

THE CASE AGAINST THE P.A.T.A.

13. Counsel for the firms opposed to P.A.T.A. control first of all drew attention to the wording of section 13 of the Board of Trade Act, and held that under its provisions the Committee was entirely unhampered by precedent or any existing law; that the Board of Trade Act was peculiar to New Zealand, and under it the Committee might recommend amendment of the law, while at the same time taking into consideration the wider question of the public welfare.

Counsel said that the law of England and New Zealand was generally against monopolies, but that if it could be shown in any particular trade or industry there was such a thing as price-cutting and trade warfare, and that no one in the trade could carry on at a profit, then control was permissible. He cited the judgment of Sir Joshua Williams in the case of Merchants' Association of New Zealand *v.* The King (32 N.Z. L.R. 1268), known as the sugar case :—

The effect of the monopoly and control sought to be obtained by the merchants was to keep up the price of sugar to subpurchasers, which, had it not been for the monopoly, would have been reduced, and to make it impossible for the public to get the benefit of such reduction. *Prima facie* such a monopoly would, in our opinion, be of a nature contrary to the public interest. There may, however, be other considerations which negative this conclusion. Thus, if the monopoly is reasonably necessary to prevent the destruction and crippling of an important local industry, and if it is reasonably necessary in order to secure the efficient and economical distribution of the product of that industry, the monopoly might not be contrary to the public interest although it tended to keep up prices.

Counsel then argued—

(i) That no important local industry was affected; nor was the efficient and economical distribution of products affected by the operations of his clients, the cash grocers, fancy-goods dealers, and storekeepers; nor had any proprietary article been driven off the market by price-cutting.

(ii) That the cost of living in New Zealand was extraordinarily high, and that any scheme to increase the cost of living was, *prima facie*, detrimental to the public interest.

(iii) That the public was not represented on the P.A.T.A., and it had no say in the fixing of the prices of articles vendued under P.A.T.A. rules.

(iv) That the control of the manufacturer's price by the P.A.T.A. was a solemn farce, as the association's officials themselves admitted that they do not require the manufacturer to produce his costs; that in the case of foreign manufacturers it is impossible to investigate them; and that, as the most important element in determining what is a fair price to the consumer is the manufacturer's cost, the association cannot prevent an excessive price being charged.

(v) That the association is a combination of manufacturers, wholesalers, and retailers to fix prices, to control supplies, and to eliminate the competition of outside firms and goods not registered by the P.A.T.A., to boycott traders who refuse to fall in with their scheme, to prevent reductions made possible by efficient trading from being passed on to the consumers, and, from an economic point of view, worst of all, endeavoured to stereotype the present wasteful system of distribution.

(vi) Counsel quoted from page 9 of the Canadian report, as follows :—

In his "Modern Economic Tendencies" (1921) Sidney A. Reeve observes that in 1850 the effort employed in selling and distributing goods represented about 20 cents of the consumer's dollar, the productive effort represented the 80 cents; whereas nowadays the consumer pays more like 50 cents for the article itself and 50 cents for the expense of selling and distributing it;

and further contended that manufacturers and wholesalers associated with the P.A.T.A. would get a fixed margin of profit, irrespective of whether their business system was antiquated and out of date or otherwise, and whether they were attempting to improve their distributive system and reduce costs to the public or not.

(vii) It was argued that all proprietary articles must, if the scheme operated, come within the ambit of the organization, first, because of the assured profit, and, secondly, because the retailer was bound to push a P.A.T.A. article in preference to one not registered.

(viii) Counsel said that traders would be forced against their will to join the P.A.T.A. owing to commercial pressure, and that they would be bound to observe P.A.T.A. prices irrespective of overhead costs, and that consequently an increase of prices to the public was inevitable.