P.A.T.A. to prove affirmatively that their contemplated action is not detrimental to the public interest. They are defending a monopoly which is *prima facie* pernicious, in that it tends to maintain prices and eliminate competing men and substitutionary goods. This can be justified only by the most cogent proof of public advantage. It is not enough to assert or show that it will benefit the conspirators; it is the public welfare, and not that of the combining parties, that is in issue.

On the facts available, however, and on the admissions contained in the documents of the P.A.T.A. itself, it can, in my judgment, be demonstrated that its operations are detrimental to the public interest. I base this conclusion mainly on the following grounds:—

(i) The connotation of the term "proprietary article" is vague and indefinite. It is not defined by the P.A.T.A., and it seems capable of indefinite extension, and would undoubtedly receive such extension should the movement prosper. At present it seems to be applied loosely to (*a*) patented articles; (*b*) articles protected by trade designations, trade name or mark; (*c*) a vague range of articles got up in distinctive wrappers, cartons, or other containers with the maker's name upon them, and sold not in varying weights at the option of the buyer but by the unit. The contents are apparently taken for granted, and under the Sale of Goods Act there is no warranty of their fitness for any purpose whatever. The public are therefore without adequate legal protection, and peculiarly defenceless in the matter of testing the quality or utility of proprietary articles. If such articles get the protecton of being placed on the P.A.T.A. list, the list will steadily grow. At present it includes many foodstuffs, and to get the protection of the P.A.T.A. more and more stuff would be put up in containers, so that the range of price-protected articles would tend to increase. This point is stressed in case it is contended that proprietary articles are few, unimportant, and unessential. A reference to Mr. Sutherland's price-list shows the large number of items, a great majority of the whole, that are classed under the heading of proprietary articles. To permit protection to goods by price-maintenance merely because of the way they are packed or got up is simply letting in the thin edge of the wedge of general monopoly, and would speedily cause most of the every-day commodities of life to assume the guise of proprietary articles.

(ii) The proprietary-article trade is socially wasteful, being a costly and inefficient method of distribution. It is, therefore, against the public interest that it should receive encouragement or be fostered either by artificial expedients or in any other manner at all. Its undue cost is mainly attributable to the following factors: (*a*) It involves heavy advertising charges; not the comparatively small advertising costs of the individual local business merely, but the enormous cost of the heavy national and international campaigns conducted by manufacturers under modern conditions. This advertising is almost entirely competitive—*i.e.*, intended to displace one article (soap, cigarettes, and so on) by another substantially identical, as far as the public is concerned, with the displaced commodity. There is, therefore, no great advantage to the public to recoup it for the cost of the advertising bill, which amounts in the case of proprietary articles probably to hundreds of millions sterling per annum in the aggregate.

> In so far as advertising is merely competitive—that is, results only in shifting business from one firm to another—it is a net loss to society, though presumably an advantage, or at all events a necessary cost, to the advertising firm. Competitive advertising is, of course, passed on to the buyer in the prices charged for goods and services.—Murphy: "Outlines of Economics," p. 155).

(*b*) The cost of get-up, of packages and containers, is unnecessarily expensive, amounting in many cases to a half or more of the value of the contents. The attractive container is a costly excrescence, of no value to the community, except as a bait to attract buyers. (*c*) There are too many substantially identical products, differing little except in the most accidental features, such as soaps, tooth-pastes, tobaccos, and so on. Each of these has its separate overhead organization and a relatively small turnover, increasing greatly the cost of manufacture and distribution, making it necessary to stock an extremely wide range of samples in very small quantities, and playing too much into the hands of the capricious and volatile buyer. Experience in Canada has shown these disadvantages in the most glaring manner. I refer to pages 10–11 of the Canadian report. The Economic Sub-committee of the recent Imperial Conference expressly recommended against this tendency, pointing out the great saving effected by reducing the number of brands and standards of commonly demanded articles to the minimum, and showing the great economy that would result therefrom. A *résumé* of this report is given in the *New Zealand Industrial Bulletin* of the 10th February, 1927, pp. 210–11.

(iii) New Zealand is peculiarly vulnerable to mercantile and distributive monopolies, and has no internal defence against them, because most of her intermediary products come from abroad in exchange for exports of primary products. It is therefore relatively easy for importers to establish a stranglehold on imported commodities, because they have little to fear from internal manufacturing competition. We have not sufficient alternative locally produced supplies, and hence need protection from our merchants to a much greater extent than most other countries. The unchecked rapacity of our importers, and the enormously great number of them, relatively speaking, because of the great profit to be secured, are potent factors in the high cost of commodities in the Dominion.

> The economic situation of New Zealand makes this country a favourable field for the operations of combination of a certain type. We are, in the first place, isolated by distance from our main areas of supply and demand, importing most of our necessaries and exporting most of our raw products. There is, in addition, a heavy protective tariff, and while manufactures are remarkably developed for so small and new a country, nevertheless they are of comparative minor importance, for the great bulk of the intermediate necessaries of life, such as hardware, glassware, groceries, textiles, and fancy goods, are imported. The bulk of the imports, finally, enter through four main ports. In these circumstances one would expect commercial rather than industrial monopolies to prevail, and such is in fact the case.—(Murphy: "Outlines of Economics," pp. 175–76.)

(iv) The operations of the P.A.T.A. are certain to sustain prices at their present level, and likely ultimately to increase them. Experience in Canada shows that the first move is to stabilize and