—Yes.

Can you show me where the amending Act removes one offence under the Trusts Act?—The whole thing is that, so far as we are concerned, it nullifies the whole Act.

How?—Because if that term “unfair” had been inserted in the Bill it has been held, I think, throughout the Empire that it would be incapable of interpretation.

The word “unfair” does not occur. The Act says only this: if prosecuting for an offence, the defendant may justify it by proving that the specific act complained of was not unfair, that similar specific acts were not unfair to the individual, and that the acts were not contrary to public interest. Does that remove the offence?—If you are going to make it an offence—if you are going to establish a ground for defence that cannot be established or proved what force is the Act going to have?

Then we cannot get it at all and the Act is no good to us?—Of course, certain things get proved under the Act now.

You have nothing to fear in the passing of this?—Yes, we have everything to fear. I say that that word “unfair” is too vague. We are told by competent legal authorities that it will nullify the Act.

What about wheat? Have you made efforts to fix the price of wheat?—The Farmers' Union has not taken a stand on wheat. That is a thing the Farmers' Union cannot dabble in. We have Protectionists in our ranks and we have people in the North Island against fixing the price of wheat.

Your organization is in favour of it?—You cannot say that.

You said it was—

Mr. O'Shea : No. Am I to understand that I was interpreted as saying that we are in favour of the fixation of prices? What I should have said, was that one of the objects of the union is to place the sale of produce on a satisfactory basis.

The Chairman.] I was going to ask you a question. I have examined the matter fairly closely and I think it was within the last month that somewhere about sixty delegates representing the dairy industry of New Zealand passed a resolution with, I think, only one adverse vote?—It was practically a unanimous vote which if put into operation would undoubtedly fix the price of butter for the whole of New Zealand: that was as far as its effect was concerned. We have a flood of evidence in these things, and I am informed that any attempt to do that will bring the butter people immediately in conflict with the Commercial Trusts Act. It is very difficult to get the farmers' opinion on that where you get sixty delegates in the one big branch of the Farmers' Union that are definitely in favour of price fixing.

Mr. Wilkinson : May I add in fairness to the witness that his organization does not control the dairy-farmers in any way. They are a separate institution.

The Chairman : They profess to control the dairy-farmers.

Mr. O'Shea : May I point out that our organization has never undertaken any actual stand in the matter of fixing prices: if I said so, I misunderstood the question.

The Chairman : The Commercial Trusts Act definitely prevents fixing the prices of foodstuffs.

Mr. Ansell.] I quite understand the position you are in in regard to this, and I want to ask you a question in reference to the matter. Do you understand that the general run of country storekeepers favour something along the lines of the proposed legislation?—No, I do not think they do, because the average country storekeeper is very much afraid that if the Act is nullified the weapon of boycott would come in and the farmers would have to go to the larger towns.

Is this not the position at present? This is a reply to an inquiry that I have had made: “During these difficult years they have practically carried the farmers, in some cases carried a substantial proportion of his liability. Any spare cash they could get hold of—eggs or bobby-calf—they would go away to the chain stores, spend their cash, and pile up liabilities with the general country storekeeper?”—The position as I understand it in regard to this Bill (and as stated by delegates to the union meeting) is that the country storekeeper is afraid of the weapon of boycott.

What do you mean by that?—The point I made about “unfair”; its being incapable of interpretation and nullifying the Act. It will render open the use of the method of boycott and restricted dealing and as so many merchants have chain stores it is liable to ruin the country storekeepers.

Will it not work to the betterment of the trade of the country storekeeper?—They do not think so: they are afraid they will be swamped.

The Chairman : The people dealing with coal are available.

Mr. Ansell : May I ask if there is any one here representing the interests of the Waikato Collieries people?

Mr. O'Leary : They went away to another meeting.

Evidence of LIONEL JOHN PICOT, Coal-merchant in business in Wellington.

Mr. O'Leary.] That association through its secretary has made representations by a letter of the 2nd October to this Committee opposing this Act?—That is so.

And that letter has attached to it correspondence that has taken place between you—your association—and the Waikato colliery-owners. That memorandum sets out the facts you want to state?—Yes.

I take it that your matter is already in?—Yes.

Your position is perhaps different from that of any one else who has preceded you in that the Coal-owners' Association desires to impose on you a price-list which you say is too low to make a profit?—That is so.

What is your objection to the Act?—As far as the Act is concerned we feel that they should not dictate to us what price we are to sell at. We think we ought to be allowed to frame our own prices. We do not like the idea of their dictating at what price we shall sell.

And the prices they fixed, or attempted to fix, are they in some cases too low for profitable trade?—Yes, we think they are too low.

And what threat was made to bring you to heel over the matter?—Well, we resented the prices and we were told that if we did not comply with them the association would not hear any more; they would advertise in the local papers the set prices for their coal.

You have two other representatives here. Who are they?—Mr. Hansen and Mr. Clendon.

Mr. O'Leary: That is all. The statement is in.

Mr. Wilkinson.] Was the attempt to fix your prices carried into effect?—No.

You objected?—We objected.

What stopped the thing?—Our objection probably did. We objected to the submitted prices and we heard no more.

You carried on with your old prices?—Yes.

You have an organization here which is competent to take care of this?—That is so.

And how do you get along in regard to the Commercial Trusts Act which apparently prevents a combination?—

Mr. O'Leary: You can have a combination—a Commercial Trust is legal.

Mr. Wilkinson.] If they combined with a view to fixing prices against the public, what then? We fix our prices, but we cannot enforce them. There is no penalty for any one who does not enforce those prices.

If this Act goes through, you apprehend that these things you object to will be in force?—Yes.

The Chairman: Are they being enforced any more than they are at present?

Mr. Ansell.] Just a question along the lines of this application and an offence under the original Act. Did your organization consider there was a possibility of the Waikato people having committed a breach of the Commercial Trusts Act by trying to force you to sell at a price which would show a loss?—We did not find out whether they had committed an offence, but we wondered whether they had.

Did you consult legal opinion?—No we did not consult legal opinion on the matter.

Or the Industries and Commerce Department?—No.

Mr. O'Leary.] They did not stop supplies?—They did not stop supplies or threaten to stop supplies. They submitted their prices and said they would advertise them on the first of the following month.

Would you have been injuriously affected if they had advertised the prices at which coal was to be sold?—It is hard to say what would have been done. I suppose we would have sold at their price.

The Chairman: You are strong enough to fight it without the Act?

Mr. Ansell.] Would it have injuriously affected your business had the Waikato Colliery people carried out their threat to advertise prices?—Probably it would.

The Chairman: Would it have injured the public; that is what we are concerned with.

Mr. Ansell.] This is a point I want to ask. In your letter to the owners you say,—“It was contended that your association has no legal right to definitely fix retail prices at which dealers must sell your association's coal.” From whom did you get that opinion?—I presume it was the opinion of our secretary.

Mr. O'Leary: The Secretary is a Mr. Mountjoy, for some years an officer in the Labour Department. Will this be the end of the sitting?

The Chairman: No; Mr. Mander and the Manufacturers' Association desire to give evidence to-morrow.

Statement by W. J. MOUNTJOY, Secretary, Wellington Coal Merchants' and Dealers' Association.

The members of the Wellington Coal Merchants' and Dealers' Association are disturbed over the suggested amendment to the Commercial Trusts Act, 1910. It is believed that it will give power to coal-mines monopolies to dictate to merchants and dealers the terms and conditions under which they must sell their coal—*i.e.*, terms and conditions that may be unsatisfactory to the merchants and dealers.

If the amendment would bring about better conditions for merchants and retailers, then no objection would be raised by the members of this association.

A recent happening between the Waikato Collieries Association and the retail coal-merchants of Wellington shows clearly what may happen to the retailers if the protection at present afforded by the Commercial Trusts Act, 1910, is in any way reduced.

The attached copy of correspondence with the Waikato Collieries Association shows what may be forced on retailers if the protection afforded them is taken away.

At the present time retailers have the right to demand supplies of coal, if such are available, on payment of the prices charged to any other dealers.

Retailers also fix the prices at which coal shall be retailed, and by so doing they are able to obtain prices, which, under good conditions, permit them to pay for their supplies and meet their liabilities; but if the mine-owners are permitted by an amendment to the Act to dictate the retail prices, whether or not they afford sufficient profit to retailers, it would, perhaps, result in a very serious economic loss to the Dominion and to those persons who have sunk their life savings in plant and buildings, &c., to perform a public duty and supply a public requirement.

The members of the Wellington Coal Merchants' and Dealers' Association raise objection to the proposed amendment, which will remove some of the protection at present made possible by the Commercial Trusts Act, 1910.

Should the Committee desire a statement substantiating the foregoing, this association shall be pleased to arrange accordingly.

On the 25th February, 1935, following an agreement between the Waikato coal companies fixing the price of coal, they issued a new retail price schedule. This schedule was issued without consultation with the retailers and was forwarded to them in printed form.

The North Island of New Zealand was zoned into six zones. The prices contained in the price schedule were below those being obtained by retailers in most parts of the North Island. This created grave concern amongst coal merchants and retailers.

Representations were made to the Waikato Collieries Association, who displayed what was considered a most autocratic and domineering attitude.

The following letter was despatched by the Wellington Coal Merchants and Dealers' Association on the 28th February, 1935, to the Waikato Collieries Association:—

Confirming my telegram of this morning:—

“Wellington Coal Dealers and Merchants Association resent attempt by your association fix retail prices for Wellington and advise they reserve right fix retail prices Wellington and suburbs.”

I have to advise that a large meeting of members of this association took place last night, when very strong resentment was shown towards your association in what is believed to be an attempt to fix of its own accord retail prices at which your association's products (coal) should be sold in Wellington.

It was contended that your association has no legal right to definitely fix retail prices at which dealers must sell your association's coal.

For years past this association has endeavoured to obtain fair prices for coal for its members, and experience has shown that the prices fixed have been barely enough to make business pay.

By the new method adopted by your members for selling coal the dealers would, under the prices suggested, be placed at very serious disadvantage and would have to face a loss of 5s. per ton on Waikato coal. Such a condition is impossible and, I feel sure you will agree, cannot be followed by the Wellington dealers.

At our meeting there was a strong desire to increase the retail prices of the Waikato coal; but it was felt by the writer and one or two others present that before doing this an opportunity should be afforded your association to meet our association with a view to coming to an arrangement that would be satisfactory to both associations. Our meeting has been adjourned until Wednesday the 6th March, 1935, to permit of a reply being received from you.

I shall be pleased if you will kindly advise whether your association is prepared to discuss the matter with a view to reaching a satisfactory arrangement.

The Waikato Collieries Association replied on the 5th March, 1935, as follows:—

“Your telegram and letter of the 28th ultimo regarding the retail prices of Waikato coal at Wellington have been very carefully considered by this association.

The margins for retail sales as allowed in the price-list issued to operate as from the 25th February are the same as have operated in Auckland City area for some time. In view of the hilly nature of the greater part of Wellington City, my association has, however, decided to allow increased margins for that area, and has amended the retail prices to read as follows:—

	House.	Domestic.	Kitchen.
	s. d.	s. d.	s. d.
Tons	66 0	65 0	63 0
Half-tons	33 6	33 0	32 0
Quarter-tons	17 0	16 9	16 3
Bags	5 9	5 7	5 6
Hundredweights	3 8	3 7	3 6

I am also to state that the additional margins of 4s. in the case of tons, 2s. half-tons, 1s. quarter-tons, 2d. hundredweights, which have applied in the past to suburban deliveries may continue.

The increases mentioned may apply only as far as Ngahauranga. The prices for Petone, Lower Hutt, and other suburban areas on that line are to be as printed in the price-list issued under date 25th February, 1935.

Mr. Richwhite, of Glen Afton Collieries, Ltd., is at present in Wellington staying at the Royal Oak Hotel. He will be pleased to furnish any further information you may require.

The further following reply was received on the 12th March, 1935:—

At a meeting of this association held to-day Mr. Richwhite reported regarding his meeting with your association last week. I was directed to make it clear to you that Mr. Richwhite attended your meeting not as a representative of Glen Afton Collieries, Ltd., but as a representative of this association, and he had the authority of this association to do so.

After carefully considering the whole position I was directed to advise you that, notwithstanding anything contained in my letter of the 5th instant, my association has now fixed the following retail prices for Wellington city and suburban area and requests the co-operation of your association in bringing them into operation:—

(1) Wellington City (flat area), Petone and Lower Hutt and other suburban a reason that railway-line beyond Ngahauranga:—

	House.	Domestic.	Kitchen.
	s. d.	s. d.	s. d.
Tons	65 0	64 0	62 0
Half-tons	33 0	32 6	31 6
Quarter-tons	16 9	16 6	16 0
Bags	5 8	5 7	5 5
Hundredweights	3 5	3 4	3 3

(2) Wellington suburban area, except as included in paragraph (1) above—

	House.	Domestic.	Kitchen.
	s. d.	s. d.	s. d.
Tons	66 0	65 0	63 0
Half-tons	33 6	33 0	32 0
Quarter-tons	17 0	16 9	16 3
Bags	5 9	5 7	5 6
Hundredweights	3 8	3 7	3 6

The Wellington Coal Merchants' and Dealers' Association replied on the 16th March, 1935, as hereunder:—

I have to advise that several meetings of this association have been held for the purpose of arriving at price sat which coal and firewood should be fixed, and eventually it was decided that the executive should prepare a price-list as a recommendation to be considered by the general meeting to be held on the 13th instant. The matter was under consideration when I received your telephonic message that the particulars contained in your letter of the 5th March were to be amended by a further letter which would be received by this association.

It has been difficult to get the members of the association to agree to the prices suggested, and a good deal of time has been spent in arriving at a decision. On the 13th instant it was decided that, notwithstanding your message, the recommendations of the executive should be approved, and the following prices were unanimously agreed to:—

House Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 7	17 0	1 13 6	3 6 0
Suburbs cash sale	3 9	18 0	1 15 6	3 10 0

Domestic Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 6	16 9	1 13 0	3 5 0
Suburbs	3 8	17 9	1 15 0	3 9 0

Kitchen Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 5	16 3	1 12 0	3 3 0
Suburbs	3 7	17 3	1 14 0	3 7 0

It was also unanimously resolved that these prices should come into operation on Monday, the 25th March, 1935. I sincerely trust that your association will agree that these are fair and reasonable prices.

Referring to the Hutt Valley prices, it will be necessary for a meeting of the Hutt and Petone dealers to be held to further consider the recommendations of the executive.

Referring to the suggestion made by telephone that the prices set out in the printed list should be adopted for Wellington city, my association is not prepared to agree to that, and it was felt that if all the facts were placed before your association it would accept the prices submitted.

The Wellington Coal Dealers' Association sent a further letter dated the 25th March, 1935, as follows:—

Referring to previous correspondence in connection with the fixation of prices of Waikato coal at Wellington and my subsequent conversation with you, as nothing has yet been finalized in this matter I would esteem it a favour of you if you would kindly place the position of the Wellington coal-retailers before your members.

I have wondered whether it could be arranged for a representative of your association to meet my people with a view to discussing matters and reaching an amicable agreement.

Personally, I feel it would be better to make an arrangement that will be satisfactory to both parties than for one or other to be dissatisfied with whatever arrangement may be made.

If you can assist in any way in the direction suggested, it will be greatly appreciated.

The further following communication was forwarded to the Waikato Collieries Association on the 3rd April, 1935:—

Re COAL-PRICES AT WELLINGTON.

Referring to the above subject and previous correspondence, I have to advise that in view of the fact that no reply has been received to the letters forwarded to you on the 16th and 25th ultimo, and also to the fact that coal-dealers are receiving a lesser profit on Waikato coal than hitherto, it has been decided to increase the price of Waikato coal as from the morning of the 3rd April, 1935.

The following prices will, in future, be observed in Wellington city and suburbs:—

House Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 7	17 0	1 13 6	3 6 0
Suburbs cash sale	3 9	18 0	1 15 6	3 10 0

Domestic Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 6	16 9	1 13 0	3 5 0
Suburbs cash sale	3 8	17 9	1 15 0	3 9 0

Kitchen Waikato Coal.

	Per Cwt.	Per Quarter Ton.	Per Half Ton.	Per Ton.
	s. d.	s. d.	£ s. d.	£ s. d.
Town cash sale	3 5	16 3	1 12 0	3 3 0
Suburbs cash sale	3 7	17 3	1 14 0	3 7 0

On the 17th April, 1935, the following letter was received from the Waikato Collieries Association, in which you will notice in the last paragraph that they direct this association to adjust the retail prices in accordance with their arrangements :—

Re RETAIL PRICES OF COAL AT WELLINGTON.

Your letter of the 3rd instant advising the retail prices adopted by your association to operate as from the same date was considered at a recent meeting of my association.

I was directed to advise you that this association regrets that it is unable to vary the retail prices fixed for the Wellington city and suburban areas. Colliery owners are of the opinion that the margins provided in the prices fixed compare very favourably with those allowed in other towns where delivery conditions are similar.

I was directed to request that your association adjust your retail prices accordingly, and to intimate that this association proposes to advertise the retail prices which it has fixed throughout the North Island about the end of this month.

On the 30th April, 1935, this association replied to the Waikato Collieries' Association as follows :—

Your letter of the 17th instant relative to the retail prices of coal at Wellington has been received. After further discussion I have been instructed to advise you that, owing to the geographical position of Wellington, a greater amount of West Coast and Newcastle coal is sold in comparison with that sold in other cities in New Zealand, and, notwithstanding this, the agents for these coals have not at any time attempted to dictate to the retailers the prices that they should fix for their goods.

I have also been instructed to point out that the handling and delivery of coal at Wellington costs a good deal more than in most other towns in the Dominion. This is due to a large extent to the fact that people in Wellington buy coal in very small quantities, which necessitates the dealers travelling over the same ground many times as compared with dealers in other towns who sell coal in quarter and half ton lots.

Another difficulty that exists in Wellington is that the State Coal Department have fixed city and suburban prices, and so long as the State Coal Department continues to charge a different price in the city area as compared with the suburban areas, independent coal-dealers are more or less forced to follow suit. The difference charged in the suburban areas by the State Coal Department as compared with the small portion of the city area amounts to 3d. per hundredweight, 1s. 3d. per quarter-ton, 2s. 6d. per half-ton, and 5s. per ton.

I have also been directed to inform you that this association would regret any action in the direction of advertising retail prices of Waikato coal in accordance with the list you have submitted, as it is felt that if your association should take such a step you would force this association to place all the facts before the local and outside press to substantiate the retail prices fixed by this association.

The Wellington Coal Merchants' and Dealers' Association then proceeded to fix retail prices as indicated previously.

It is felt by the members of this association that if the Commercial Trusts Act be amended as is now suggested, the Waikato Collieries Association would be in a position to force the Wellington coal-dealers to accept their terms and conditions and to sell their goods at prices which would, in effect, be unprofitable to them.

We therefore respectfully suggest that retailers and dealers handling goods are entitled to as much protection and consideration as the coal-mine owners or the general public, and we feel sure that your Committee will not overlook the fact that it is necessary for similar protection to be afforded retailers as is afforded producers.

Evidence of Mr. CLAUDE K. RICHWHITE, representing the Waikato Colliery Owners' Association.

Mr. Richwhite: I have not had an opportunity of perusing this statement by the Wellington Coal Dealers' Association. However, I represent the Waikato Colliery Owners and I am speaking on their collective behalf. We understand that objection has been taken to the selling conditions imposed by the Waikato colliery-owners in connection with the sale and distribution of their coal.

The Chairman: They object to the amendment to the Act which might enforce conditions on them?—Well, originally the Act was intended to protect the public against exploitation in connection with the price and distribution of coal. At that particular time coal was the principal source of power and heat and the number of mines operating very few. The result was that there was grave possibility of exploitation, but since that time the position has entirely changed. To-day we have very definite competitors with the coal industry. We have electricity which has usurped thousands upon thousands of tons output of coal, we have gas, and we have dozens of coal-mines operating in all parts of the country. We have just come away from a deputation to the Prime Minister requesting that the number of coal-mines be limited in the interests of the people. We contend, so far as the Commercial Trusts Act is concerned, that it never has been exploited by the colliery-owners. We understand that there have been two prosecutions—one in the South Island and one in the North—where colliery-owners refused to sell coal to certain dealers because they were not members of the Coal Dealers' Association. That may be quite true, but there never was any attempt on the part of the colliery-owners to exploit the public: it had merely to do with the conditions under which coal was sold to the public, which is a different thing. When the coal war in Auckland and the Waikato district terminated we all came to the conclusion that some better means of distribution of coal to the public had to be entered upon.

Mr. Ansell: What date?—On the 27th February, 1935, a new arrangement was entered into whereby coal sold by all the Waikato collieries was on a freight-paid basis—that is, if you received a truck of coal at Napier we paid the freight on it, and it was the same price just as the price of cigarettes is the same. That enabled us to fix a retail price to the public. We found that the public in some cases were being exploited and in other cases where competition amongst coal-dealers was exceptionally keen these poor men were working for an unreasonably low rate of remuneration. In some towns the margin of profit between the landed price of coal and the net price charged to the public was as high as 32s. a ton in some cases and as low as 9s. a ton in other cases. One was too high and the other too

low, so the colliery-owners decided, in the interests of the public as well as of themselves, that the price to the public had to be named. That was, we had to announce to our retail representatives the margin of profit we allowed them on the coal and the price of the coal to the public, because if the price was too high we only pushed the public off coal on to electricity or some other form of heat, and we ultimately lost the business. Our freight-paid prices were fixed all over the country and we added £1 to the freight-paid price of the coal, and the £1 was to cover the bagging charges, loss in weight, delivery and credit, and profit. Our experience over a long period of years in the industry showed us that 20s. a ton was approximately a fair margin of profit for the coal-owners to provide for distribution between the truck and the consumer's bin. We felt, Sir, that an arrangement like that would be preferable to the old system whereby traders were able to add whatever profit they liked to the landed cost of the coal and charge unreasonably high rates. Now, one other point in connection with the Commercial Trusts Act is that the coal companies have never to my knowledge (and I have been in the business well over twenty years) exploited the public so far as price is concerned: competition looks after that. I do not know of any cases, with the exception of the two prosecutions previously referred to (which had reference to coal-merchants being a member of the Coal Dealers' Association). I do not know of any cases where the colliery companies have definitely refused to sell their products. The mere fact that coal-mines are working a little more than half-time, and there is a tremendous latent capacity—each colliery can produce 50 per cent. more coal than can be used to-day: it is not reasonable that colliery-owners are going to extract a high price from the public. We contend that the present arrangement, whereby the colliery companies fix the price at the mine (which we have a right to do and which the Commercial Trusts Act has never challenged), that fixing the price to the public and providing a reasonable margin of profit to the distributors are the sound lines along which we should work. We say that any attempt to leave to the fixation of prices to the public to the distributors in various parts of the country, each charging a different rate, is unsound, and that is the definite opinion of the Waikato colliery companies. In the Wellington district we have provided for an additional sum to compensate for the exceptionally hilly nature of the metropolitan area, and this has been taken into consideration by the coal-owners. We do not think that the Commercial Trusts Act has ever performed any useful function so far as the price of coal is concerned. Coal is available to a coal-merchant in any part of the country on receipt of the money, but we also submit in connection with the distribution of our coal that it is necessary for companies to appoint agents in each town to look after their business. The Commercial Trusts Act infers that, apart from having an agent or dealer in each town, no one can combine. It is one means whereby the Commercial Trusts Act may be applied, and may be unfairly applied, so that we cannot see that the continuance of the Commercial Trusts Act is performing any useful function so far as the distribution of coal is concerned, and we suggest that it be removed, having regard to the competition that coal is faced with from all other forms of heat and having regard to the continuance of the coal-owners selling their coal at the lowest price to the public. Otherwise the coal-owners will be pushed out by other sources of heat and power.

The witness made a suggestion regarding the limiting of the operation of coal-mines?—We submitted our views to the Prime Minister just a few minutes ago. Our views in that respect are that the capacity of the existing collieries to-day is probably 40 or 50 per cent. in excess of the demand that exists. The coal industry is a declining one, Sir. The competition from electricity and oil is usurping the functions of the coal business, and collieries are all operating on less than their production-capacity. In addition to that, coal is being wasted. It is being extracted from the mine in the cheapest manner, having no regard to the conservation of the coal-supplies. That coal is being wasted and it is a loss to the State, so we have requested the Government to consider the licensing of coal-mines; to prevent the extension of more mines which cannot possibly flourish because it only means dividing the existing business up amongst more producers. You have a precedent for that in your legislation in regard to freezing companies. You cannot run a freezing works to-day without a license. It would be uneconomical to build any more. You cannot build a picture-show because there are enough in the street to satisfy the people; you cannot run a lorry or a bus between here and there if there are enough buses to do the job, and you cannot even fly an aeroplane without a license. We contend from the fact that hundreds of miners are working one day a week and getting sustenance on unemployment relief to keep them that it is uneconomic to open more mines.

Mr. Healy.] Is the public being exploited, say, by the combined resellers?—We say that in some cases the public have been charged an unreasonably high margin of profit by distributors and we make that with reservation—we cannot say it has been general; but in cases the margin of profit has been too high, and an investigation by the Department of Industries and Commerce would definitely prove that to be the case. I would like to say that in quite a number of towns in the North Island the retail price to the public is at least 8s. or 9s. less than it would have been if the companies had not announced the price to the public.

Mr. Wilkinson.] I understand that one has to have a license to run a coal-mine now?—You require a license regarding State properties, but there is no restriction regarding private properties. It seems useless for the State to refuse to grant a license to open a State area when somebody can open a private area without a license.

The Wellington coal-merchants apparently objected to your profits. You mentioned £1 a ton; was that the general thing?—We wrote to the Wellington merchants. When we announced our prices this statement was given to the retail coal-merchants. We quoted our coal on a freight-paid basis, say, to Wellington, and we quoted the price at which it was to be sold. Inquiries made show that the margin of net profit on ton lots for cash enjoyed by coal-merchants in some towns is as high as 28s. per ton, and in other places as low as 10s. 6d. The former is unreasonably high and the latter is considered unreasonably low. Waikato Collieries, while wishing to adequately remunerate their distributors, are unanimous that the total net margin of 20s. per ton on ton lots and

23s. on single bag lots for cash is a fair and reasonable remuneration for the services rendered." In addition to that, we made special arrangements with the Wellington distributors whereby somewhere about 4s. a ton additional could be added to provide for the hilly nature of the deliveries in the area. The same arrangements were made in Napier. You all know that there is a hill in Napier with very narrow roads, and the Napier merchants represented the matter to us, as did the Wellington people, that 20s. was inadequate remuneration, and we agreed to an additional 4s. covering the Napier district. I would like to say that all over the North Island, with the exception of Wellington, the arrangements entered into by the Waikato companies have received the approbation and favourable comment of practically every retail coal-distributor.

I have a communication from the Wellington merchants: I am not sure of their grounds?—I think they resented our fixing the price at which they should sell. I think the Wellington prices of Waikato coal were too high.

The price you suggested they should sell at?—No, the prices ruling before.

You suggested that they should bring those prices in line with your lists?—Yes, and they resented it.

You support this amendment I presume—that is, to remove coal from the Commercial Trusts Act?—Yes. We want to control the sale and distribution of coal, and, as I have stated, the competition of other forms of heat will stop us overstepping the mark.

Mr. Ansell.] Are we to understand that when you received the objections from the Wellington coal-dealers in regard to the fixation of prices your association considered that the public of Wellington were being exploited?—I do not know that I would put it in that way, but when these prices were fixed the Waikato Collieries Association considered all the towns in the North Island as a whole and not any one in particular, and the Wellington merchants were allowed exactly the same margin as was allowed in other towns in the North Island. However, on their representing to us the hilly nature of the deliveries we agreed to a little more being added to the figures—I think 4s. was the amount.

As the result of the negotiations between yourselves and the Wellington coal-merchants, was there any reduction in the price of coal to the public?—No reduction from us. The representations from the Wellington dealers resulted in a high price being charged, and that still prevails.

Prior to that negotiation—the price of coal being at a certain figure—you attempted to reduce the price to the public: as a result of your negotiations with the Wellington Coal Merchants' Association, were you able to reduce the price to the public?—I could not say. I cannot answer that accurately for this reason: that before we brought these prices in a coal war was prevailing and coal was selling at 10s. a ton and it went up to £1, and we had no telling what the general position of the Wellington coal trade was. We referred to one other matter, and that is that the price of Waikato coal is very definitely controlled by competition from the State coal-mines. We cannot exploit the public in Wellington or any other part of the country because the State coal-mines sell coal at a lower rate than anybody else. We cannot extract a high price, otherwise we come in competition with the latter.

In the letter dated 28th February from the Wellington Association to your organization:—"It was contended that your association has no legal right to definitely fix retail prices at which dealers must sell your association's coal." What is your reply to that?—We contend that there is nothing in the Commercial Trusts Act which prevented us from fixing a retail price. The only thing the Commercial Trusts Act referred to is that we cannot refuse to supply coal to certain people if we have it available. We cannot refuse to supply a merchant if he is not a member of a Commercial Trust. The Commercial Trusts Act has never had any effect on the supply of coal to the public; it says nothing about prices, and that aspect of it has never come to our notice.

Seeing that certain companies were acting in concert, did it strike you at any stage of the proceedings that you might be committing a breach of the Commercial Trusts Act?—No, it did not strike us in that light at all. I think I can safely say that the only objection that was received was from the Wellington area. We had no representations from other districts, except from Napier regarding deliveries and that representation has been met the same as the representations from the Wellington people.

On the last page of the statement on behalf of the Wellington coal-merchants: "It is felt by members of this association that if the Commercial Trusts Act be amended as is now suggested, the Waikato Collieries Association would be in a position to force the Wellington coal-dealers to accept their terms and conditions and to sell their goods at prices which would, in effect, be unprofitable to them." What is your comment on that?—Our comment is this: that 24s. a ton should cover the cost of bagging and the cost of delivering to the public in Wellington when 20s. covers delivery everywhere else. We say the cost is not justified.

Would it have been possible to have forced the 20s. margin that you negotiated on?—We contended it probably would, because we want our coal sold cheaply to the public. Incidentally, it does not affect the public, only the distributors, and the Wellington coal-dealer can purchase coal from a dozen other sources if he finds that he cannot sell Waikato coal on a margin of 24s. That includes delivering it, and there is something wrong with the business if the public is being charged too high a figure. Every other town in the North Island is doing it for £1, and Wellington is doing it for 24s. Wellington could buy from the West Coast mines and other supplies are available.

Mr. O'Leary.] How long has your association been functioning?—Our association has been functioning more or less on and off for a number of years.

But effectively?—Our association has only been functioning effectively since the Waikato coal war was ended.

When?—On the 27th February of this year.

Prior to that coal-owners were at loggerheads?—Yes.

You made your association effective—made peace amongst yourselves and then you are insisting on your terms with the retailers?—Not quite. Peace was made amongst the coal-owners at the request of the Government, and we were told in no uncertain terms that if we did not do these things it would be done for us by legislation.

Prior to that peace you were trying to stabilize the price with the coal retailers?—There was a war on and we were selling at any price.

Apparently what you did was to strike a uniform rate that you would allow for the resellers to make their profit on—20s. a ton?—Yes.

And it is universal throughout New Zealand?—Throughout the North Island.

Surely that is arrogating too much to yourselves to fix what shall be sufficient for a retailer to make his profit on in any town in New Zealand?—

You did it?—Yes.

Apparently you did recognize that there was some justification in the Wellington complaint because you permitted them to have the extra 4s. Was that to apply anywhere in Wellington and suburbs?—I think it was represented to us that it should apply to hilly deliveries.

Did you not subsequently cut it down; the 4s. was not permitted?—That is right, our association wrote to the Wellington Association, which took no notice of us, and we did not take any steps to enforce it.

You attempted to cut it down to 1s.?—Only in the flat areas.

Just look at this: You see the first page of the representations made and attached thereto is the history of the communications between you. Look at the bottom of the first page that follows the representations—

Your telegram and letter of the 28th ultimo regarding the retail prices of Waikato coal at Wellington have been very carefully considered by this association.

The margins for retail sales as allowed in the price-list issued to operate as from the 25th February are the same as have operated in Auckland City area for some time. In view of the hilly nature of the greater part of Wellington City my association has, however, decided to allow an increased margin for that area and has amended the retail prices to read as follows:—

	House.		Domestic.		Kitchen.	
	s.	d.	s.	d.	s.	d.
Tons	66	0	65	0	63	0
Half-tons	33	6	33	0	32	0
Quarter-tons	17	0	16	9	16	3
Bags	5	9	5	7	5	6
Hundredweights	3	8	3	7	3	6

I am also able to state that the additional margins of 4s. in the case of tons, 2s. in the case of half-tons, 1s. quarter-tons, 2d. hundredweights, which have applied in the past to suburban deliveries, may continue.

The increases mentioned may apply only as far as Ngahauranga. The prices for Petone, Lower Hutt, and other suburban areas on that line are to be as printed in the price-list issued under date 25th February, 1935.

Mr. Richwhite of Glen Afton Collieries, Ltd., is at present in Wellington staying at the Royal Oak Hotel. He will be pleased to furnish any further information you may require.

Mr. O'Leary.] One shilling a ton, whereas in the letter earlier you had agreed to 4s. Is that not correct?—Yes. What does the subsequent correspondence say?

It is there. My attention was directed to the fact that you did not allow this 4s. in the case of suburban deliveries. You cut it down to 1s.

Mr. Richwhite: I would like to ascertain the prices Wellington merchants are charging to-day and see whether the public is being charged a reasonable figure.

Mr. O'Leary: Mr. Picot will answer that. The information is on the list.

Mr. Richwhite: What does it amount to for one-ton lots delivered for cash.

Mr. Picot: In the city, £3 6s. We do not put that 4s. on.

Mr. Richwhite: You remember my coming and meeting your association, Mr. Picot?

Mr. Picot: Yes.

Mr. Richwhite: I think it was agreed that that 4s. a ton would go on?

Mr. Picot: It was agreed, yes.

Mr. Richwhite: Subsequent to the letter that has just been read? Because that letter said that "Mr. Richwhite was in Wellington and would be pleased to meet you," and I think I met the Wellington coal-merchants and agreed that the 4s. was to go on.

Mr. Picot: The letter follows your conference.

Mr. O'Leary: I compared the two prices, and it is obvious there is a difference between the city and suburban prices.

Mr. Richwhite: I have not read this correspondence before, but I was definitely under the impression that 4s. per ton additional was allowed to the Wellington merchants and the Napier district. That was the arrangement I made with the Wellington coal-merchants.

Mr. O'Leary.] I understand they are selling at 1s. difference.—They are entitled to charge the extra 4s.

The Chairman.] Four shillings. Is that in the city as well?—On the hilly suburbs.

Are you charging 4s. on the whole of the Wellington area?

Mr. Picot: At the present time we are charging 1s. more on the hilly areas, and we consider it is insufficient.

Mr. Richwhite: I agree with Mr. Picot. I think my reference at the conference I attended in Wellington was along those lines—that 4s. per ton was sufficient remuneration to compensate for the hilly nature of this area. The same as the Napier deliveries. I think, as far as Wellington merchants were concerned, there was not just the right atmosphere prevailing at that time. Another thing, I do not see any of the really big distributors of Wellington represented here, and I understand that this complaint has more or less come from a small section—the smaller dealers in the Wellington City. The big merchants I have been in touch with have no complaints.

Mr. Wilkinson.] Are they charging the 4s. ?—I could not say.

(Committee adjourned at 5.45 p.m.)

NOTES OF EVIDENCE GIVEN BEFORE INDUSTRIES AND COMMERCE COMMITTEE AT THE PARLIAMENTARY BUILDINGS ON THE 17TH OCTOBER, 1935, IN CONNECTION WITH THE AMENDMENT TO THE COMMERCIAL TRUSTS ACT, 1910.

Meeting opened at 10 a.m.

Chairman: Mr. A. HARRIS (Mr. McLEOD absent).

Witness: ALFRED ERNEST MANDER, representing the New Zealand Manufacturers' Federation and the Bell Tea Co., Ltd., of Dunedin.

Mr. Mander: For my federation generally I have only to say that the four provincial associations in the four centres and the Dominion Council have all expressed the hope that this amendment will go on the statute-book. Although the majority are only slightly or indirectly affected, there are one or two industries or sections of industries, mostly foodstuffs, who have a more direct interest, but the reason generally why manufacturers endorse the proposal is that we feel that the original Bill was put on the statute-book to prevent price-fixation, which was detrimental to the public interest; and it seems to us reasonable that an adequate defence should be that a particular case of price-fixing could be proved to be not detrimental to the public interest. It is only on such grounds that my federation hopes that the amending Bill will be supported.

I have a statement to make on behalf of the Bell Tea Co., which I would like to read:—

“The unfortunate position of my company,” says the general manager of the Bell Tea Co., “is briefly as follows: Until some years ago Bell tea was sold at a regular price throughout New Zealand which allowed the retail traders what we considered a reasonable profit and what they claimed to be insufficient, but nevertheless we kept the profit to them moderate principally in defence of our business, as to increase the profit was merely to increase the selling-price and thus open the door for competitors. Some few years ago a violent cutting of prices commenced in the grocery business, this cutting being coincident with the appearance of chain stores, and our line of Bell tea, until then a household word in New Zealand, was with a few other lines of similar popularity, made use of by the price-cutters, as the public knew well the standard price for our standard brand of tea. Naturally if the cut-price grocers advertised it at something in the neighbourhood of his cost price, sometimes above and sometimes below, the public were led to believe that the storekeeper advertising was selling all his lines on the same favourable basis, and thus our line, along with several other popular lines, was made the bait to draw people into the shops of the price-cutters, who I might say were not price-cutting everything, far from it, but merely a few lines that the public knew the standard price of. The result of this price-cutting by chain stores and other stores who were endeavouring to meet the price-cutters throughout New Zealand was that the great body of storekeepers who have to have some profit on all their lines in order to live simply cut out the lines that had been selected by the price-cutters to use as bait to catch the unwary public. The result was that in a few months, whilst having a steady business for many years, my company lost one-third of its business, and had we not taken the drastic steps we should have eventually lost the whole of our business. There is no doubt about this at all. There was clear evidence obtained by our representatives when calling on storekeepers that hundreds of storekeepers throughout New Zealand had cut out our line altogether, while hundreds of others—in fact, I might say thousands of others—who could not afford to refuse their good customers who had been using ‘Bell’ tea for years, supplies, did their level best as salesmen to put them off it, and I cannot blame them for doing so, because they had to sell the tea at the same price as the price-cutters, and no man can sell his services without profit on the one hand or wages on the other. Our sales were steadily decreasing when we introduced our price-maintenance scheme, which is permissible under the Act, but a very cumbersome and expensive thing to us. My company has been removed from the list of large taxpayers to that of a very low division indeed. Before the price-cutting started my company did approximately one-fifth of the tea trade of New Zealand, but since then the turnover of the business and the earning-capacity has been dreadfully reduced.

“The Bill, if passed, cannot possibly, as far as I can see, detrimentally affect the public. As far as I am concerned, the price of ‘Bell’ tea would not be altered, but I would be able to discontinue the carrying of stocks of tea in warehouses of some one hundred and thirty merchants throughout New Zealand. The stocks of tea which my company owns in stores outside of its own are actually greater than the stocks it carries in its own factory. Surely any Act of Parliament, such as the Commercial Trusts Act, which makes this necessary is wrong. As a matter of fact, my company, by way of interest on capital, would actually save money if this Act was passed, as it would then be unnecessary for us to continue the system that we have in force for maintaining our price, and therefore would not immediately, but at some future date, be beneficial to the public, as the amount saved would not be a great deal on each individual pound of tea, but in the aggregate quite a substantial amount, and every little saving that is made on any line of goods, when perhaps added to a drop in the market or some other saving that is made eventually, is sufficient to warrant a reduction in price; but I cannot claim that this would come immediately, for, as I said previously, the saving on the individual pound of tea would only be fractional, but it must have some effect, even if it is to increase the profits of my company and, by that means, the revenue of the country through income-tax. This system has been based on our making the sale only once, and that is to the storekeeper, the merchant acting as agent for my company and not paying us until they have actually sold the tea.”

Mr. Mander: I have here a copy of the Agency Agreement [produced for the perusal of members.]

THE BELL TEA COMPANY, LIMITED,
AGENCY AGREEMENT.

Dunedin, , 1931.

M. _____

SIR,

This is to inform you that we intend, as from the _____, 1931, to change our methods of distributing "Bell" Tea.

In future we propose not to sell to merchants, as we have done in the past, but to sell to retailers through the wholesale merchants as our agents. Thus merchants will continue to handle our tea as heretofore, but will sell on our behalf, and will not be purchasers from us or sellers on their own account. We shall be glad to appoint you an agent, subject to your signing and returning to us the acceptance printed at the end of this letter. The agency will take effect as from _____, 1931.

The terms and conditions of the agency are set out below, and all previous arrangements are hereby cancelled.

Yours faithfully,

THE BELL TEA COMPANY, LTD.

.....Manager.

Terms and Conditions of Agency.

1. We will consign to you (freight and insurance (W.P.A.) paid to your port) such quantities of our tea as may be agreed upon from time to time.
2. You will use your best endeavours to promote the sale of our tea.
3. You will sell our tea solely on our account, and strictly and only at such prices and upon such terms and to such persons, or classes of persons, firms, and companies, as we from time to time direct, and will not in any circumstances either directly or indirectly supply our tea to any one in breach of any express instructions received from us.
4. You will not sell or otherwise supply, whether by way of loan or otherwise, any of our tea to any other wholesale agent appointed by us or any other wholesale dealer or merchant, but will deal only with retail grocers.
5. You are not permitted to bind us to any greater or further extent than we may from time to time expressly authorize in writing.
6. The agency is a *del credere* agency.
7. We will, on making any consignment to you, send you a *pro forma* invoice merely as a matter of convenience for checking and book-keeping.
8. You will on the last day of each month render account sales to us showing the quantities of our tea which you then have in stock on our account, and the quantities sold during that month, and will on the 20th of the month following pay to us the proceeds of tea sold, less your commission.
9. You will be paid or allowed commission on all tea sold by you at the rate of 6½ per cent. on the gross proceeds, and a discount of 2½ per cent. (strictly confidential on punctual payment on the 20th of the month) on the net amount after deducting commission.
10. No trade discounts or other concessions over and above the recognized cash discount are to be given to retailers, who must in all cases be charged on a definite flat rate at list price.
11. You will not have an exclusive agency for any particular place or district, but consignments will be forwarded on your account only to districts where you have offices and warehouse; and we reserve the right to appoint such agents as we think fit, and also to make direct sales in cases where we think that course desirable.
12. We are to have the right, personally or by our representative, to inspect at any time our stocks held by you for the purpose of stocktaking, checking with account sales, or any other purpose for which we may require such inspection.
13. Either party will have the right to terminate the agency at any time by letter or telegram, and immediately on such notice being given the agency shall terminate, and you are immediately to deliver to us or to our order all tea held by you on our account, and accounts are then to be adjusted between us in accordance with the terms hereof.
14. You will at all times keep insured at your own cost at the list prices mentioned in clause 3 hereof with a reputable insurance company all tea held by you on our behalf.

ACCEPTANCE OF APPOINTMENT.

I/We accept appointment as an agent of Bell Tea Company, Limited, on the above terms and conditions.

Dated the _____ day of _____, 1931.

Mr. O'Leary.] I suppose you have no personal knowledge of the course of business of the Bell Tea Co.?—No.

Mr. Sutherland says to his knowledge that it was the price-fixation of "Bell" tea that settled the market for "Bell" tea. As soon as the price was fixed they could not sell their tea?—No, I would not know that. But it conflicts with the statement just made on behalf of the company.

You represent the Manufacturers' Association: whom do you embrace in the main?—The Manufacturers' Association comprises at least 95 per cent. of all the firms engaged in manufacturing in the Dominion—engineering, clothing, and foodstuffs.

I understood you to say that the great majority of your members are not affected by the Commercial Trusts Act?—Only those engaged in connection with foodstuffs.

Would you care to put that in terms of percentage as to the proportion of manufacturers affected by the Commercial Trusts Act?—I could not put it in terms of percentage; I have to be careful not to overestimate. I think there would be a dozen or fifteen firms that are affected.

What is your total number?—About two hundred and fifty large factories and four hundred and fifty small.

The Acting Chairman (Mr. Harris) read the agreement handed in by Mr. Mander with reference to the Bell Tea Co. (See page 98.)

Mr. O'Leary.] That is the method adopted to keep outside the Act: that is, the standard method.—They appoint the merchants.

The Acting Chairman: They do not handle it as members at all.

HERBERT JAMES STANLEY RICKARD read the following :—

In point of numbers, chemists are only a small section of the community, and therefore I will be brief in my remarks regarding the price-cutting which is made possible by the Commercial Trusts Act.

Although we are few in numbers, I think it will be conceded that it is in the interests of the community and the State that cities, towns, suburbs, and country districts should be adequately catered for in the distribution, under qualified men, of medical and surgical necessities at reasonable prices, and that the skill and training demanded of chemists should be reasonably rewarded.

There are approximately six hundred pharmacies in New Zealand. Not half of them could remain open without the assistance received by the sale of standard proprietary lines and goods, other than those actually prepared by pharmacists themselves. There are many towns in New Zealand that could not support a chemist if he were driven back to his purely professional work for a living, and I submit that it is very necessary for such places to have chemists.

Owing to the margin of profit on quick-selling lines being wiped out by chain stores selling them as draw lines to attract customers to themselves, all chemists are having a desperate struggle to keep solvent, and a large number of registered chemists and qualified assistants have already drifted to other occupations or are swelling the ranks of the unemployed. In either case it is bad for the community that men should be unable to make a living in their own trade or profession. It might be said that there are many men unemployed to-day who could be earning a living for their families in pharmacies in spite of the depression if we could get even a reasonable share—and a reasonable profit—of the trade lost by ruthless business methods of large chain-store pirates. Price-cutting stores are quite willing, after diverting the bulk sale of a line to their own shops, to enter into an arrangement to have the prices raised.

We, as chemists, have to stock drugs, chemicals, and other preparations, many hundreds of which are not called for more than perhaps once in a year and which are unprofitable whatever we charge, but it is necessary for the public good that we should be able to produce them on demand. The chain stores do not give this service, but pick the eye out of a business and leave it to struggle along, maimed and suffering from their ruthless claws.

The chemists have no desire to aim at higher prices and are opposed to any sort of monopolization, but what we do aim at is maintaining the price fixed by the manufacturer which is well known to the public, and is as low as can be reasonably expected, at the same time giving the retailer only a reasonable margin of profit. Price-fixation of standard advertised lines does not mean more cost to the public, for each such line there are always many competing lines at a lower cost.

It may be said that the day of the small individual trader is past. But in no other business would the loss to the public be so great as in that of pharmacy by the abolition of the individual; in no other business is the proprietor specially trained by law to provide a definite public service.

New Zealand is almost the only part of the Empire in which the retail chemist has no protection whatever, either by prohibition of company pharmacies or by power to control prices on patents. By law he is compelled to qualify, not to protect himself so much as to protect the public, and in return he gets no protection.

By amending the Commercial Trusts Act along the lines of the Bill before the House we, as chemists, feel that we will get back a class of business which is justly and rightly ours.

H. J. S. RICKARD.

Mr. Wilkinson.] Referring to the last paragraph of your evidence, if this Bill becomes law, how will you get back this class of business which you have lost?—In so far that to-day the particular type of stores referred to—chain stores—pick out those lines most popular and cut them to such a price that we cannot compete in order to get customers into their shops.

You think that would not go on if prices were fixed? We would all be selling at the same price, and we would get a certain proportion of the trade.

What is the price for ordinary medicine made up on doctors' prescriptions?—We have a system of charging whereby if a prescription costs 2s. we put on to that a 50 per cent. profit, plus 1s. 6d. as a dispensing fee; if it costs less than 2s. we have a flat rate. An 8 oz. mixture with the dispensing fee would cost 3s. 6d.

What is the price of same article in England? Statements have been made that the same thing is very much cheaper in the old country?—I cannot answer that question.

Do you think 3s. 6d. is reasonable?—Yes, quite. Time must be taken into account in dispensing; an expert dispenser could not get through more than four or five prescriptions in an hour.

Mr. Sullivan.] I suppose what you are concerned with at the moment is the threatened intervention by chain stores?—Yes, exactly. It is a great concern at the moment.

And the concern that is threatening you is Boots' stores?—They have a capital of £3,000,000 we ascertained. The report in the press was £6,400,000. We have cabled to London and, according to the last balance-sheet, that capital is £3,000,000. In the British Isles at the moment they have 1,179 pharmacies, fifty-four of which were opened last year, and they paid a dividend last year of 30 per cent.

Supposing they were allowed to commence in New Zealand—given a free run—have you any idea how many stores they propose to establish?—We have been told that they propose to open twenty-four stores in New Zealand. They have actually purchased some sites.

Mr. Richard: They have acquired premises in Willis Street in Wellington, and purchased the lease of E. C. Browne's in Auckland.

Mr. Sullivan : They have an actual site in Wellington?—Yes, I understand that they paid £24,000 for that site as a cash transaction.

What would be the view of the Pharmacy Board if they were allowed to carry on at the sites where they had made these arrangements, but were not permitted to commence business elsewhere?—That is a question that is being discussed by us at the moment.

You would be prepared to allow them to carry on in Auckland and Wellington if any legislation could be brought into operation which might prevent them spreading?—We would make that sacrifice to save New Zealand.

Mr. Jordan.] Mr. Rickard says, "In no other business is the proprietor specially trained by law to provide a definite public service"; is it possible for the proprietor of a pharmacy not to be a certificated chemist?—It is possible under the present Act.

Therefore I could open a chemist's shop provided I employed a certificated man as manager?—That is right.

But you say, "In no other business is the proprietor specially trained by law to provide a definite public service"?—Although it may exist, there are not very many unqualified owners; in any case a manager would be there who would give the service of a qualified owner.

That question was leading up to the bigger question: a proprietor of a concern can be anybody—a shareholder?—That is a point which has been brought up.

That exists in New Zealand to-day.

Mr. Wilkinson.] Did I understand the witness to say that the chemists would be agreeable to allow these people to carry on in the two places purchased?—We would be prepared to consider foregoing that.

Foregoing what?—We would agree to their remaining in Auckland and Wellington.

There is no law to-day preventing any business commencing operations?—It is legal to-day but we hope that it will not be legal to-morrow. Without question, I might say that the opening of these stores I feel positive, in my opinion, is going to be death to the majority of chemists in New Zealand.

What would happen if they opened in twenty-four other towns?—Take, for instance, Masterton, where there are four chemists and a friendly society—if they opened there I venture to say that at least two would go to the wall within a year. Then there is another factor—the friendly society is doing a tremendous amount of good. Members pay into this society 10s. a year, which entitles them to free medicine, and some of these would have as much as £20 or £30 worth of medicine during the year. The shops are the only means of keeping the business going, and if these friendly societies had to go out of business the people would be thrown back on the Hospital Boards, who would have to carry still another burden.

Mr. Jordan.] Do you think the establishment of these stores would make your business very competitive?—I certainly do; they make a habit of cutting prescriptions right to the very bone.

Price-cutters?—Yes.

It has been said that there are more chemists in England now than there were before Boots commenced?—That may be due to population. I would not like to say that Boots have reduced the number in England.

Mr. Healy.] You say here, "Price-cutting stores are quite willing, after diverting the bulk sale of a line to their own shops, to enter into an arrangement to have the prices raised"?—That is going on at the moment in so far as these people get a line of, say, "Kruschen" salts—this line may be cut to such an extent that it is sold under cost price, and after a while the other chemists may get in touch with the manufacturer to arrange that this article be sold at a definite price. After having brought the business into their shops these chain stores say, "Very well, we will sell at 2s. the line which they had been selling at 1s. 8d. or 1s. 9d. That is the sort of business that is going on to-day with all price-cutters.

What lines come under the Commercial Trusts Act?—Of course, there are certain lines enumerated in the Commercial Trusts Act, mostly footstuffs. The amendment would enable the manufacturer to fix prices for particular lines and thereby prevent price cutting.

Mr. Holland (Chairman): Is medicine of all descriptions obtained at Boots?—Yes.

And manufacturers wish to fix the prices because of the introduction of this firm?—Yes, we are very anxious that this Bill should go through.

Mr. Sullivan.] You are only interested in the amendment to the Commercial Trusts Act in regard to the question of whether Boots will be allowed to establish themselves?—That is not the sole reason. It would be helpful if Boots were not able to cut into our own lines. Apart from that, we do require legislation to allow manufacturers to fix prices so as to prevent chain stores cutting to such an extent.

Your first point is that you would prevent Boots if you could; secondly, if they cannot be prevented you want the amendment to the Act?—Yes.

Mr. O'Leary.] You are not really very much affected by the Commercial Trusts Act, because you see the Commercial Trusts Act is restricted in operation so far as you are concerned to foodstuffs?—Yes.

You cannot be very much affected by it?—The Act as it stands at present allows price-cutting to go on. We have not the power to fix prices.

Yes, you have. What about the scores of lines not covered by the Act at all. Are you not allowed to fix the prices for many lines?—No.

I suggest to you that you might take advice on the matter, because the Commercial Trusts Act deals with petrol, coal, agricultural instruments, and foodstuffs. These proprietary lines are not foodstuffs.—We want an amendment to this Act to enable prices to be fixed.

At the present time the manufacturer can fix prices for any number of commodities that you sell, and they do it.

Do you sell Q-tol? I understand the price is fixed?—Under the registration scheme.

Lane's emulsion?—Yes.

Scott's emulsion?—No.

Kolynos tooth-paste?—Yes.

These are a few of the things on which prices are fixed and can legally be fixed at the present time?—We want the power to be able to fix any line that the manufacturers consider should be fixed.

Mr. Healy.] What would be the result of Boots opening one additional shop in Wellington?—It would do us an enormous amount of harm, but if it is going to save the other chemists of New Zealand, then it would be far better that at least one section only of the chemists should be affected.

Mr. Holland.] Are you in Wellington?—I am a chemist in Willis Street.

Mr. Healy.] I believe the chemists throughout New Zealand are very alarmed over Boots?—Yes.

I had a deputation on Tuesday. The general opinion is that they will not stop on your lines only, the fear is that they will operate like an American drug store?—In England they operate very extensively in so far as they have a lending library, stationery department, leather bags, and leather-ware. I understand that here it will be confined to chemists' goods.

I believe the capital is £10,000,000?—No, their capital we have learned is £3,000,000.

AMENDMENT TO COMMERCIAL TRUSTS ACT.

Evidence to be given before the Committee by R. A. Cometti, chairman of the Executive Committee of the Wholesale Druggists' Association of New Zealand, comprising the following firms:—

Kemphorne, Prosser, and Co.'s N.Z. Drug Co., Ltd. (four branches).

Sharland and Co. (four branches).

Salmond and Spraggon and Co., Ltd. (Dominion Drug Co.) (four branches).

Auckland Drug Co., Auckland.

H. F. Stevens, Ltd., Christchurch.

F. Stevens Ltd., Auckland.

P. Hayman and Co., Ltd., Dunedin.

Murdoch and Co., Ltd., Dunedin.

Lockwood and Sons, Ltd., Wellington.

It is hoped that legislation will be passed to enable the amendment of the Commercial Trusts Act, so that manufacturers, wholesalers, and retailers can combine to form a P.A.T.A. Association for the stabilization of prices of proprietary articles.

We desire to support enthusiastically the petition of the retail pharmacists, with whom our interests are closely linked.

The chemist to-day is suffering considerably, as the result of price-cutting in proprietary lines, and, in consequence, this reflects seriously on the wholesalers and curtails the scope of their activities.

The introduction of the P.A.T.A. will mean that the present pernicious cutting of certain lines by certain sections of the trade will cease, and a fair and reasonable price to the wholesaler, retailer, and public will be fixed to the benefit of all concerned.

Manufacturers who spend large sums of money to advertize and popularize their preparations should be able to reap some reward for their expenditure and energy, but at present certain lines have been "tabooed" by a considerable portion of retailers, due to the fact that they have been used as "draw" or "catch" lines by cutters, and sold to the public at prices sometimes lower than the small trader can purchase at.

The establishment of the P.A.T.A. would eliminate this state of affairs, and, by stabilizing prices, the public interests would not be prejudiced, as manufacturers would make sure that their lines would not be exploited by the addition of high profits as, by so doing, the retail figure would be raised to such an extent that this would not be competitive with many similar lines on the market.

Further, P.A.T.A. would bar the "cutters" or "pirates" from taking nationally advertised lines, and, by cutting these down to cost or thereabouts, use them as a medium to draw people to their place of business for the sole reason of selling them other goods on which a substantially higher margin of profit is shown.

In the past few years quite a number of preparations have been so seriously affected by the action of cutters that other retailers have refused to stock them, or, if they did carry supplies, endeavoured to influence the public to purchase something else. This has had a serious effect on the sales of these preparations, and, while it may have been illegal to do so, some proprietors have, at great expense and inconvenience, introduced price-maintenance schemes, this only because the turnover had been so adversely affected by price cutting.

The following is a list of proprietary articles coming under this heading:—

Lane's emulsion.

Baxter's lung-preserver.

Aspros.

Bonnington's Irish Moss.

J. and J.'s baby powder.

Wood's Peppermint Cure.

Vick's Vapo Rub.

De Witt's Antacid powder.

Beltona.

Kodak films.

Selo films.

The chemist has been particularly affected by price-cutting of proprietaries, which are, more or less, peculiar to his business, and, in consequence, their turnover has suffered to such an extent that a big percentage of the retail chemists have had to receive financial assistance from the wholesalers in order to carry on. Furthermore, there are very few chemists who are making more than a living wage out of their business to-day, due entirely to the fact that they are not able to make a reasonable margin of profit on patent and proprietary articles sufficient to cover their overhead.

On this account chemists have found it necessary to arrange with certain manufacturers to confine quite a number of lines solely to chemists, so that prices can be controlled.

The introduction of the P.A.T.A. will eliminate this necessity, as all retail traders will be placed on the same footing, and quick-selling, nationally advertised lines, will show at least a workable margin of profit to the small individual trader and enable him to remain in business.

There would be nothing in the scope of the P.A.T.A. to preclude price-cutting firms to manufacture, advertise, and push sales of lines under their own name, but similar in nature to the nationally advertised line, only which the P.A.T.A. desires to protect. The cutter would be at liberty to sell his own preparations at any price he wishes, even down to cost, which position is often represented to the public by such firms.

Finally, the wholesale druggists of New Zealand will benefit considerably by such legislation as, when their clients are placed on a better footing and able to meet their obligations, wholesalers will, as a result, be able to show a profit on their workings, and, incidentally, be able to place their staffs on a better footing by increases of wages and restoration of cuts, which have not been possible in all cases under existing conditions.

Also, revenue from taxation from the wholesaler will automatically be increased.

MR. R. A. COMETLI, Chairman of the Executive Committee of the Wholesale Druggists' Association of New Zealand completed reading his statement (see pages 101 and 102).

Mr. Healy.] In your evidence you speak of "pirates"; what do you term "pirates"?—Certain chain-store organizations who adopt the practice of advertising a certain line at a special price to attract people into their shops.

Mr. Wilkinson.] In what way will this Act enable you to do the things that you desire to do the things that you—according to your own evidence—appear to be already doing. Are you not combining to fix the price of these proprietary articles to-day?—The manufacturers are doing that at enormous expense, and if the amendment were passed arrangements could be made to do it with little or no expense.

I want to know how the amendment is going to benefit you?—We consider that the amendment would allow the arrangements of the P.A.T.A. to be enforced; we are acting under that impression.

It does not seem to me to say that at all. From what I can see they are now combining and fixing prices, and this amendment would not apparently assist them. The amendment does not establish another price-fixing organization?—It leaves the field open.

You are doing it already?—Not in combination, every manufacturer is working independently.

Apparently the manufacturers of certain goods arrange to fix the price of certain goods; that is price-fixation?—You cannot get all manufacturers to do that.

Will you be able to get all manufacturers under this Act?—If the impression we have is correct, everybody would agree when the amendment is passed.

Mr. Jordan.] The whole of your trouble seems to me to be in connection with proprietary lines. You say, "Furthermore, there are very few chemists who are making more than a living wage out of their business to-day, due entirely to the fact that they are not able to make a reasonable margin of profit on patent and proprietary articles sufficient to cover their overhead." You build up the whole of your case on proprietary lines, is that not so?—No, not quite. As already explained, a retail chemist is unable to make much profit on prescriptions as there is not sufficient of this trade, and he must allow a certain amount of profit on patent and proprietary articles. For instance, if there were fixed prices for toilet articles the chemist would automatically get a fair proportion of the business. As an illustration, take the case of the tobacco and cigarette price-fixation—immediately that happened the small trader benefitted: there was no question about that. We consider that benefit would be the same in our case.

I suppose the business of a chemist during the last half-century has been seriously affected by the introduction of proprietary lines?—Yes.

Mr. Holland.] The complaint is that the chemists are unable to make a reasonable profit? Does this application point in the direction of raising prices to the public?—It does not mean raising prices; we want to stabilize prices to the public. A wholesaler may sell an article at 13s. 6d. a dozen, and instead of the retailer retailing it at 1s. 6d. each it is sold at 1s. 2d. or 1s. 1d. (by the large retailer), and in consequence the small retailer cannot sell that article.

Mr. O'Leary.] Apart from those lines set out on page 101, there are quite a number of other commodities that are price-fixed in New Zealand?—Yes.

I have here a statement from the *Bakers and Grocers' Review* of October, 1935, on "Protected Minimum Prices"—

The following is a list of manufacturers and packers of proprietary goods who have fixed and are to the best of their ability maintaining minimum prices for their lines.

We invite other manufacturers adopting the same policy to make use of this list in order that the grocers and storekeepers of the Dominion may be fully acquainted with the manufacturers' goods for which retail minimum prices have been definitely fixed:—

- Allen Saline Co. (N.Z.), Ltd.—
Rhusal Salts.
Bi-sal indigestion powder.
Frusaline health saline.
- Aspro Ltd.—
Aspros.
- A. and W. Baxter, Ltd.—
Baxter's lung preserver.
- The Bell Tea Co., Ltd.—
"Bell" Tea.
- Geo. Bonnington, Ltd.—
Bonnington's Irish Moss.
- Cadbury, Fry, Hudson, Ltd.—
"Bournville" cocoa, Bournvita.
- Colgate, Palmolive, Peat Co., Ltd.—
Soap, dental preparations, &c.
Palmolive soap, &c.
- Coloseptic Co. (N.Z.), Ltd.—
Coloseptic.
- Digest Tea, Ltd.—
Tea, &c.
- T. J. Edmonds, Ltd.—
Baking and custard powders.
- Fletcher, Humphreys, and Co., Ltd.—
"Amber Tips" tea.
- Kemphorne, Prosser, and Co.'s N.Z. Drug Co., Ltd.—
K.P. life salt.
Kruscs fluid magnesia.
- Lane Medicine Co., Ltd.—
Lane's emulsion.
- Osborne Manufacturing Co., Ltd.—
Certain "O.M.C." products.
- Proteena Milling Co., Ltd.—
Proteena products.
- Potter and Birks (N.Z.), Ltd.—
Johnson's baby powder.
- Salmond and Spraggon, Ltd.—
As agents for—
Q-tol liniment.
Q-tol shaving-cream.
Q-tol tooth-paste.
- Salmond and Spraggon, Ltd.—
As Agents for—
Fluenzol.
Scott's emulsion.
- Sharland and Co., Ltd.—
Nazol.
Gibbs' dentifrice.
- Tobacco manufacturers and agents (tobacco and cigarettes)—
Amalgamated Tobacco Manufacturers, Ltd.
Bagrie and Howie, Ltd.
Barlow Bros.
Claude W. Batten and Co.
British and Dominion Traders, Ltd.
A. de Beer.
T. E. Clayton and Co.
Dix and Hampton.
Dominion Tobacco Co., Ltd.
Fairbairn, Wright, and Co.
General Tobacco Co., Ltd.
Godfrey Phillips (N.Z.), Ltd.
H. E. Haines.
P. Horspool and Co.
J. M. Hyams (N.Z.), Ltd.
Imperial Tobacco Co. of N.Z., Ltd.
Harold Lightband, Ltd.
London Distributors, Ltd.
Loyal, Ltd.
Maling and Co., Ltd.
Mardon Tobacco Co.
National Tobacco Co., Ltd.
National Dairy Association of N.Z., Ltd.
Nelson Tobacco Co., Ltd.
Sargood, Son, and Ewen, Ltd.
Tait, Carlisle, Simpson, Ltd.
Traders Tobacco Co., Ltd.
Wakefield Tobacco Co., Ltd.
W.D. and H.O. Wills (N.Z.), Ltd.
Wilson Malt Extract Co., Ltd.—
Malt-extract.
W. E. Woods, Ltd.—
Woods' Great Peppermint Cure.

Mr. O'Leary.] Quite a large list where the prices are fixed.

You hope that this amendment will enable the Proprietary Articles Trade Association to be formed and operate in New Zealand?—Yes.

You know, I suppose, that that association and this proposal to function in New Zealand was considered in 1927 by a Committee of inquiry set up under the Board of Trade Act?—Yes.

And at its sittings evidence was given using the very arguments that you have put forward—grocers and others cutting and slaughtering lines to the detriment of the small trader—all these arguments were put forward before that Committee?—Yes.

This is what the complete majority of the Committee found (page xvii of the report of the P.A.T.A.):

The P.A.T.A. proposes to arrange for the fixation of resale prices and to maintain those prices by a system of boycott, the effect of which is to withhold supplies of all articles registered with the P.A.T.A. should a trader sell one article below the fixed selling-price." That is what you want to operate?—As to the P.A.T.A., it was assumed that the matter would be gone into very fully before the Government passed any legislation.

Apparently the association has the same methods wherever it operates—in New South Wales and in England. It was put in in Mr. Barker's evidence yesterday: "The essence of the Proprietary Articles Trade Associations plans for dealing with cutting is that if the fixed minimum prices of a single manufacturer are cut all manufacturers (and also wholesalers where prices are cut by a retailer) undertake to withhold supplies of all listed goods." That is the evidence?—Yes.

This is what the Committee said (p. xvii, P.A.T.A.): "In view of the foregoing, the majority of the members of the Committee believes that the proposals of the association constitute a danger to the public, are too far-reaching in effect, and are not justifiable under existing conditions. The element of force obtained by the boycott is a weapon which no body of citizens could use without coming sooner or later into serious conflict with public opinion. The possibility of abuse and private vengeance cannot be ignored."

Mr. O'Leary.] Can you give the Committee any reason why there should be a change in view towards the association between 1927 and 1935?—I am not in a position to give an extra detailed statement, but I would like to say this: that if that Committee were sitting to-day after these eight years' experience they may not have put forward the same views.

Mr. O'Leary said that he understood he would have an opportunity of summarizing, but he really did not feel that it was necessary to burden the Committee further—he had taken up a great deal of the Committee's time at the commencement, and he would be only too happy to supply any further information desired. Mr. Wilkinson had asked for particulars from Mr. Sutherland in regard to bread prices, and that would be handed in on the arrival of Mr. Sutherland, jun.

Figures had been given as to the number of grocers who had gone out of business, and information in this connection was supplied by Mr. O'Leary, who remarked that it was difficult to check the figures. The particulars supplied had been taken from the awards. Mr. O'Leary read portion of the statement, remarking on the increase in the Wellington district from 479 to 690 and the slight increase in Canterbury from 420 to 433.

The second page of the statement showed the number of chain stores in 1925 and 1935, and Mr. O'Leary pointed out that the number had increased from 9 in 1925 to 126 in 1935.

The Chairman : A remarkable increase in Wellington.

Mr. O'Leary : You refer to master grocers ?—Yes, master grocers.

Mr. O'Leary said that the third page of the statement [handed in] was correspondence in connection with a bread war in Otorohanga. Mr. Wilkinson had asked for this information.

The last page of the statement was information in connection with pills which Mr. Sutherland had obtained from Christchurch as a result of Mr. Tuck's evidence.

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