Again, at the bottom of page 809, he says,—

> In the present case, however, it was proved that the prices prevailing when negotiations for this agreement commenced were disastrously low owing to the "cut-throat" competition which has prevailed for some years. Even Isaacs, J., who decided in favour of the Crown, was apparently of opinion that there was, early in 1906 at any rate, some case for raising the price of coal considerably above its then selling-price of 7s. 6d. per ton. It can never, in their Lordships' opinion, be of real benefit to the consumers of coal that colliery-proprietors should carry on their business at a loss, or that any profit they make should depend on the miners' wages being reduced to a minimum.

(*d*) The Salt case, reported in 1914 Appeal Cases, page 461 (House of Lords), and in the Court of Appeal, vol. 107, Law Times, page 439: In this case reference was made by counsel to the Court of Appeal because Lord Justice Kennedy made certain observations which he wished to quote. The judgment of Lord Justice Kennedy was a dissenting judgment, but the House of Lords reversed the judgment of the majority. Lord Justice Kennedy says, at page 447, Law Times Report, vol. 107,—

> The doctrine of the invalidity of a covenant or contract on the ground of its being in restraint of trade rests upon what is called public policy. How is one to ascertain and judge of the interests of the public? Do they consist solely in the cheapness of a manufactured article? Or may the Judge consider the possibility, or even in some cases the probability, that unregulated competition may result either in destroying the production or the manufacture by making the trade unprofitable, or ultimately in raising the price of the commodity to the loss of the buyers by leaving a practical monopoly in the hands of the most wealthy or most powerful of the competitors?

In the same case, in the House of Lords, 1914 Appeal Cases, at page 469, Lord Haldane says,—

> "Unquestionably the combination in question was one the purpose of which was to regulate supply and keep up prices. 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."

Lord Parker, on page 480 of the same volume, says,—

> Some combination limiting output and regulating competition within the area, so as to secure reasonable prices, may have been necessary not only in the interests of the salt-producers themselves, but in the interests of the public generally. For it cannot be to the public advantage that the trade of a large area should be ruined by a cut-thraot competition.

In view of the findings of the Sub-Committee on Trusts, and of the judgments quoted, counsel for the P.A.T.A. contended to the following effect:—

(i) That it is unfair for a trader, or a section of traders, to cut the price of proprietary articles down to cost or below cost, and damage, if nct ruin, the trade in that particular article, and thus act to the detriment of the manufacturer and to the detriment of every wholesaler and retailer interested in selling the goods.

(ii) That the P.A.T.A. does not fix the prices of goods. These are fixed by the manufacturer, and the function of the committee of the P.A.T.A. is to see that these prices are not too high.

(iii) That it is not the object of the P.A.T.A. to prevent competition, to restrain trade, or to debar any person from selling articles on the P.A.T.A. protected list, so long as such person observes the minimum price fixed by the manufacturer.

(iv) That it is quite fair that persons who break their agreements in respect of any article under P.A.T.A. conditions should be debarred from obtaining any of the goods in the protected list.

(v) That people who resort to cutting are deliberately endeavouring to damage the trade of the manufacturer, and when they use goods for purposes of advertisement are also being unfair to the public through inducing them to believe that the prices of the goods in their shops are, as a whole, below those charged elsewhere.

(vi) That price-cutting induces substitution, which is unfair to the manufacturer.

(vii) That the Committee was bound to interpret the words of section 13 of the Board of Trade Act, "detrimental to the public welfare," in accordance with the quoted judgments of the Privy Council.

(viii) That many of the stores that cut prices, especially in the grocery trade, are working on too small a margin of safety, that their methods are not healthy and sound trading, and that owing to their precarious financial position they are really a menace to the community.