

SIXTH DAY : TUESDAY, 1ST MARCH, 1927.

*The Committee met at 2.30 p.m.*

*Mr. Gresson:* If the Board pleases, as a result of my having spent the week-end in Christchurch and the evidence being available I have been able to go through it, and I think I shall be able to shorten very much the remarks I have to make, as I have endeavoured as far as possible to eliminate all detail and only address my remarks to questions of principle which should guide the Committee in coming to a conclusion. First, I want to direct attention to the wording of section 13 of the Board of Trade Act, as that is the section from which the powers of the Committee spring, and under which the inquiry is held. It was pointed out—I think, by Mr. Collins—when my learned friend was addressing the Board that the inquiry under section 13 is a far wider inquiry than the inquiries which were held in Canada and other places. For that reason I would like to read to the Board the actual wording of the section. It is:—

The Board of Trade is hereby authorized and empowered to hold such judicial inquiries as it thinks fit (whether of its own motion, or on a reference from the Governor-General, or on the complaint of any person) into any matter whatsoever relative to any industry carried on or proposed to be carried on in New Zealand, or relative to any industry wherever carried on which may affect the industries of New Zealand, for the purpose of obtaining information which may be required for the due control, regulation, and maintenance of the industries of New Zealand; the due observance, enforcement, or amendment of the laws relative thereto; the discovery of breaches of those laws; the prevention or suppression of monopolies, unfair competition, and other practices detrimental to the public welfare; the proper regulation in the public interest of the prices of goods and the rates of services; or for any other purpose relative to the industries of New Zealand.

The main objects which are set out in that section are four: first, to obtain information for the purpose of the due control of the industries of New Zealand; secondly—and, I submit, one of the most important—the desirability or otherwise of the amendment of the laws relative thereto; thirdly, the prevention of monopolies, unfair competition, and practices contrary to the public interest; and, fourthly, the proper regulation of the price of goods. The point I wish to make at present is one to which I do not think your attention has been drawn, and that is that this inquiry is entirely unhampered by the existing laws. It is entirely within your scope, should you think fit to do so, to recommend alteration or amendment of the law, and therefore you approach the inquiry simply from the point of view of whether these various matters which are mentioned in the section will cause you to think that there should be any amendment or alteration in the law. I would point out that, so far as I know, this Board of Trade Act has no counterpart in any English-speaking country. It is an Act peculiar to New Zealand, and is an Act which gives the widest power to committees of investigation such as this Committee: but the point is that the Committee, in coming to its conclusion is unhampered by precedent at all. It does not matter what they do in England or in Canada. The question is whether you, sitting as a New Zealand tribunal, consider the operations of this Proprietary Articles Trade Association involve a monopoly, or whether the law should be amended in New Zealand so as to prevent its operating in this country. Of course, I admit at once that to a large extent your deliberations must be governed by the wider question which my friend touched on—namely, whether the operations of the P.A.T.A. are contrary to the public welfare. I may still admit at once, as it will clear the ground, that I entirely agree with my learned friend's observations that at the present time it is permissible by the law, both of England and of New Zealand, for any manufacturer to fix a wholesale and a retail price for his goods; but that, it is submitted, is entirely irrelevant to the present inquiry. The question is now whether it is desirable that in New Zealand, under vastly different conditions than those which exist in England—where we are hardly a manufacturing country at all compared with England, and the great part of our manufactured articles come from abroad—whether it is desirable, I say, that the law should be altered to prevent that form of price-fixing operating in New Zealand. There is a very good reason why the law may not have been amended in England. I think it was touched on by Mr. Charter, one of the first witnesses, where he pointed out that in England it is a very difficult thing to obtain an amendment in the law, whereas in New Zealand it is a matter of comparative ease if the welfare of the public is involved. But, of course, we know that in England when you touch on the manufacturers' rights you are attacking vested interests, and that it is a matter of the greatest difficulty to get amending legislation passed where those rights are concerned. Here, again, I want to clear the ground, because I am in agreement with my learned friend to a great extent. The general effect of the English law at the present time on this subject is to this effect: that, generally speaking, the law of England and of New Zealand does not like monopolies; but to this there is an important corollary—that if it can be shown that in any particular trade 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. The only passage I will cite to the Board (from a decision not yet referred to) is a passage from the judgment of Sir Joshua Williams in the case of Merchants' Association of New Zealand *v.* the King, reported in 32 N.Z.L.R. 1268. That is the case known as the Sugar case. I cite this because it puts in better language than I could what the general effect is. The learned Judge said:—

The effect of the monopoly and control sought to be obtained by the merchants was to keep up the price of sugar to sub-purchasers, 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.

Now follows the exception:—

There may, however, be other considerations which negative this conclusion. Thus, if the monopoly is reasonably necessary in order 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.

*Mr. Myers:* Those observations were only made in a case brought under the Commercial Trusts Act.