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THE RISE IN PRICES:

IS ARTIFICIAL INTERFERENCE EVER JUSTIFIABLE?

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Toronto, May, 1920.

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Few subjects have evoked such wide-spread interest as has the enormous increase in prices during the last five or six years. Inextricably bound up with industrial and social conditions, the rise in prices has commanded the attention of persons of all classes, and the "high cost of living" has been a potent theme for platform and press. Our newspapers, in editorial and cartoon, have alternately thundered against it and found in it a source of much humour. Our magazines have printed article upon article under everchanging captions and from every conceivable angle, but always upon the same text. So-called specialists, ^{of} various schools and varied degrees of enlightenment, have diagnosed the symptoms and suggested remedies. It is even said that this "High Cost of Living" has exerted its influence on the formation of political policies. And, in spite of the furore it has aroused in all quarters, it continues to operate in the same deadly fashion, irrespective of the mass of invective and the wealth of specifics which have been hurled and offered.

It was inevitable that the rise in prices should arouse such general interest. The old adage that you need but touch a man's pocket-book to hear him squeal was never truer than it is today. For the high cost of living is no respecter of persons, and when people generally found those things which they considered necessities, becoming more and more expensive, it was natural that one and all should demand why. And to such an insistent and general interrogation there are always

those who are ready to propose a wherefore. The pity of it all is that so much that has been written and spoken on the subject of the rise in prices has been the result of mistaken and short-sighted ideas. The remedies proposed have in many cases been correspondingly worthless, and, sad to tell, in some instances even tinged with venom. Truly, in the words of Herbert Hoover, "the high cost of living is a temporary economic problem, surrounded by high emotions."

The increase in prices, while it occasioned a measure of disagreeable surprise to the average person, was not taken seriously at first. "A temporary disturbance," said many. Later, however, when the mad ascent continued without any sign of cessation, and was not immediately followed by a corresponding increase in wages and salaries, surprise gave place to resentment and a mighty uproar arose. Someone was, of course, to blame for this great inconvenience and distress to his fellows; and, thereupon, arose the secondary object of much vilification, namely "the profiteer". What he was, or who he was, we were not told precisely, but that he was the cause of the high cost of living, waxing fat upon the distress of the public, we were informed upon the best of authority.

Thus, it immediately became patent to most persons that the rise in prices was "unnatural, artificial, and wholly unjustifiable, being merely the wicked work of people who want to enrich themselves, and who are given power to do so, not by economic conditions, but, apparently, by some absolutely direct and inexplicable interference of the devil".

The entirely vicious root and cause of this distressing phenomenon thus so completely exposed, the remedy was apparent to everyone. Establish maximum prices and curb the cupidity of the iniquitous profiteer! So said the press, so said we all; and, soon after the outbreak of war, governments were besieged with demands to fix prices, thereby to frustrate

speculation and exploitation, break down high prices, and insure to the consuming public the necessities of life at reasonable and just prices.

Urged by the insistence of these demands, and, in many cases, fearful of popular favor, more than one government took hasty steps along the lines suggested. Prices of certain commodities were fixed by law, commissions were appointed to investigate economic conditions, and the hopes of the public were raised to the seventh heaven. But, alas, our expectations were short-lived. The rapacious profiteer did not upon the instant yield up his ill-gotten gains, - in fact it became a mooted question as to whether he really existed in anything like the degree that had been believed. The "High Cost of Living" began to appear a much more stubborn problem than it had hitherto been imagined, - and not only more stubborn, but infinitely more complex. The fixing of a maximum price for a commodity proved, to our surprise, a not only by no means infallible remedy for previous evils, but very often a new cause of a new and sometimes even more distressing phenomenon. The interplay of the intricate and delicate price system, the actions and reactions of price upon price, and price upon production, proved generally astonishing and perplexing. The British Sugar Commission fixed a lower price for sugar only to find that this lower price was taken advantage of by the wealthy, to corner the limited supply of sugar, to the great disadvantage and hardship of the poorer classes. The French Government fixed the price of potatoes, only to have them disappear to more profitable markets. The United States Government fixed the price of soft coal at \$2 per ton at the pit's mouth, only to find, later, a famine in soft coal. Producers found that, instead of selling three tons of coal at \$2 a ton, they could do better to convert them into two tons of coke which sold at \$6 a ton.* And so it went. In-

* W. C. Clark.

investigating committees found themselves enmeshed beyond their wildest dreams in the baffling system of prices, their vaunted remedies reacting upon them in unheard of ways and from unexpected quarters. Meanwhile, the expectant public waited in vain for any general relief from the burden of excessive prices.

Thereupon arose a new cry. Those who had been at one time most insistent in their demand for governmental regulation and intervention in trade, now began not only to question such interference but even to condemn it. Quick to challenge any act of the government, newspapers and politicians, with their usual agility, veered to the other extreme. Expenditure upon such futile efforts at investigation and remedy were not to be tolerated, said they. Of course, in this opinion, they were quickly seconded by the majority of business men upon whom the force of such intervention and regulation had fallen. "See" cried they "what your commissions have done. They have discouraged trade and production. You cannot interfere with economic laws. Competition and the law of supply and demand you cannot cheat. Away with all impediments to unhampered business. Let us merchandise as we have always done!"

Hence there was a swing to an almost laissez-faire policy among the majority of business men, many economists, a section of the press and a vast number of the public. Government bodies of trade supervision and regulation, while very expensive machinery, were considered to have done more harm than good. Not only had they failed to bring relief, but they had violated that sacred ground - "the prerogative of the individual, and the right of the owner of a business to run that business as he sees fit, to give his goods away or refuse to do so, to sell them for a cent or to refuse to sell them for less than ten million dollars". In fine, these bodies were a menace to society. So said the advocates of the new laissez-faire.

* Economist, in Toronto Saturday Night, April 10, 1920.

That they were unqualifiedly correct, the writer is extremely doubtful. Even as to their being less deluded than the previous class of malcontents, he is not entirely decided. Whether, at a time of exceedingly high prices, it is always wise to withhold any restraining hand, is a debatable question. In fact, this article, while certainly not venturing to uphold all forms of governmental regulation and price fixing, ventures to set forth certain conditions under which some such policy is not only justifiable, but even necessary for the well-being of both the community and the trade affected. In any question such as that of trade regulation and the fixing of maximum prices, it will hardly do to condemn it on general principles and because of its failure in certain instances. Though such a policy had failed utterly in every known instance, this cannot be accepted as conclusive proof that it can never succeed. No, each example must be weighed on its own merits, viewed as widely and sanely as possible, and not through mere analogy to other cases, - such analogy very often being entirely unjustifiable.

Three main reasons may be advanced for the dissatisfaction over attempts on the part of government commissions to fix prices and supervise trade.

1. In many cases, sad to relate, those who were given these sweeping powers, through a failure to appreciate the real underlying principles of a rise in prices, and the price system in general, exercised their prerogative in a very short-sighted and misguided manner. Hence, unlooked for and disastrous effects sometimes followed.

2. Through a similar failure to appreciate the real causes of the high cost of living, the majority of consumers expected governmental interference to accomplish the impossible, and were deeply chagrined when ~~they~~^{it} failed to do so. Even when the governmental boards did have such appreciation, and realized their existence to be for other, though none the less valuable

purposes, than the impossible abolition of the high cost of living, yet the mass of consumers, still lacking this understanding, expected what they could not find and gave vent to their spleen when disillusioned.

3. Lastly, those who were adversely affected by regulative measures, were quick to voice their resentment and take refuge behind a seeming knowledge of economic principles. Those who were really apprehended in what might be termed "profiteering" hid their guilt behind a loud denunciation of any interference with the laws of competition, and supply and demand.

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It would seem, therefore, to be fitting to enter at this point upon a brief discussion of the real causes at the root of the present scale of greatly increased prices.

Certain terms need to be defined before any such understanding can be arrived at. There is no place in the scope of this article for elaborate definition of economic expressions. Hence, we shall content ourselves with stating what we believe to be the generally accepted significance of these terms.

The term "value" is used in many senses. "But in * ordinary economic usage, "value" always means power in exchange! Value is a rate of exchange between goods; a good has value in proportion to its power to purchase other goods on the market. "Price is value expressed in terms of some one good, * ordinarily money, taken as a standard." The old formula that value is determined by supply and demand explains little by itself; and probably no economic law has been so over-worked, with as little understanding, as has this. It can only be used intelligently after an understanding of the terms demand and

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Chicago University Outlines of Economics.

supply. Desire for a good does not necessarily become demand for that good unless this desire is effective. In other words, I must be able and willing to complete the exchange for a good in order to demand that good. We may reckon demand in terms of the quantity of a good which will be purchased at a given price, or rather at each of a series of prices. Supply we may correspondingly reckon as the quantity of the good which will be offered for sale at a given price or rather at each of a series of prices. "Price, then, at any one time serves to equate demand with the supply available in the market!"* It must be remembered, however, that this analysis assumes the active agency of free competition, and proper allowance must be made for those cases where competition has been supplanted by monopoly.

What, then, are the main causes of the present rise in prices? At the very outset, it may be stated that "profiteering" is not one. It is but an incident of price advances, not the cause; it is a symptom of a disease, not its root. Let no misunderstanding arise at this point. It is highly reprehensible even as a symptom, and worthy of most rigorous treatment, in an enlightened manner. If the "profiteer" is definitely convicted, all honour to those who have discovered him, and all power to them in the meting out of justice. But "profiteering" is not the cause of the high cost of living.

Two causes are advanced by two different schools. One holds that the chief reason is shortage in production, either at home or abroad. The war called millions of men from productive effort to destructive pursuits. It is estimated that the warring nations of Europe took nearly one-third of their productive man power, away from production to the very opposite. This decrease in labour necessitated a decrease in the production of commodities, and even neutral countries felt the effect

* W. C. Clark.

in the consequent drain on their products by the belligerents. This under-production was greatly aggravated by the destruction of supplies by submarine campaigns, by transportation difficulties, crop failures, etc. On the other hand, the war occasioned an increasing demand for certain commodities, food and raw materials, particularly. Hence, through the operations of supply and demand, prices rose. "Scarcity, enlarged demand, and inflation, these are the three root causes of the present trouble, and the greatest of these is ^{scarcity} ~~scarcity~~".* The solution, we are told, is more production, the elimination of waste, and more economical and careful living. All of which is very true, but hardly final.

The other school holds that the chief cause of the rise in prices is the almost universal inflation of money and credit, due to methods used to finance the war. Prof. Irving Fisher is the well known exponent of the so-called "Quantity Theory of Money". He has endeavoured to show that the level of prices depends exclusively on five definite factors,

1. The volume of money in circulation;
2. Its velocity of circulation;
3. The volume of bank deposits subject to cheque;
4. Its velocity;
5. The volume of trade.

The members of this school hold that the real explanation of high prices lies in "the relation between two objective quantities, the quantity of goods and the quantity of money,"[#] and that, in general, prices increase or decrease directly with the quantity of money relative to the quantity of goods. Hence, in^{as} much as during the war the financial policies of the various governments gave rise to considerable inflation of the currency and great credit expansion, particularly on the part of the banks, the rise in prices was inevitable.

* W. C. Clark.
[#] A. B. Balcom

Which of these schools has the correct explanation as to why prices have risen so enormously in the past ~~two~~ few years? "Both are probably right, for short production and inflation probably alternately serve as cause and effect!"* We may criticise the purely supply and demand explanation on the ground that it postulates a condition for all commodities which was true only for particular commodities. There was a decrease in the supply of some goods, but not of all. Similarly, there was an increase in the demand for some goods, but not for all. As a matter of fact, the variations in the general relations of supply and demand, incident to the war, showed marked differences for particular commodities. There was an increase in the marginal utility of some commodities, a decrease in the marginal utility of others, and in many cases the change was insignificant. "Variations in value, therefore, must range all the way from actual decreases to material increases. Commodities, the market for which was restricted by the conditions of the war, but which are not subject to ready reductions in quantity, will illustrate the former. Most war necessities will illustrate the latter. If prices had ^{by other influences,} simply registered these changes, and had been unaffected, there would, likewise, have been a decrease in the prices of some commodities and an increase in the prices of others." # But the rise has been a general one. Hence, we are forced to the conclusion that some further explanation must exist.

We have already defined price as value expressed in terms of money, or the exchange relation of any commodity in terms of money. It follows, therefore, that a large increase in the amount of money in circulation will disturb this exchange relation, causing prices to rise. Here, then, would seem to be the further explanation of the present general increase in prices.

* Herbert Hoover.

A. B. Balcom.

It would appear, therefore, that both schools are right, and, in a measure, merely treating the question from two different standpoints, not necessarily contradictory. The quantity theorist admits that a decrease in the volume of trade, other things remaining equal, causes a rise in prices. Would not a serious decrease in production come under this category? On the other hand, currency inflation would seem to be a very potent influence in increasing demand and in making it more effective, if demand is considered in a rather broad sense. The Quantity Theory of Money may be accepted as explanatory of a general rise in prices over a series of years, while differences in the fluctuation of values of particular commodities *are* accounted for by the relation of supply and demand.

What has been the situation in Canada? Firstly, have we experienced any shortage of commodities? We have. Certain goods which we have been accustomed to import from other countries have become scarce, due to the disturbance of the industry there. British textiles serve as an example. There has been increasing difficulty in importing raw materials from the country of origin. For instance, labour difficulties in Cuba have seriously decreased the supplies of raw sugar coming into Canada. Again, foreign demand for our own produce has raised its price here at home. The huge exports of potatoes and other food stuffs exemplify this tendency. Further, our own industries have been handicapped in their production by the enlistment of workers in the army, and other labour difficulties. It was inevitable that all these influences should contribute in some measure to the rise in prices.

On the other hand, has there been an inflation of money and credit in our Dominion? And here we find an even more potent factor in price increases. The chief circulating media in Canada are gold, Dominion notes, bank notes and commercial bank deposits, the latter circulating through the

use of cheques. Currency inflation in Canada has occurred partly through the extension of note issue, and partly through the expansion of deposits. To some degree it was made possible by increases in gold reserves, but to a greater extent by legislation passed by our Dominion government during the war. The purposes of such legislation were to protect industry and to facilitate the financing of the war. The gold standard was partially abandoned, as the banks were absolved from their obligation to redeem their credit issues in gold, and the issue of Dominion notes based on approved security was permitted. These were, of course, used by the banks as the basis of an immensely increased volume of deposit currency. In addition, the gold reserves in Canada reached an amount which was Sixty Million Dollars (\$60,000,000) in excess of the amount held in 1914. This, too, increased enormously the possibilities of note and deposit currency expansion. The Government needed money to finance the war, to purchase munitions, food and other necessities, and turned to the banks for an increase in the circulating medium. Soon industry received a new impetus and also demanded larger credit ^{from} ~~than~~ the banks. The result could only be an immense inflation of the currency. Prof. A. B. Balcom is authority for the statement that Dominion and Bank notes combined have increased 125% since 1914, while that "phantom medium of exchange", commercial bank deposits, has increased 100% since that year, as is shown by the records of bank clearings. Is it, then, any wonder that prices have risen in Canada so generally and so enormously since the year 1914?

In conclusion, the situation in Canada is well stated in the final report of the Select Committee of the House of Commons, appointed on May 3rd, 1919, to investigate the cost of living in Canada. In Section 16 of this report, submitted to the House on July 5th of last year, we read in part:

".....Scarcity of material, and destruction due to war have partly caused this rise in price, but even more the expansion in currency and credit

has caused a general money depreciation, and as values or prices are expressed in terms of money, which is really a quantity of counters, the doubling of the number of counters and the lessening of the quantity of commodities give a resultant higher price. It must be remembered that the expansion of bank credits has been proportioned to the increase in the prices of production, and that the banks were called upon to furnish immensely larger sums to facilitate trade than in the period prior to the war. Huge dealings have been made possible to companies with comparatively small capital by a generous policy of credits on the part of the banks...."

III

An understanding of the underlying principles, as stated above, would seem to show conclusively the futility of the belief that the high cost of living could be lowered to any general extent by any artificial regulation on the part of a government appointed commission. Yet such was the expectation of many Canadians upon the institution of the Board of Commerce of Canada in August last, and bitter have been the attacks launched against this body, when it failed to accomplish the impossible. Moreover, failure to appreciate the above principles, has resulted in failure to recognise the true place of such a commission, and concede it a legitimate sphere of action; and in ~~the~~ a disposition to attack its efforts to fulfil what it believed to be its duty in this sphere.

The remainder of this article is not a defense of the Board of Commerce, or of all its policies. But it is a plea for a correct understanding of its purpose, for a fair consideration of its acts, and for the bestowal of a due measure of credit where such in truth belongs. The writer confesses both his indisposition and inability to discuss each individual order of the Board. One or two of these, however, he does hope to set forth in an endeavour to show that in some cases a carefully considered measure of governmental interference

in trade is justifiable, the laissez-faire exponents to the contrary, notwithstanding.

The Board of Commerce of Canada was created by our Dominion Government in response to a demand for such a Board from several quarters, and particularly from the Select Committee of the House of Commons, which was appointed on May 30th, 1919, to investigate the cost of living in Canada. This Committee submitted an interim report to the House on June 26th, 1919, in which it was stated that "there has come to the attention of your committee evidence in regard to undue profits being made on certain commodities." The report further recommends that "in order to provide a means by which a recurrence of such may be prevented, and that the public may be protected against unfair practices in trade.....legislation be enacted at this session of Parliament creating a tribunal with power to investigate mergers, trusts, monopolies " etc.

On June 28th, adopting the recommendation of the committee, the Minister of Justice introduced into the House two bills, "The Board of Commerce Act" and "The Combines & Fair Prices Act, 1919". The duties of the Board of Commerce were to administer ^{The} Combines & Fair Prices Act, to restrain and prohibit the promotion and operation of combines, mergers, trusts, monopolies, agreements or arrangements to limit facilities for transportation, production, etc, or to fix prices, or to enhance prices, rentals, or costs, or to prevent or lessen competition or otherwise restrain or injure commerce. The Board was empowered to investigate and remit the evidence as to any offence under the Act, to the Attorney General of the Province within which the offence was committed, or to itself prohibit the offending practice or act, subject to a penalty of fine or imprisonment or both. The Combines & Fair Prices Act provides measures for the investigation and restraint of combines, and repeals The Combines Investigation Act, 1910. The Act also enacts the principle

features of certain clauses in the Order-in-Council of December 11th, 1918, forbidding the undue accumulation or withholding from sale of any necessary of life, or the selling of any such necessary at unjust or unreasonable prices.

The Board of Commerce was also given the powers of the Minister of Labour under the above Order-in-Council to require from dealers and producers information as to stocks, prices, etc.

These Acts were passed before the close of the session. A copy of each is appended hereto.

Additional insight into the purpose in the minds of those who advocated the creation of the Board of Commerce, is found in the final report of the Select Committee, presented to the House on July 5, 1919. We quote from it as follows: "The publicity given to the investigations of such a Board will have a steady^{ing} effect. Its powers of regulation, applied to trade practices and agreements, will speed reform, and large questions of policy where trade tends to combinations and restrictions may be submitted to the Board for advisory action."

The Board was established in August last, by the appointment of Mr. Justice Robson of Winnipeg as Chairman, Mr. W. F. O'Connor, as member, and Mr. F. A. Acland, Deputy Minister of Labour, as temporary member of the Board. On September 30th, Mr. James Murdock, Toronto, Vice-President and Chief Canadian Executive of the Brotherhood of Railroad Trainmen, was appointed as third Commissioner to replace Mr. Acland. The Board has, therefore, been in existence less than a year, and, as expected, has met with rather a stormy passage in the discharge of its duties.

The important thing to notice about the creation of the Board of Commerce is that it was not set up for a purpose impossible of realization. It was not formed to bring

down the general rise in prices. Those who were responsible for its existence knew very well the folly of such an idea, but knew equally well that there was a sphere wherein it could operate with results highly desirable to the people of Canada. Nor did the members of the Board undertake their work with any exaggerated and mistaken idea of its scope and results. They fully realized that it was their business to deal, not with the root causes of the rise in prices, but with certain of its attendant evils. That they have done so fearlessly and effectively, and in the face of many obstacles and most bitter opposition, we hope to show, through a discussion of one phase of their work in particular. Incidentally, this necessarily brief discussion may serve to answer in part the question whether or not interference in trade, and price fixing may, in certain instances, be justifiable.

IV

One of the first matters brought to the attention of the Board of Commerce was the price charged for milk in various parts of the Dominion. The investigations conducted by the Board and the decisions rendered regarding the sale of this commodity are exceedingly interesting and worthy of study. Probably the fixing of the price to be paid for milk by the distributors of the City of Toronto to the producers, and the retail price to be paid by the consumers of that city, is one of the most typical examples of the work of the Board in this line.

Early in September of last year, the members of the Toronto Milk & Cream Producers Association announced their intention of increasing the price of milk from \$2.55 to \$3.35 per 8 gallon can delivered at the dairies in Toronto. This advance was to take effect on October 1st, 1919 and to continue during the Autumn and Winter months. The attention of the Board of Commerce being drawn to this large increase in the price of milk, an order was promptly made prohibiting any

advance for a period of 40 days, and appointing a Fair Price Committee to investigate the matter and make a report. The Committee consisted of 5 consumers and 5 distributors and producers with the representative of the Board as Chairman. After a very thorough investigation of the whole matter, including the cost of production of milk, it was unanimously recommended that a price of \$3.10 per 8 gallon can be approved. Subsequently, on Sept. 26th, 1919, the Board of Commerce ordered "that for the period of two months ending 30th November 1919, the wholesale price of \$3.10 per 8 gallon can of milk delivered at the dairy in Toronto may be made, and that the retail distribution price for that period may be 13 pint tickets for \$1;" also, "that after the 30th day of November 1919 application may be made for a declaration that the price is then unfair, at which time may be considered inter alia the then prices of animal feed and other costs entering into milk production". This decision was accepted by both producers and distributors.

However, on November 24th, at a meeting of the Executive of the Toronto Milk & Cream Producers Association, dissatisfaction over the price of \$3.10 was evidently expressed. The result was that a general meeting of the Association^{was} called on November 29th. Between 200 and 300 producers attended the meeting, gave voice to much indignation, and instructed their executive to inform the distributors that a price of \$3.35 would become effective on December 3rd. It will be noted that by this action the producers entirely ignored the order of the Board of Commerce and the previous decision of the Fair Price Committee. However, the dairies pointed to this finding and refused to pay the advanced price. Thereupon, the producers realized the hastiness of their action and turned to the Board with a request for a new hearing. This was granted, and the re-hearing held on December 5th, 1919. Here again the matter was thoroughly investigated from all angles

and the decision finally given that the price of \$3.10 per 8 gallon can delivered at the dairy should stand until April 30th 1920. It is interesting to note that Major Lewis Duncan, sub-commissioner of the Board of Commerce for Ontario, submitted a very strong argument for the reduction of the price to \$2.75. The method used in the investigations of the Board to ascertain the cost of production of milk will be discussed later.

Had there been no intermediary body such as the Board of Commerce, with authority to fix the price, the consumers of Toronto would undoubtedly have paid for their milk during the months of October to April inclusive, at the rate of 12 pints for a dollar, instead of thirteen. For, inasmuch as the dairies are dependent upon the members of the Toronto Milk & Cream Producers Association for their milk, the latter are in a position to dictate their own terms and the price of \$3.10 would undoubtedly have been paid. The effect of the increase in the retail price upon many of the families of Toronto was graphically pointed out at the hearing before the Board in the evidence of F. N. Stapleford of the Neighborhood Workers Association. That it would have meant considerable hardship to a great number of consumers is absolutely certain. The writer also made a personal investigation of a number of homes in this city, found the people already purchasing insufficient milk for proper nutrition, and unanimous in their declaration that even this supply would have to be reduced, if an increase in price should occur.

It is interesting, also, to note that the proposed increase to \$3.35 per can, while giving the producers but 25¢ more per can, would have added 41¢ to the cost to the consumer. This is due to the difficulty of translating the wholesale price into a retail price. The dairies, of course, would have reaped the extra profit. So that the increased profit to the producer would have meant much more than a correspondingly increased cost to the consumer.

The saving to Toronto citizens which resulted from the work of the Board of Commerce in the matter of milk is worth while noting. On the basis of the amount of milk sold by Toronto dairies in the corresponding months of October to April inclusive of the previous year, this saving amounted to well over \$150,000. On financial grounds alone and leaving all its other work out of consideration, this saving more than justifies the existence of the Board of Commerce for that period.

Why was it necessary for a regulative body to act in this matter as did the Board of Commerce; and why is it desirable and not only desirable but even necessary that some neutral commission should have the authority to fix the price of milk when such becomes necessary? The writer is of the opinion that such necessity arises from a combination of two factors:

- (1) Certain inherent characteristics of the commodity itself.
- (2) Certain distinctive features about the manner of its production.

We shall examine each of these in turn.

The outstanding characteristic of milk is that it may with very good reason be termed the necessary of life. If forced to do so, people can do without every other so-called necessary; but in the case of milk, it is absolutely necessary that a large and wholesome supply be furnished at all times. Probably we can best show the value of milk as a food by quoting from the final report of the Committee on the production and distribution of milk in Great Britain, of which Viscount Astor was the Chairman. On page 7 of this report we read: "Milk contains all the nutritive constituents required by the body - protein, fats and carbohydrates - in a readily assimilable form, which makes it a valuable food for all classes of the community, and especially for children. For infants, who may have to depend on artificial feeding, it is essential.... In addition to the above mentioned constituents, milk has been shown to possess ~~some~~ special properties which promote growth and are necessary

for maintaining the body in a healthy condition..... the exact nature and composition of these growth promoting substances, or vitamins, as they are provisionally termed, is at present unknown; but their existence is inferred from the effects produced in respect of growth and health by feeding animals on special and carefully controlled diets."

In his evidence before the Board of Commerce last December, Dr. G. A. Davis, of the Toronto Medical Health Department, stated that every child between the ages of 1 and 2 years should have from one pint to a quart of milk per day, and children up to 15 years should get at least one pint per day.

Hence, we see that is absolutely essential for the upbringing of a child to have an adequate supply of milk. Whatever tends in any way either to lessen the supply or to raise the price of this necessary of life is a matter of vital import to the community. Any circumstance or set of circumstances that in any way tends to place an adequate supply of pure and wholesome milk beyond the reach of the poor and needy strike at the very root of the state. Any situation that would tend to increase the infant mortality is a matter of greatest concern to the community. It is the duty, therefore, of the State to see to it that an adequate supply of wholesome milk is furnished to its inhabitants at a reasonable price.

Again, because of the peculiarly perishable nature of milk, one cannot anticipate a rise in price and lay in a supply, as can be done for almost all of the other necessities, such as flour, meat, eggs or vegetables. In the case of milk we have a daily crop that must be daily consumed. Hence, the public is peculiarly helpless against an increase in the price of this commodity.

The second factor contributing toward the necessity of some regulation of milk prices arises because of the distinct

ive conditions under which milk is supplied. The existence of large cities makes it impossible for the great masses of people to provide their own milk, and, consequently, they are dependent for their supply on the production of the farmers in the surrounding country. The quite natural result has been for these rural producers to organize and combine, for mutual advantages and protection. At first, no doubt, such organizations had for their dominant purpose the general improvement of the dairy industry and the bettering of production, costs and conditions. But, the subsequent result has always been the fixing on the part of the Organization of a uniform price at which their milk was to be sold. Consequently, we find in Canada an ever increasing number of Milk and Cream Producers Associations, controlling the supply of this very vital food substance through a combine possessing a practical monopoly of its production, and fixing uniform prices for its sale.

Let us take for example the organization known as the Toronto Milk & Cream Producers Association. This Association has some 2000 members, all of whom ship milk to Toronto dairies. They supply a large percentage of all the milk sold in the City of Toronto. The purpose of their organization is well set forth in by-law 11 of their original Constitution. It reads as follows: "Any member of the Association who shall sell or offer to sell milk at $\frac{1}{2}$ less than the price fixed or in violation of the rules, regulations, and recommendations made by the Association for sale of milk, shall be subject to trial in accordance with article 10 of the Constitution." In justice to the producers it must be stated that this by-law does not appear in later editions of their Constitution. It was, in all probability, omitted through a realization that such a declaration was an infringement of the Canadian Criminal Code; or, in the words of the President of the Association "because it might give a wrong impression".

However, the effect remains the same. The uniform price

is still fixed by the Executive, which, in turn notifies the dairies. Needless to say, the producers never sell at a price lower than that set by their executive. Further, if the dairies refuse to pay the stated price, the plan is for the executive to send a notification to this effect to each member of the Association. It is then left to a class ~~consenters~~ or the part of the producers to do something. The impression in each case given to the dairies is that unless the price is agreed to a very material reduction in the shipment of milk will necessarily follow. So we see that the Toronto Milk & Cream Producers Association is a very powerful organization, the force of whose price-fixing measures is as strong as though the above by-law were still incorporated in its Constitution; and that the threat of a "milk strike" is a weapon which cannot fail to bludgeon the dairies into paying the price demanded. The dairies, of course, simply hand on the increase to the consumer. We are, therefore, compelled to conclude that the production of the City of Toronto's milk supply is virtually a monopoly in the hands of the Toronto Milk & Cream Producers Association. Moreover, many similar Associations exist throughout this Province and Dominion.

Let it be perfectly clear that it is not the *writer's* purpose to condemn any organization of milk producers. It is natural and even desirable that some such association should exist for the sake of co-ordination and co-operation among the producers, in so far as such co-ordination and co-operation make for the cheaper and more scientific production of milk. But, when such combination attains the power of complete control over the supply and price of a commodity as *necessary as milk*, some regulation would seem to be absolutely essential for the best interests of the community. That it should be possible for some 2000 men to combine together and threaten, unless their demands are granted, to shut off the milk supply of half a million people, is, to say the least, an exceedingly ^{dangerous} state of affairs.

Granting that *there may* be sound economic reasons for centralizing control over the milk supply of a city such as Toronto, - if it is better that the production of milk should be the subject of a monopoly, that monopoly should be the people's own monopoly, regulated by an impartial body such as the Board of Commerce.

The evils of this concentration of power in the hands of a few producers, and the chances of its being abused are further aggravated by the important fact that the average producer, and in fact a great majority of producers, do not know what it costs them to produce their milk. ^{they think} ~~Time~~, they do know its cost of production, but their estimates are based on very imperfect and even erroneous methods of cost accounting. Consequently, through ignorance and wrong information, it is very easy to convince the average producer that he is losing money. Further, at the present time there is a greatly increased and ever growing class consciousness or esprit de corps among the agricultural classes generally, all of which contributes to the ease with which the farmer is influenced and made to believe that he is the victim of exploitation on the part of the urban classes.

The producer's ignorance of a proper method of finding the cost of production of milk, was well shown in the evidence taken before the Board of Commerce. Two methods were there used. We shall explain these very briefly.

The first is that employed by those producers who gave evidence based on their own experience in milk production. It consists in taking a short period varying from one day to seven months and charging up the market cost of all feeds and labour used in the maintenance of the herd. On this basis evidence was given to show that the cost of producing 100 lbs. of milk ranged as high as \$4.

It will be seen that this method is very inaccurate. It does not distinguish with sufficient accuracy labour spent in actual milk production and ⁱⁿ other pursuits. Further, grain

grown on the farm and fed to the cattle is charged up not at cost of production but at market prices. In some cases even it was charged at prices the producer would have to pay if he purchased the grain in the open market, forgetting that these prices include the profit of the farmer and two or three middle men. In fact, with this method, the producer invariably charged against the production of milk, profits to himself on materials and on labour and then an additional profit on the milk sold.

Hence, by this method the cost arrived at was determined on an artificial and not a natural basis. As pointed out by Major Duncan in his argument, milk cannot be produced economically in the city where all feeds must be purchased; nor would it be fair to fix a price for milk which would make it profitable to produce it in the city. Milk can most economically be produced on the natural economic unit known as the mixed farm; and it is only fair to fix a price based on the conditions there prevailing.

The other method of calculating the cost of milk production is the one used by the Department of Farm Management of the Ontario Agricultural College, Guelph. Under the auspices of this Department, Prof. A. Leitch conducted three surveys of dairy farms in Dundas and Oxford counties for the years 1917 and 1918 to ascertain the cost of producing milk. His method is to take the farm as an economic unit. Only farms receiving more than 50% of their revenue from the dairy herd are held to be "dairy" farms and are considered in determining the cost of production of milk. On these farms the producer of milk is taken to be the main line of business and all receipts from other sources are considered as reducing the cost of production of milk. The method then is to charge up all expenses on one side, and revenue from all sources other than milk on the other side. The difference then is the cost of producing milk. This sum being divided by the number of pounds of milk produced on the farm, gives the cost per unit,

usually taken as 100 lbs. It is to be noted that proper charges for depreciation are included among "expenses", and, in addition, a charge of 7% on all capital invested and \$500 wages are allowed the farmer for the year. The following is a concrete example taken from the report of Prof. Leitch's survey of 340 Dundas County farms for the year ending April 30th, 1918:

FARM NO. 148

Size - 98 acres
No. Cows - 20

Total Capital \$15,022
Milk sold - 114,876 lbs.

EXPENSES

REVENUE OTHER THAN MILK RECEIPTS

Labour hired	\$600	Crops sold	\$136
Feed bought	395	Increase & Sales of	
Repairs	96	cattle, sheep hogs &	
Taxes	141	poultry	275
Other farm expenses	239	Eggs sold	50
Depreciation on bldgs &		Maple Syrup sold	10
Machinery	288		
Decrease in feed on hand	11		
Int. on Capital 7%	1051		
Labor of Operator	500		
Total expenses	\$3321	Total revenue from side	
Revenue	471	lines	\$471
Cost of producing milk	\$2850		

114876 lbs. milk cost \$2,850.
100 " " " 2.48

As a basis for calculating the average cost of production for milk produced and shipped to Toronto dairies in the year 1919 Prof. Leitch took the average cost of production as shown in his survey of Dundas County in the year 1917. This was for the reason that the crop here had been a poor one as the conditions were not unlike those near Toronto. At the request of Major Duncan, Prof. Leitch submitted averaged figures for the farm survey in Dundas County in 1917, similar to those given above for farm #148. With these as the basis from which to work, due allowances for increase and decrease in various items were made by Prof. Leitch and Major Duncan, based on statistics in their possession; and the cost of producing milk for Toronto in the year 1919 was estimated. The comparative 1917 and 1919 costs on the average farm are given below:

DUNDAS CO. 1917-1919

80016 lbs milk per farm

	<u>1917</u>		<u>1919</u>	
	Gross per farm	On 100 lbs milk	Gross per farm	On 100 lbs. milk
<u>DEBITS</u>				
Capital in cattle				
\$2156 @ 7%	151	.189	169	.211
All other Cap.				
\$12201 @ 7%	854	1.067	854	1.067
Repairs to bldgs	57	.071	68	.085
Depreciation on bldgs & Machinery	251	.314	276	.345
Labor hired	474	.592	524	.655
Ice, milk haul- ing & silo fill- ing	99	.124	108	.135
Taxes & Bldg. in- surance	96	.120	96	.120
Feed grinding & threshing	69	.085	94	.118
Veterinary & testing	16	.020	16	.020
Feed bought	502	.625	602	.753
Seeds, plants etc.	86	.107	95	.119
Repairs to mach'y, shoeing etc	47	.059	64	.080
Incidentals	8	.010	9	.011
Operators labor	500	.625	700	.875
	<u>3210</u>	<u>4.008</u>	<u>3675</u>	<u>4.594</u>
<u>CREDITS</u>				
Hay sold	33	.041	66	.082
Potatoes sold	34	.043	37	.047
Seed, tobacco & beans	95	.118	105	.130
Wheat	17	.021	17	.021
All other crops	23	.029	27	.034
Increase feed on hand	155	.194	155	.194
Sales of hogs	345	.431	400	.500
Sales poultry	113	.141	141	.176
Sales cattle	158	.198	176	.220
Increase in cap. value live stock & cattle	268	.335	90	.113
Miscellaneous receipts	11	.014	11	.014
	<u>1252</u>	<u>1.565</u>	<u>1225</u>	<u>1.531</u>

The cost of producing 100 lbs. of milk therefore on the average farm in Dundas County was \$2.443 in 1917 and \$3.063 in 1919.

This, however, is the average cost for the entire year, including seasons both of low and high cost of production. From returns submitted by the dairies of Toronto, it was ascertained that 45% of the yearly milk supply was sold by the producers during the summer months of May to September inclusive and 55% during the winter months of October to April inclusive. Consequently, 45% of the supply of the year 1919 was sold at a rate of \$2.45 per 8 gallon can (82½ lbs.) delivered at the dairy, or \$2.20 at the railway station. The average shipping charge was 25¢ per can. A price of \$2.20 for 82½ lbs. is the equivalent of \$2.67 per 100 lbs. Again, in the three months October, November and December at least 21% of the year's supply was sold at the rate of \$3.10 per 82½ lbs. at the dairy, or \$2.85 at the railway station, which is the equivalent of \$3.45 per 100 lbs. In other words, out of every 100 lbs of milk sold by the producer in the season 1919-20, 45 lbs. brought \$1.20 and 21 lbs. brought 72¢. Sixty-six lbs. already sold, therefore, brought the producer \$1.92. The remaining 34 lbs must bring him \$1.15 in order to cover the average cost of \$3.063 per 100 lbs. for the year's production. A rate of \$1.15 per 34 lbs. is equivalent to \$3.39 per 100 lbs., or \$2.79 per can (82½ lbs.) at the railway station, or \$3.04 per 8 gallon can delivered at the dairy. In other words, the price of \$3.10 set by the Board of Commerce, was 6¢ greater than that necessary to give the average producer a better net profit than was received in 1917. For it is important to note that the sum of \$500 allowed the operator in 1917 over and above his expenses has been increased to \$700 in 1919. Had this been left at \$500 the cost of producing an 8 gallon can of milk delivered at the dairy would have been less than \$2.75. Of course

Of course some producers pointed to this \$700 figure and said it was absurd to expect them to work a whole year for that amount, and that the average labourer in the city received

more than that. Such a claim is absurd in the light of closer examination. Let us recapitulate the expenses items allowed in the above method of calculating the cost of production of milk. They are:

1. Cost of all feed purchased.
2. Cost of all labour hired.
3. Wages to wife and children when they do work which would otherwise be done by hired labour.
4. All repairs on farm.
5. Taxes.
6. All other farm expenses.
7. Depreciation on buildings and machinery
8. Decrease in market value of feed ~~for~~ stock on hand.
9. 7% interest on land and buildings.
10. 7% interest on all machinery.
11. 7% interest on all stock.
12. \$700 per annum to owner or operator.

It must be remembered, also, that the farmer and family and labourers get free housing and free living in so far as it is supplied by the farm.

Moreover, the above is the situation of the average producer. Anything that is made over and above this might be called "profit". In Dundas County in the year 1917 the "profits" varied from a "loss" of \$239. on 27 farms to a "gain" of \$1512 on three farms, with an average gain of \$143 on 278 farms. In Oxford County in the same year the "profits" varied from a loss of \$130 on 30 farms to a gain of \$1905 on 6 farms, with an average gain of \$408 on 363 farms.

So that it is absurd for the milk producer to compare his position with that of the average city labourer. Rather, he is in the position of a manufacturer. There are few city labourers who, after paying for rent, light, heat, taxes, insurance, hired help, milk, butter, eggs, potatoes and other vegetables, fruits and corn, and after receiving 7% interest on

all capital invested 2% depreciation, ~~and~~ the cost of all repairs, have anywhere from \$500 to \$2500 per annum to cover other expenses.

Yet, had it not been for the Board of Commerce the producers would have raised the price of milk last September to \$3.35 per can delivered at the dairy.

We have now dwelt at considerable length on the importance of milk as the necessary of life; on its peculiar nutritive values, the impossibility of obtaining a real substitute for it, and the impossibility, because of its perishable nature, of laying in a store of it. Further, we have pointed out the peculiar features attending the production of milk, in that it is a monopoly in the hands of a comparatively small, but exceedingly powerful combination or organization. Moreover, we have endeavoured to show that the members of this combination do not know their exact costs of production, and in the face of this ignorance they are utterly unqualified to exercise wisely the tremendous power which has come into their hands, and the abuse of which can only bring results extremely detrimental to the community. In other words, of Major Duncan at the hearing before the Board of Commerce, "either these combinations should be disbanded and there should be no common price fixed, or else there should be application to a properly constituted tribunal to fix the fair price". It is interesting to note that Mr. E. H. Stonehouse, President of the Toronto Milk & Cream Producers Association, who was then giving evidence assented to this statement.

Enough has already been said of the great value of an organization such as the Toronto Milk & Cream Producers Association. It would be a great mistake to disband it, and a serious blow at the very industry itself. Certainly, no such course is to be advocated. We are compelled, therefore, to accept the other alternative, regulation by a body such as the Board of Commerce of Canada; and to agree with Herbert Hoover when he says;"

"I am a believer in regulation if it should prove necessary. If experience proves that we have to go to regulation, it is my belief that it should be confined to over-swollen units and that the point of departure should not be the amount of capital employed but the proportion of a given commodity that it controls. The point of departure must depend upon the special commodity and its relation to the whole. When such a concern obtains such dimensions that it can influence prices or dominate public affairs, either with deliberation or innocence, then it must be placed under regulation and restraint. Our people have long since realized the advantage of large business operations in improving and cheapening the costs of manufacture and distribution, but when these operations have become so enlarged that they are able to dominate the community it becomes a social necessity that they shall be made responsible to the community. The test that should apply, therefore, is not the size of the institution or the volume of capital that it employs, but the proportion of the commodity that it controls in its operations."

It is only to be expected that any proposal to regulate the wholesale and retail price of milk will meet with very strenuous opposition on the part of many persons. The members of the Laissez-faire School will present the standard arguments against all price fixing and interference in trade. The producers of milk, - many of them but not all - will feel that their rights are being trampled upon. Accordingly, we can hardly dismiss the subject without referring to a few of the objections which will undoubtedly^{be} set forth. The chief of these probably are:

1. Such regulation would violate the inherent right of a person to sell his goods at his own figure.
2. Such interference in the trade would discourage the production of milk.
3. The interests of producers, distributors and consumers are one. The economic law of competition will always prevent undue profits on the sale of milk.
4. Why fix the price of milk and not of other commodities?

The first objection has really been answered in our discussion^{of milk} as the necessary of life. The State has a right, and not merely a right, but a duty which is far above the right of the individual to sell at his own price, or to refuse to sell at

all. This supreme right of the state arises through the obligation to take all measures necessary for the common weal and the good of the community. The traffic in a necessary of life such as milk is of such public concern and so fraught with importance to the state, that the state has a right to impose such conditions upon this traffic within its borders as it deems advisable for the public good. The state cannot compel a citizen or a corporation to embark in this business of the production or distribution of milk, but if a citizen or corporation elects to risk its capital and expend its energy in this business of dealing in the necessary of life, the state must have the right of regulating such traffic and of prescribing that such persons shall receive only a fair and reasonable return on the capital invested and the labour expended. Hence, it is a question of the greatest good of the greatest number. Since it is in the interest of the community that all its people be furnished with an adequate supply of milk at a reasonable price, it follows naturally therefrom that it is the right of the community to take all necessary measures toward this end, - a right beyond that of the individual producer or distributor to do business at its own terms.

"But," say our objectors, "if you fix the price of milk you discourage its production, decrease the available supply, threaten the existence of the entire industry and leave the community in a plight worse than before." The reply to this is, that such would only occur if the fixed price did not allow a fair and reasonable return to the producer and distributor. It is quite true that a price fixed below a certain point would discourage production; but it is elementary in any scheme of price regulation that the price determined shall yield a just profit. Moreover, such a figure is quite capable of being arrived at. It was determined by the Board of Commerce in the case of the Toronto Milk & Cream Pro-

ducers Association. Our figures for the costs of production of milk have proved this. Witness further the fact that there has been no appreciable decrease in the production of milk since the institution of a fixed price, at a figure lower than that demanded by the producers. Toronto citizens have experienced no milk famine during the past winter. This should be proof that the price fixed by the Board of Commerce did yield the producers a fair profit. Further, it was brought out in the evidence before the Board last December, that, while producers are charging the dairies \$3.10 per 8 gallon can and were demanding that this figure be raised to \$3.35, yet at the same time, milk was being sold to condensaries at a price of \$2.95 per 8 gallon can; this milk, moreover, containing a higher percentage of butter fat than that sold to the dairies. Consequently, we believe we are right in saying that the price fixed by the Board of Commerce was a profitable one to the producer and did not discourage the production of milk.

We come now to the third objection. It is undoubtedly true in a more or less abstract sense that the real interests of the producers, distributors and consumers are one. It is clearly to the interest of every one that a necessary of life such as milk should be produced and distributed as efficiently and economically as possible, but with a fair margin of profit to every one engaged in the process. Yet, particularly in the case of milk, in the actual operation of the plant, the selfish interest of one agency concerned may obtrude themselves and cause conflict and difficulties; and this, possibly, largely through ignorance or misconception. Moreover, to trust to the working of economic laws such as the law of competition to prevent any injustice, is a course fraught with peculiar dangers in the milk industry. We have already pointed out that the field of supply is probably more

limited than for any other necessary of life. The supplying of milk is left in the hands of a very powerful organization or combine. Moreover, owing to the peculiar qualities of milk it cannot be hoarded or stored up against a rising market, nor can substitutes be used for any length of time. In the case of nearly every other product, even necessities of life such as flour, meat, eggs and vegetables, the market is open to competition from much wider sources of supply, and competition not alone dependent upon the product of day to day, but upon the product of weeks and months before. Hence, in the case of milk, the alleged action of economic laws is very uncertain to say the least, and very much delayed. Meanwhile, ^a ~~the~~ public calamity may befall, before sufficient competition is induced into the field to check an unreasonable profit.

The final objection, as to the justice of fixing the price of milk and not of other commodities has been pretty fully answered in the foregoing. There may be other necessities the fixing of whose price would be very effective and very desirable. With these, however, we are not here concerned. But the fact remains that milk is peculiar both in inherent qualities and in the conditions surrounding its supply; and that these peculiarities not only make the effective regulating of its price, in certain cases, entirely possible, but also very necessary.

It is worthy of note, in passing, that the Board of Commerce is not alone in its stand for the existence of a permanent body empowered to supervise wholesale and retail milk prices. In both Great Britain and the United States there is a growing sentiment in favour of such regulation. In fact the measures suggested in these countries are far more sweeping in their control over the wholesale and retail trade in milk than the power exercised hitherto in Canada.

We have referred already to the final report of the Committee on the production and distribution of milk in Great

Britain. In section 81 of this report we read:

"In this connection the Committee welcomes a recent decision of the Government that powers should be taken by the necessary amendment of the Milk & Dairies Act,

- (1) To license all dealers of milk;
- (2) to grade and to define milk according to the way in which it has been produced or treated;
- (3) to empower local authorities to undertake the supply of milk in their areas;
- (4) to fix maximum prices in case of need;
- (5) to regulate distribution in times of short supply."

Two former Commissioners of Agriculture in New York State, Calvin J. Huson, and Charles A. Wieting, have expressed their belief that a State Milk Commission, enjoying in reference to milk, approximately the same powers as the Public Service Commission does to traction, telephone and other matters, will afford the only possible solution of the milk problem in this state, provided, however, that such a commission have the absolute right to determine and fix reasonable prices for both the producer and the consumer, together with the necessary machinery and powers to enforce such determinations. Dr. W. H. Jordan of the Geneva Experimental Station, who, during the war, was Chairman of the United States Federal Milk Commission is of the same opinion.

But the most convincing argument for state regulation of the entire milk industry which has come within the view of the writer is that found in the Final Report of George Gordon Battle, Esq., of New York City who was appointed in August 1919 by Governor Alfred E. Smith of New York State to conduct an investigation into the Department of Farms and Markets of that State. Mr. Battle's final report devotes a large amount of space to the results of a survey of the milk situation in New York State and to a number of recommendations in regard to it. Briefly summarized these are as follows:

1. The establishment of a "Milk Commission", consisting of three members appointed by the Governor for a fixed term of years preferably five, to be paid a reasonable salary and removable only for cause.

2. Their duties, broadly stated being to determine and

fix a reasonable price for producers and distributors based upon conditions in different localities and seasons.

3. Such Commission to have power to regulate the entire milk industry of New York State from the cow to the consumer, leaving, however, the power to supervise the quality of milk and the conditions under which it is produced and sold to the State Health Department and various Municipal Health Officers to whom such authority at present belongs.

4. All milk producers, shipping stations and distributors to be registered and licensed by the Milk Commission.

5. Producers to be required to report to the Commission at stated periods the disposition that has been made of the milk produced, with prices obtained therefor. Distributors also to be required to report daily the amount of milk received and the manner of its disposition.

6. Distributors to be required to file a map of the routes covered by their waggons in the distribution of milk, so that duplication may gradually be eliminated.

7. The Milk Commission to have the power, whenever it deems it advisable, to divert milk from manufacturing purposes into the regular channels of distribution direct to the consumer, and to confiscate milk at any shipping station whenever an emergency arises to warrant such action.

8. The Commission to have the power to inquire into all the elements of cost in the production, collection, transportation and distribution of milk, and to fix prices for the producer and distributor, based upon such costs and a reasonable return upon investment.

9. The Commission to have power to enforce all its regulations, and to revoke or suspend the license of any producer, shipping station, or distributor who fails or refuses to obey such regulation.

It would seem, therefore, that there is a growing sentiment not only in Canada, but also in Great Britain and ~~the~~ the United

States, that some measure of State regulation of prices in the milk industry is both desirable and necessary. The purely laissez-faire policy, for the milk industry at least, is not without its opponents, nor are its opponents without grounds for their opposition. The Board of Commerce of Canada has taken this attitude in regard to the milk industry of Canada and in the instances where it has exercised the power conferred upon it there can be no question of the beneficial results which have followed. The Board has, of course, met with very strong opposition in this line of its work, as in others; but it has, nevertheless, pursued the policy of fixing a price for milk whenever such action has appeared to be justifiable. That it has in this way saved many Canadian citizens from considerable hardship is undeniable; and that its action has in any instance adversely affected the milk industry, is yet to be proved. Moreover, it would appear that such regulation of the milk industry is not without its benefits even to producers and distributors. With a fixed price removing any suspicion of "profiteering" on the part of producers and distributors, a much more amicable feeling between these interests and the consuming public is bound to emerge. Such a friendly attitude is, beyond all doubt, highly to be desired on the part of the producers especially, at this, a time of great movement on the part of the agricultural element in our national life for social and political prestige.

V.

A few words in regard to the work in general of the Board of Commerce of Canada may not be amiss, in conclusion. Inasmuch as the writer was connected with the Board in a rather intimate, though humble capacity for a short time, he has had some opportunity of observing its efforts and the results of its work. For such opportunity he is grateful. He is very glad to say at the outset that he has always been impressed with a sincerity of the present members of the Board, their appreciat-

ion of the difficulties of their work and its extreme importance, and their fearless persistency in the face of seeming over-whelming discouragement and opposition.

That the Board has done a great deal of good for the citizens of Canada is unquestionable; though, it is to be regretted, without the majority of us fully appreciating this fact. Its work with regard to milk has already been elaborated at some length. In addition, the placing of an embargo on sugar leaving Canada, and the fixing for a time of the price to be charged for it in this country, has undoubtedly saved the consuming public millions of dollars, and a vast deal of inconvenience. For almost the first time in history sugar has sold in Canada at a price lower than that prevailing in the United States, and the scarcity in this country was a mere nothing in comparison to the scarcity there. At no time during the period of the Board's control of sugar did the retail price exceed 16¢ per lb., whereas during that time the writer saw an advertisement in a New York State paper offering as a very special inducement sugar at 20¢ per lb. The Board's orders in regard to the sale of ^{men's} ready-made suits and overcoats, of boots and shoes and of pork products have also afforded no small relief to the consuming public. Further, it has fallen to it to conduct proceedings against a small number of what later were proven to be genuine "profiteers". In all these instances the Board has been untiring in its efforts to convict these persons. Finally, we may say without fear of being contradicted, that it has yet to be proven wherein a single order of the Board of Commerce has wrought any serious effect upon the commercial life of our Dominion.

It was to be expected that the Board of Commerce would encounter no little opposition in the prosecution of its work. If anything, these expectations have been exceeded by the facts. Certain interests who have believed themselves injured by the orders of the Board, and certain others who have been given

cause to fear its possible actions, have united in their attacks upon it, and have been bold in the expressions of their desire to wipe it out of existence. The rumor of the collection of a fund for this purpose is apparently well founded. Certain it is that much lobbying toward this end has gone on at the Capital. The resignation of Judge Robson, the Chief Commissioner of the Board, has not materially contributed toward ~~its~~ efficiency. Judge Robson's grounds for retirement, as announced by himself, have been pounced upon by the Board's enemies as further evidence as ^{to} the failure of its work. Why Judge Robson should have accepted the position of Chairman of the Board with a full knowledge of its constitution, powers, sphere of activities and the acts which it was called upon to administer, without at that time feeling that he could not be in sympathy with them, it is not the place of this article to comment upon. We must, however, give him due credit for making a way for some more suitable person, as soon as this realization came to him. It is to be hoped that a capable successor may soon ~~be~~ be found to take his place.

The attacks of the Board's enemies have culminated in their challenging the constitutional right of the Dominion Government to appoint such a tribunal. In order to settle forever all doubt on this point, the Board itself has presented a stated case before the Supreme Court of Canada, for its opinion as to the constitutionality of the Board's existence. The case has already been heard, but no decision ^{has} as yet been announced. Meanwhile, the work of the Board is more or less hampered. If the Supreme Court sustains its existence, it will assuredly continue to act as sincerely and wisely as hitherto, and with a great deal more confidence, and considerable less opposition. The writer, for one, makes bold to express his hope that such may be the case.

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TORONTO MILK PRICES

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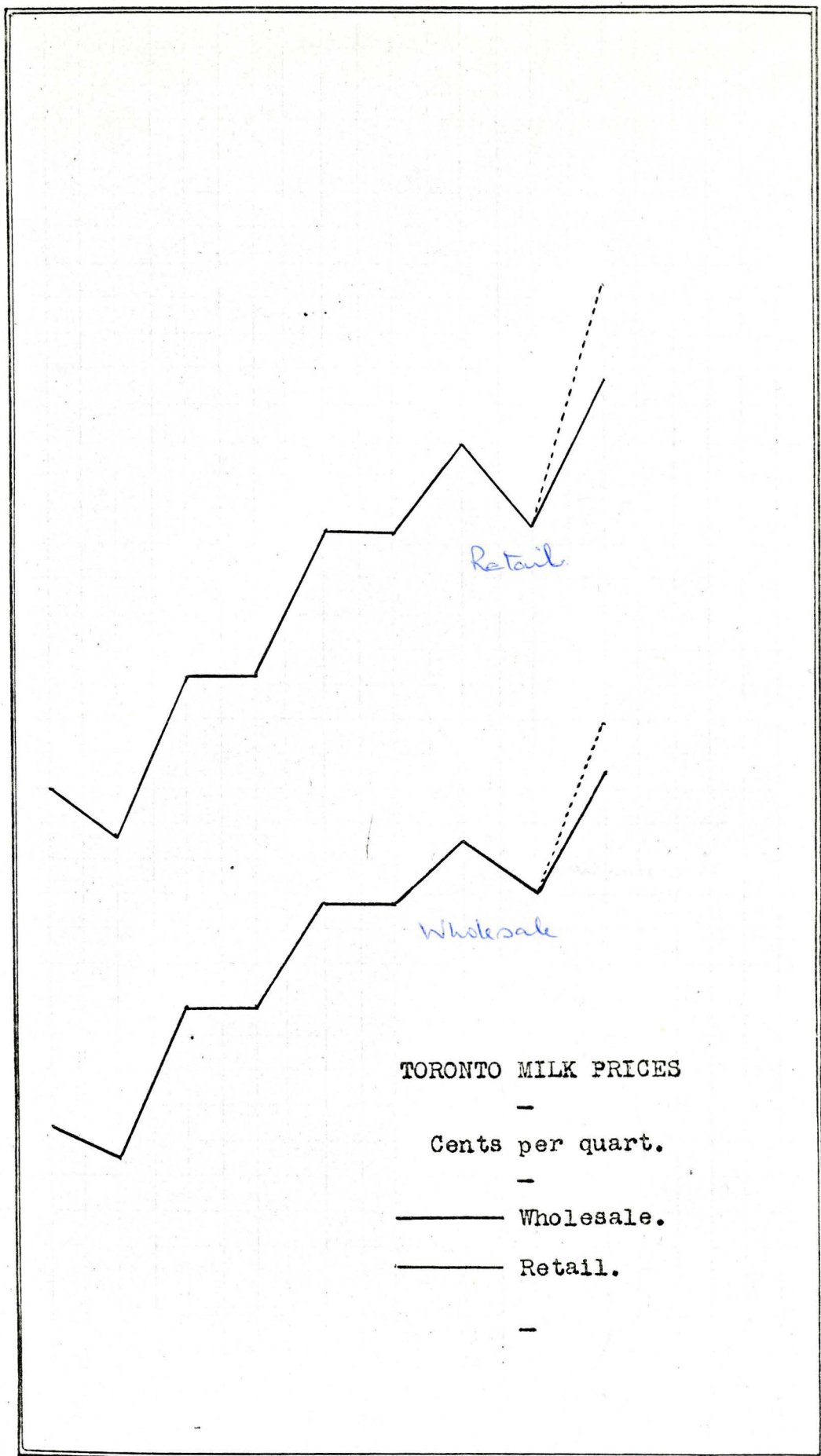
— Wholesale.

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Retail

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9-10 GEORGE V.

CHAP. 37.

An Act to constitute a Board of Commerce for Canada.

[Assented to 7th July, 1919.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Board of Commerce Act*. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,— Definitions.

- (1) "Board" means the Board of Commerce of Canada, as by this Act constituted;
- (2) "Costs" includes fees, counsel fees and expenses;
- (3) "Exchequer Court" means the Exchequer Court of Canada;
- (4) "Minister" means the Prime Minister or such other minister as may be designated by the Governor in Council for the purpose;
- (5) "Secretary" means the Secretary of the Board; and
- (6) "Special Act" means the *Combines and Fair Prices Act, 1919*.

CONSTITUTION.

3. (1) There shall be a Board, known as the Board of Commerce of Canada, consisting of three commissioners appointed by the Governor in Council. Commissioners.

- (2) Such Board shall be a court of record, and have an official seal which shall be judicially noticed. Powers and seal.

- (3) Each commissioner shall hold office during good behaviour for a period of ten years from the date of his appointment, but may be removed at any time by the Governor in Council for cause provided that,— Tenure of office.

- (a) a commissioner shall cease to hold office upon reaching the age of seventy-five years; and

(b) if a judge of any superior court in Canada is appointed Chief Commissioner of the Board, he shall not be removed at any time by the Governor in Council, except upon address of the Senate and House of Commons.

(4) A commissioner on the expiration of his term of office shall, if not disqualified by age, be eligible for reappointment.

Chief Commissioner.

4. (1) One of such commissioners shall be appointed by the Governor in Council Chief Commissioner.

Qualification.

(2) Any person may be appointed Chief Commissioner who is or has been a judge of a superior court of Canada or of any province of Canada, or who is a barrister or advocate of at least ten years' standing at the bar of any such province.

Commissioner to act in his absence.

(3) A Commissioner shall have all the powers of the Chief Commissioner; but such powers shall not be exercised by him except in the absence of the Chief Commissioner, and whenever he has acted it shall be conclusively presumed that he has so acted in the absence or disability of the Chief Commissioner within the meaning of this section.

Chief Commissioner may authorize a Commissioner to exercise certain of his powers.

5. Where the Chief Commissioner deems it necessary for the more speedy and convenient despatch of business he may by writing authorize any commissioner to sign regulations, orders and other documents in his stead, and when done pursuant to such authority the same shall have the like force and effect as if signed by the Chief Commissioner.

Quorum.

6. (1) Two commissioners shall form a quorum, and not less than two commissioners shall attend at the hearing of every case: Provided that,—

When one Commissioner may act.

(a) In any case where there is no opposing party and no notice to be given to any interested party any one commissioner may act alone for the Board; and,

One Commissioner may be authorized to report to Board.

(b) the Board, or the Chief Commissioner, may authorize any one of the commissioners to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such commissioner shall have all the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board or otherwise dealt with as to the Board seems proper;

Decision where opinion equal.

(c) in case of an equal division of opinion as between two commissioners the other commissioner shall be called upon for his opinion.

(2) The Chief Commissioner, when present, shall preside, and a commissioner, in the absence of the Chief Commissioner, shall preside, and the opinion of either of them upon any question arising when he is presiding, which in the opinion of the commissioners is a question of law, shall prevail.

Presiding Commissioner.

(3) No vacancy in the Board shall impair the right of the remaining commissioners to act.

Vacancy.

7. Whenever any commissioner is interested in any matter before the Board, or of kin or affinity to any person interested in any such matter, the Governor in Council may, either upon the application of such commissioner or otherwise, appoint some disinterested person to act as commissioner *pro hac vice*; and the Governor in Council may also, in the case of the illness, absence or inability to act of any commissioner, appoint a commissioner *pro hac vice*; Provided that no commissioner shall be disqualified to act by reason of interest or of kindred or affinity to any person interested in any matter before the Board.

Where interested in matter, etc., Governor in Council may appoint another person to act.

8. The commissioners shall, during their term of office, reside in the city of Ottawa, or within five miles thereof, or within such distance thereof as the Governor in Council at any time determines.

Residence.

9. The commissioners shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section.

Whole time to be devoted to duties.

OFFICES.

10. (1) The Governor in Council shall, upon the recommendation of the Minister, provide, within the city of Ottawa, a suitable place in which the sessions of the Board may be held, and also suitable offices for the commissioners, and for the secretary, and the officers and employees of the Board, and all necessary furnishings, stationery and equipment for the conduct, maintenance and performance of the duties of the Board.

Offices and furniture, etc., in Ottawa.

(2) The Governor in Council, upon the recommendation of the Minister, may establish at any place or places in Canada such office or offices as are required for the Board, and may provide therefor the necessary accommodation, furnishings, stationery and equipment.

At other places.

SITTINGS AND DISPOSAL OF BUSINESS.

11. The Board whenever circumstances render it expedient to hold a sitting elsewhere than in Ottawa, may hold such sitting in any part of Canada.

Sittings.

Times for sitting.

12. (1) The commissioners shall sit at such times and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business.

May sit in open court or in camera.

(2) They may, subject to the provisions of this Act, sit either in private or in open court: Provided that any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

Rules.

13. Subject to the provisions of this Act, the Board may make rules and provisions respecting,—

- (a) the sittings of the Board;
- (b) the manner of dealing with the matters and business before the Board;
- (c) the apportionment of the work of the Board among its members, and the assignment of members to sit at hearings and to preside thereat; and,
- (d) generally, the carrying on of the work of the Board, the management of its internal affairs, and the duties of its officers and employees; and in the absence of other rule or provision as to any such matter, it shall be in the charge and control of the Chief Commissioner or such other member or members of the Board as the Board directs.

EXPERTS.

Experts to be appointed.

14. The Governor in Council may, from time to time, or as the occasion requires, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board. He may also establish an advisory council to the Board, consisting of persons skilled and experienced in matters affecting industry, trade and commerce, and selected from among the labouring, manufacturing and commercial classes.

SECRETARY.

Secretary.

15. There shall be a Secretary of the Board who shall be appointed by the Governor in Council, hold office during pleasure, and reside in the City of Ottawa.

Duties.

- 16.** (1) It shall be the duty of the Secretary,—
- (a) to attend all sessions of the Board;
 - (b) to keep a record of all proceedings conducted before the Board or commissioner under this Act;
 - (c) to have the custody and care of all records and documents belonging or appertaining to the Board or filed in his office;
 - (d) to obey all rules and directions which may be made or given by the Board, or the Chief Commissioner, touching his duties or office;

- (e) to have every regulation and order of the Board drawn pursuant to the direction of the Board, signed by the Chief Commissioner, sealed with the official seal of the Board, and filed in the office of the Secretary.

(2) The Secretary shall keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order, and every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of any such regulation or order.

(3) Upon application of any person, and on payment of such fees as the Board may prescribe, the Secretary shall deliver to such applicant a certified copy of any such regulation or order.

Records.

Certified copies to be given.

17. In the absence of the Secretary from illness or any other cause, the Board may appoint from its staff an acting secretary who shall thereupon act in the place of the Secretary, and exercise his powers.

Board may appoint acting secretary in certain cases.

STAFF.

18. (1) There shall be attached to the Board such officers, clerks, stenographers and messengers as may be required.

Appointment of staff.

SALARIES AND PAYMENTS.

19. (1) The Chief Commissioner shall be paid such annual salary, and each of the other commissioners such annual salary, as may be determined by the Governor in Council.

Salary of commissioner.

(2) The Secretary shall be paid an annual salary to be determined by the Governor in Council.

Salary of secretary.

(3) Such salaries shall be paid monthly out of such moneys as Parliament may appropriate for the purpose.

How paid.

20. The officers, clerks, stenographers and messengers attached to the Board shall receive such salaries or remunerations as may be approved by the Governor in Council upon the recommendation of the Board.

Salaries of staff how fixed.

21. Whenever the Board, by virtue of any power vested in it by this Act, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act, such person shall be paid therefor such sum for service and expenses as the Governor in Council may, upon the recommendation of the Board determine.

Payment of persons appointed to do special service.

Salaries to be
voted by
Parliament.

22. The salaries or remuneration of all such officers, clerks, stenographers and messengers and all the expenses of the Board incidental to the carrying out of this Act, including all actual and reasonable travelling expenses of the commissioners and the Secretary, and of such members of the staff of the Board as may be required by the Board to travel, necessarily incurred in attending to the duties of their office, shall be paid monthly out of moneys to be provided by Parliament.

FRANKING PRIVILEGE.

Franking.

23. All letters or mailable matter addressed to the Board or the Secretary at Ottawa, or sent by the Board or the Secretary from Ottawa, shall be free of Canada postage under such regulations as are from time to time made in that regard by the Governor in Council.

ANNUAL REPORT.

Report.

24. The Board shall, within two months after the thirty-first day of March in each year, make to the Governor in Council through the Minister an annual report for the year next preceding the thirty-first day of March, showing briefly,—

- (a) applications of the Board and summaries of the findings thereon under this Act;
- (b) summaries of the findings of the Board in regard to any matter or thing respecting which the Board has acted of its own motion, or upon the request of the Minister;
- (c) such other matters as appear to the Board to be of public interest in connection with the persons, companies and matters subject to this Act; and,
- (d) such matters as the Governor in Council directs.

Laid before
Parliament.

(2) The said report shall be forthwith laid before both Houses of Parliament, if then in session, and if not in session then during the first fifteen days of the next ensuing session of Parliament.

GENERAL JURISDICTION AND POWERS.

Administra-
tion of Com-
bines and
Fair Prices
Act.
Jurisdiction.

25. The Board shall be charged with the general administration of *The Combines and Fair Prices Act, 1919*, which Act is hereinafter referred as to "The Special Act."

(2) The Board and its members shall have jurisdiction, as to matters of law and of fact, to investigate, inquire, hear, determine, order, appoint, direct, permit, sanction, approve or prohibit as it or they, by this Act or by the Special Act, or by the special direction from time to time of the Governor in Council may be authorized and empowered.

(3) The Board may order and require the doing forth-
with or within any specified time, and in any manner
prescribed by the Board, so far as is not inconsistent with
this Act, of any act, matter or thing required or authorized
under this Act, or the Special Act, and may forbid the doing
or continuing of any act, matter or thing which in its
opinion is contrary to this Act or to the Special Act.

- 26.** The Board may make orders and regulations,—
(a) with respect to any matter, act or thing which by
this Act or the Special Act is sanctioned, required
to be done, or prohibited;
(b) generally for carrying this Act into effect; and, with-
out limiting the general powers by this section con-
ferred;
(c) as in this Act specifically provided.

Orders and
regulations.

27. The Board may, of its own motion, or shall upon
the request of the Minister, inquire into, hear and deter-
mine any matters or things which under this Act, or under
the Special Act, it may inquire into, hear or determine
upon application or complaint, and with respect thereto
shall have the same powers as upon any application or
complaint, are vested in it by this Act.

May inquire
into any
matter re-
ferred to it,
etc.

28. Any power or authority vested in the Board under
this Act or the Special Act may, though not so therein
expressed, be exercised from time to time, or at any time,
as the occasion may require.

Powers to be
exercised
from time
to time.

29. The Governor in Council may at any time refer
to the Board for a report, or other action, any question,
matter or thing, whether or not arising or required to be
done under this Act or the Special Act, which affects or
concerns trade, commerce, or industry, and the Board
shall without delay comply with the requirements of such
reference.

Governor in
Council may
ask for
reports.

30. When any act, matter or thing is, by any regulation,
order or decision of the Board, required to be done, per-
formed or completed within a specified time, the Board
may, if the circumstances of the case, in its opinion, so
require, upon notice and hearing, or in its discretion upon
experts application, extend the time so specified.

Time for
making order
may be
extended.

31. The Board may, in any application, proceeding or
matter of special importance pending before it, if in the
opinion of the Board the public interest so requires, apply
to the Minister of Justice to instruct counsel to conduct
or argue the case or any particular question arising in the
application, proceeding or matter as to any public interest

Counsel may
be instructed
by Minister
of Justice.

which

which is or may be affected thereby or by any order or decision which may be made therein; and, upon such application to him by the Board, or of his own motion, the Minister of Justice may instruct counsel accordingly.

Stating a case for the Supreme Court of Canada.

32. (1) The Board may, of its own motion, or upon the application of any party, and upon such security being given as it directs, or at the request of the Governor in Council, state a case, in writing, for the opinion of the Supreme Court of Canada upon any question which, in the opinion of the Board, is a question of law or of jurisdiction.

Decision remitted to Board.

(2) The Supreme Court of Canada shall hear and determine such question or questions of law arising thereon, and remit the matter to the Board with the opinion of the Court thereon.

Not to be bound by decision of any other court.

33. (1) In determining any question of fact, the Board shall not be concluded by the finding or judgment of any other court, in any suit, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Nor affected by pendency of any suit.

(2) The pendency of any suit, prosecution or proceeding in any other court, involving questions of fact, shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Finding conclusive.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive.

ORDERS AND DECISIONS.

Orders, when may be made to come into force.

34. The Board may direct in any order that such order or any portion or provision thereof, shall come into force at a future time or upon the happening of any contingency, event or condition in such order specified, or upon the performance to the satisfaction of the Board, or a person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of a specified event.

Interim order may be granted.

(2) The Board may, instead of making an order final in the first instance, make an interim order, and reserve further directions either for an adjourned hearing of the matter, or for further application.

Order may be given granting whole or part of application or other relief.

35. Upon any application made to the Board under this Act, the Board may make an order granting the whole or part only of such application, or may grant such further or other relief, in addition to or in substitution for that applied

applied for, as to the Board may seem just and proper, as fully in all respects as if such application had been for such partial, other or further relief.

36. The Board may, if the special circumstances of any case so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered, on application, notice and hearing, to authorize, require or forbid; but no such interim order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined, provided that no such interim order shall have effect for a longer period than forty days.

Interim *ex parte* orders may be granted.

37. No order of the Board need show upon its face that any proceeding or notice was had or given, or any circumstances necessary to give it jurisdiction to make such order.

No order need disclose reason for jurisdiction.

38. (1) Any decision or order made by the Board under this Act may be made a rule, order or decree of the Exchequer Court, or of any superior court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court.

Decision may be made rule or decree of Exchequer or Superior Court.

(2) To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or, in lieu thereof, the secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the Board:—

Procedure.

“To move to make the within a rule (order or decree, “as the case may be) of the Exchequer Court of “Canada (or as the case may be).

“Dated this day of A.D. 19
“A. B.

“Chief Commissioner of the Board of Commerce
“of Canada.”

(Seal)

(3) The secretary may forward such certified copy, so endorsed, to the registrar, or other proper officer of such court, who shall, on receipt thereof, enter the same as of record, and the same shall thereupon become and be such rule, order or decree of such court.

Certified copy such to registrar.

(4) When a decision or order of the Board under this Act, has been made a rule, order or decree of any court, any order or decision of the Board rescinding or changing the same shall be deemed to cancel the rule, order or decree

Rescinding order.

Option of Board to enforce order.

of such court, and may, in like manner, be made a rule, order or decree of such court.

(5) It shall be optional with the Board, either before or after its decision or order is made a rule, order or decree of any court, to enforce such decision or order by its own action.

Rules, regulations, etc., effect of publication in Canada Gazette.

39. Any rule, regulation, order or decision of the Board shall, when published by the Board, or by the leave of the Board, for three weeks in the *Canada Gazette*, and while the same remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof.

REVIEW AND APPEAL.

Review and rehearing, etc.

40. The Board may review, rescind, change, alter, or vary any order or decision made by it, or may rehear any application before deciding it.

Governor in Council may vary or rescind any order, regulation or decision of Board.

41. (1) The Governor in Council may, in His discretion, either upon petition of any person interested, lodged within one month after the making of the order, decision, rule or regulation, or within such further time as the Board under special circumstances may allow, or of His own motion, at any time, and without any petition or application, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order which the Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties.

Appeal to Supreme Court of Canada upon a question of jurisdiction.

(2) An appeal shall lie from the Board to the Supreme Court of Canada upon a question of jurisdiction, but such appeal shall not lie unless a judge of said court upon application within one month after the making of the order, decision, rule or regulation sought to be appealed from, or within such further time as the judge under special circumstances shall allow, and upon notice to the parties and the Board, and upon hearing such of them as appear and desire to be heard, allows the same; and the costs of such application shall be in the discretion of the judge.

Appeal on question of law or jurisdiction, or both.

(3) An appeal shall also lie from the Board to such court upon any question which, in the opinion of the Board, is a question of law or a question of jurisdiction, or both, upon leave therefor having been first obtained from the Board within one month after the making of the order or decision sought to be appealed from, or within such further time as the Board under special circumstances shall allow and after notice to the opposite party stating the grounds of appeal; and the granting of such leave shall be in the discretion of the Board.

4) No appeal after leave therefor has been obtained under subsection two or three of this section, shall lie unless it is entered in the said court thirty days from the making of the order granting leave to appeal.

Limit of time for entering appeal.

(5) Upon such leave being obtained the party so appealing shall deposit with the Registrar of the Supreme Court of Canada the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the Registrar shall set the appeal down for hearing at the nearest convenient time; and the party appealing shall, within ten days after the appeal has been so set down, give to the parties affected by the appeal, or the respective solicitors by whom such parties were represented before the Board, and to the secretary notice in writing that the case has been so set down to be heard in appeal as aforesaid; and the said appeal shall be heard by such Court as speedily as practicable.

Security and setting down case.

(6) On the hearing of any appeal the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board, and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

Inferences may be drawn.

(7) The Board shall be entitled to be heard by counsel or otherwise, upon the argument of any such appeal.

Commissioner may have counsel.

(8) The Court shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section; and until such rules are made, the rules and practice applicable to appeals from the Exchequer Court shall be applicable to appeals under this Act.

Costs and rules of practice.

(9) Save as provided in this section,—

Decisions of commissioner when final.

(a) every decision or order of the Board shall be final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, certiorari, or any other process or proceeding in any court.

PRACTICE AND PROCEDURE.

42. The Board may make general rules regulating, so far as not inconsistent with the express provisions of this Act, its practice and procedure.

Rules of procedure.

NOTICE AND SERVICE.

43. Any notice required or authorized by this Act or by the Special Act to be given in writing,—

Notices how given.

(a) by the Board, may be signed by the Chief Commissioner, or the Secretary;

(b) by any person, company, corporation or association may be signed by such person, company, corporation or association, or a duly authorized agent, officer, representative, solicitor or counsel.

Services of process.

44. Service of any notice, summons, regulation, order direction, decision, report or other document, or copy of any thereof, unless in any case otherwise provided, may be effected,—

(a) upon an incorporated company, by delivery to the president, managing director or secretary thereof in person, or by mailing by registered letters, postage prepaid, addressed to the president, managing director and secretary at the head office or chief place of business of said company;

(b) upon a firm, co-partnership or individual, by delivery to any member of such firm or co-partnership or to such individual, or at the last place of abode of any such member or of such individual to any adult member of his household, or at the office or place of business of the firm or individual to a clerk in such firm's or individual's employ.

Provided that if in any case within the jurisdiction of the Board it shall be made to appear to the satisfaction of the Board that service cannot conveniently be made in the manner above provided, the Board may order and allow service to be made by publication of the document of notice thereof for any period not less than three weeks in the *Canada Gazette*, and also, if required, in any other newspaper; and such publication shall be deemed to be equivalent to service in the manner above provided.

Notice required of applications to Board.

45. Unless otherwise provided, fifteen days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient: Provided that the Board may in any case direct longer notice or allow shorter notice.

AMENDING PROCEEDINGS.

Amendments.

46. The Board may, upon terms or otherwise, make or allow any amendments in any proceedings before it.

COSTS.

Costs.

47. (1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a certain sum, or may be taxed.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such costs shall be taxed.

WITNESSES AND EVIDENCE.

48. The Board may order that any witness resident or present in Canada may be examined upon oath before, or make production of books, papers, documents or articles, to, any one member of the Board, or before or to any officer of the Board, or before or to any other person named for the purpose by the order of the Board, and may make such orders as seem to it proper for securing the attendance of such witness and his examination, and the production by him of books, papers, documents or articles, and the use of the evidence so obtained, and otherwise exercise, for the enforcement of such orders or punishment for disobedience thereof, all powers that are exercised by any superior court in Canada for the enforcement of subpoenas to witnesses or punishment of disobedience thereof: Provided that no person shall be compellable, against his will, to attend for such examination or production at any place outside the province in which he is served with the order of the Board for the purpose.

(2) The Board may issue commissions to take evidence in a foreign country, and may make all proper orders for the purpose, and for the return and use of the evidence so obtained.

49. The Board may accept or require evidence upon affidavit or written affirmation, in cases in which it seems to it proper to do so.

(2) All persons authorized to administer oaths to be used in any of the superior courts of any province may administer oaths in such province to be used in applications, matters or proceedings before the Board.

(3) All persons authorized by the Governor in Council to administer oaths within or out of Canada, in or concerning any proceeding had or to be had in the Supreme Court of Canada or in the Exchequer Court of Canada, may administer oaths in or concerning any application, matter or proceeding before the Board.

(4) Any oath administered out of Canada, before any commissioner authorized to take affidavits to be used in His Majesty's High Court of Justice in England, or before any notary public, certified under his hand and official seal, or before the mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of His Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate, or before a judge of any court of supreme jurisdiction in any colony or possession

sion of His Majesty, or dependency of the Crown out of Canada, or before any consul, vice-consul, acting-consul, pro-consul or consular agent of His Majesty, exercising his functions in any foreign place, certified under his official seal, concerning any application, matter or proceeding had or to be had by or before the Board, shall be as valid and of like effect, to all intents, as if it had been administered before a person authorized by the Governor in Council as in this section provided.

Seal and
signature,
evidence of.

(5) Every document purporting to have affixed, imprinted or subscribed thereon or thereto, the signature of any such person or commissioner so authorized as aforesaid, or the signature or official seal of any such notary public, or the signature of any such mayor or chief magistrate and the common seal of the corporation, or the signature and official seal of any such consul, vice-consul, acting-consul, pro-consul or consular agent, in testimony of any oath having been administered by or before him, shall be admitted in evidence before the Board without proof of any such signature or seal being the signature or seal of the person or corporation whose signature or seal it purports to be, or of the official character of such person.

Informalities.

(6) No informality in the heading or other formal requisites of any oath made before any person under any provision of this section shall be an objection to its reception in evidence before the Board, if the Board thinks proper to receive it; and if it is actually sworn to by the person making it before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury.

Witness fees.

50. Every person summoned to attend before the Board, or person appointed under this Act to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Exchequer Court.

No person
excused from
attending or
bringing
documents
on ground
that evidence
may
incriminate
him.

51. No person shall be excused from attending and producing books, papers, contracts, agreements and documents, in obedience to the subpoena or order of the Board, or of any person authorized to hold any investigation or inquiry under this Act, on the ground that the documentary evidence required of him may tend to criminate him or subject him to any proceeding or penalty; but no such book, paper, contract, agreement, or document so produced shall be used or receivable against such person in any criminal proceedings thereafter instituted against him, other than a prosecution for perjury in giving evidence upon such investigation or inquiry, cause or proceeding.

52. (1) A copy of any regulation, order, or other document in the custody of the Secretary or of record with the Board, certified by the Secretary to be a true copy and sealed with the seal of the Board, shall be *prima facie* evidence of such regulation, order or document, without proof of signature of the Secretary.

Certified
copies of
orders, etc.
of Board
prima facie
evidence.

(2) A certificate by the Secretary sealed with the seal of the Board stating that no order or regulation respecting any specified matter or thing has been made by the Board, shall be *prima facie* evidence of the fact stated therein without proof of the signature of the Secretary.

OTTAWA: Printed by JOSEPH DE LABROQUERIE TACHÉ, Law Printer
to the King's most Excellent Majesty.



9-10 GEORGE V.

CHAP. 45.

An Act concerning the Investigation and Restraint of Combines, Monopolies, Trusts, and Mergers and the withholding and enhancement of the price of commodities.

[Assented to 7th July, 1919.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

GENERAL.

This Act may be cited as *The Combines and Fair Prices Act, 1919.* Short title.

2. The expression "combine" is used in this Act with intended relation to articles of commerce, and it shall be deemed to have reference only to such combines, immediately hereinafter defined, as, with relation as aforesaid, have, in the opinion of The Board of Commerce of Canada (or of a single member thereof acting under authority of and for the purposes of section eight of this Act) operated, or are likely to operate, to the detriment of or against the interest of the public, consumers, producers or others, and, limited as aforesaid, the said expression as used in this Act shall be deemed to include,—

Definitions.
"Combine."

Expression
to include,

- (a) mergers, trusts and monopolies, so called, and,
- (b) the relation resulting from the purchase, lease or other acquisition by any person of any control over or interest in the whole or part of the business of any other person, and,
- (c) any actual or tacit contract, agreement, arrangement or combination which has or is designed to have the effect of (1) limiting facilities for transporting, producing, manufacturing, supplying, storing or dealing; or (2) preventing, limiting or lessening manufacture or production; or (3) fixing a common price, or a resale price, or a common rental, or a common cost of storage

Mergers,
trusts, etc.
Control
over business
of others.

Contracts,
agreements,
arrange-
ments or
combina-
tions.

or transportation, or enhancing the price, rental or cost of article, rental, storage or transportation; or (4) preventing or lessening competition in, or substantially controlling, within any particular district, or generally, production, manufacture, purchase, barter, sale, transportation, insurance or supply; or (5) otherwise restraining or injuring commerce.

"Combine" not to apply to workmen or employees.
(2) The expression "combine" does not include combinations of workmen or employees for their own reasonable protection as such workmen or employees;

"Minister"
(3) The expression "Minister" as used in this Act means the Prime Minister or such other minister as the Governor in Council may designate for the purpose, and the expression "Board" means the Board of Commerce of Canada.

Board of Commerce of Canada.
3. The Board of Commerce of Canada, hereinafter referred to as "the Board," shall have the general administration of this Act which shall be read and construed as one with *The Board of Commerce Act*.

PART 1.

COMBINES.

Powers Board.
4. The Board is empowered and directed to restrain and prohibit the formation and the operations of combines.

Board of its own motion may issue complaint and hold investigation.
5. (1) Whenever the Board shall have reason to believe that a proceeding by it to restrain or prohibit the formation or operation of a combine would be in the public interest, it may, of its own motion, issue and serve upon any person concerned whom it may have information so justifying, a complaint stating its charges as against such person and containing a notice of a hearing upon a day and at a place therein fixed.

Attendance of parties.
(2) The person so complained of shall appear at the place and time fixed, and show cause why an order should not be made by the Board requiring such person to cease or desist from the acts or practices in and by such notice charged against him.

Intervening parties.
(3) Any other person, upon application and upon good cause shown, may be allowed by the Board to intervene and appear in said proceeding in person or by counsel.

Application to member of Board for order directing an investigation.
6. (1) Any British subject, resident in Canada and of full age, who is of opinion that a combine exists or is being formed may apply in writing to any member of the Board except the Chief Commissioner for an order directing an investigation into such alleged combine and fixing a time and place for the hearing of the applicant or his counsel.

1519. Statutory declaration.
(2) The application shall be accompanied by a statutory declaration setting forth,—

Particulars.
(a) the name and address of the applicant, and at his election, the name and address of any counsel whom he may, for the purpose of receiving any communication to be made pursuant to this Act, have authorized to represent him;

(b) the nature of the alleged combine and the names of the persons believed to be concerned therein; and,

(c) the manner in which and, where possible, the extent to which the alleged combine is believed to operate to the detriment of, or against the interest of, consumers, producers or others of the public.

7. If the Commissioner is satisfied from a perusal of the application and declaration that there is reasonable ground for believing that a combine exists, or is being formed, that it is in the public interest that an investigation be held and that further preliminary inquiry is unnecessary, he may forthwith direct an investigation under the provisions of this Act. Otherwise he shall, within a reasonable time after receipt of such application, fix a time and place for a hearing before him in support of the application and shall send or cause to be sent due notice thereof by registered letter to the applicant or to any counsel whom in or by his application or declaration the applicant may have authorized to receive communications on his behalf. Commissioner may forthwith direct an investigation, or give notice of preliminary inquiry.

8. (1) The applicant may appear on such hearing in person or by his counsel. If, upon the evidence adduced, the Commissioner is satisfied that there is reasonable ground for believing that a combine exists or is being formed and that it is in the public interest that an investigation should be held, he shall direct an investigation under the provisions of this Act, or, if not so satisfied, he may refuse to make any order. In any case he may adjourn such hearing pending the supply of further evidence in support of the application. Preliminary hearing and findings by commissioner.

(2) For the purposes of the hearing the Commissioner shall have all the powers vested in the Board of which he is a member to summon before him and enforce the attendance of witnesses, to hear evidence on oath or on solemn affirmation and compel the production of such books, papers, other documents and things as he deems requisite. Powers of commissioner, as to witnesses, evidence on oath and production of papers.

9. (1) Whenever a Commissioner makes an order for an investigation he shall sign the same and transmit it to the Secretary of the Board, and, whether or not he shall have made such an order, the Commissioner shall transmit to the Secretary the application, the statutory declaration and any evidence taken before him. Order of Commissioner transmitted to secretary, and also all documents.

Notice to
Chief
Commissioner and
parties.

(2) The Secretary shall forthwith in writing notify the Chief Commissioner of the Board, and, as well, the applicant or his authorized counsel, of the result of any application. In the case of an investigation ordered, the Chief Commissioner shall fix the time and place for such investigation, of which the Secretary shall notify in writing the applicant or his authorized counsel.

Chief Commissioner may, of his own motion, order investigation, in any case.
Notice.

(3) The Chief Commissioner, notwithstanding the refusal of the Commissioner to order an investigation, may of his own motion, if upon the materials transmitted by the Commissioner he, said Chief Commissioner, shall be of opinion that an order ought to have been made, make such order and fix a time and place for such investigation, whereupon the Secretary shall notify in writing the applicant or his authorized counsel accordingly.

Procedure when investigation ordered.

10. When an investigation shall have been ordered the Board shall issue and serve upon the person complained of a complaint in manner provided in section five of this Act. Likewise the person complained of shall appear and show cause, and other persons may be allowed to intervene and in a proper case an order may be issued and served, as in and by said section five is provided.

Full and expeditious inquiry by Board.

Investigation to be thorough and complete as public interest demands.

Power to make such findings as are relevant.

Order of Board upon investigation, to direct person complained of to cease practices proved against him.

11. (1) The Board shall fully, carefully and expeditiously inquire into and pronounce respecting all matters, whether of fact or of law, which shall come properly before it pursuant to the provisions of this Part of this Act. In deciding any question that may affect the scope or extent of any investigation it shall consider what is required to make the investigation as thorough and complete as the public interest demands, and, whether or not it makes or could lawfully make or issue with respect to any particular subject matter any consequential order of a binding character, it may make findings and declarations concerning such matter if, in the course of any investigation, such matter comes properly before it and is relevant generally to the inquiry being made.

(2) If, upon the hearing of any investigation, the Board shall be of opinion that a combine exists or is being formed and that the person complained of is a party thereto, it may issue and cause to be served on such person an order requiring him to cease or desist from the acts or practices actually proved against him, whether or not these are the same as those alleged in the complaint, and which in whole or in part constitute the operations of a combine or the processes of the formation of such, and to cease and desist as well from any other act or practice in pursuance of the operations of such combine or the formation thereof, to the extent to which the Board shall deem it reasonable or necessary to prohibit.

(3) Any person whom the Board shall have so ordered to cease or desist from any act or practice in pursuance of the operations of a combine or the formation thereof, and who thereafter shall omit or refuse to desist from such act or practice, shall be guilty of an indictable offence and liable to a penalty not exceeding one thousand dollars and costs for each day after the expiration of ten days or such further extension of time as in the opinion of the Board may be reasonable or necessary, from the date of the service upon such person of the Board's order, or to imprisonment for a term not exceeding two years; and any director or officer of a company or corporation who shall assent to or acquiesce in such omission or refusal by his company or corporation shall be guilty of such offence personally, and cumulatively with his company or corporation and with his co-directors or associate officers.

Penalty for omitting or refusing to cease from practices, according to order of Board.

Personal and cumulative liability of director or officer of company.

(4) Whenever, in the opinion of the Board, upon or after an investigation held in pursuance of the powers conferred by this Part of this Act, an offence has been committed against this section, the Board may remit to the Attorney General of any province within which such offence shall have been committed, for such action as such Attorney General may be pleased to institute because of the conditions appearing, certified copies of the record of the case, as before the Board, including all evidence taken, with a statement of the facts and a recommendation that prosecution be instituted.

Prosecution by Attorney General of province.

Papers transmitted.

(5) No prosecution for an offence against this section or against section four hundred and ninety-eight of the *Criminal Code* shall be commenced except upon the written authority of the Board.

No prosecution unless authorized in writing by Board.

(6) For the purposes of the trial of any indictment for any offence against this section, section five hundred and eighty-one of the *Criminal Code*, authorizing speedy trials without juries, shall apply.

Speedy trials.

12. Whenever, from or as a result of an investigation under the provisions of this Act, or from or as a result of a judgment of the Supreme Court or Exchequer Court of Canada or of any superior court, or circuit, district or county court of Canada, it appears to the satisfaction of the Governor in Council that, with regard to any article of commerce, there exists any combine to promote unduly the advantage of manufacturers or dealers at the expense of consumers, and if it appears to the Governor in Council that such disadvantage to the consumer is facilitated by the duties of custom imposed on the article, or on any like article, the Governor in Council may direct that either such article be admitted into Canada free of duty or that the duty thereon be reduced to such amount or rate as will, in the opinion of the Governor in Council, give the public the benefit of reasonable competition.

Governor in Council may admit article free of duty or reduce duty if satisfied, as a result of investigation under this Act, that combine exists at expense of consumers.

If owner or holder of patent makes use of exclusive rights to unduly limit production or restrain or injure trade, application may be made to Exchequer Court to revoke patent.

13. In case the owner or holder of any patent issued under the *Patent Act* has made use of the exclusive rights and privileges which, as such owner or holder he controls, so as unduly to limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article which may be a subject of trade or commerce, or so as to restrain or injure trade or commerce in relation to any such article or unduly to prevent, limit or lessen the manufacture or production of any article or unreasonably to enhance the price thereof, or unduly to prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation, storage or supply of any article such patent shall be liable to be revoked. And, if the Board reports that a patent has been so made use of, the Minister of Justice may exhibit an information in the Exchequer Court of Canada praying for a judgment revoking such patent, and the court shall thereupon have jurisdiction to hear and decide the matter and to give judgment revoking the patent or otherwise as the evidence before the court may require.

Trade Unions Act not affected.

14. This Act shall not be construed to repeal, amend or in any way affect the *Trade Unions Act*, chapter one hundred and twenty-five of the Revised Statutes, 1906.

Combines Investigation Act repealed.

15. The *Combines Investigation Act*, chapter nine of the Acts of nineteen hundred and ten, is wholly repealed.

PART II.

FAIR PRICES.

Definition. "Necessary of life."

16. For the purposes of this Part of this Act, the expression "Necessary of life" means a staple and ordinary article of food (whether fresh, preserved, canned, or otherwise treated) clothing and fuel, including the products, materials and ingredients from or of which any thereof are in whole or in part manufactured, composed, derived or made, and such other articles of any description as the Board may from time to time by special regulation prescribe.

Unreasonable accumulation or withholding forbidden.

17. (1) No person shall accumulate or shall withhold from sale any necessary of life beyond an amount thereof reasonably required for the use or consumption of his household or for the ordinary purposes of his business.

Excess of necessities of life and stock-in-trade to be offered for sale at reasonable and just prices.

(2) Every person who shall at any time hold any necessary of life beyond an amount thereof reasonably required as aforesaid, and every person who shall hold for purpose of sale, whether as manufacturer, wholesaler, jobber, retailer or otherwise, any stock-in-trade of any necessary of life, shall

shall offer for sale the said excess amount, or the said stock-in-trade as the case may be, at prices not higher than are reasonable and just: Provided, however, that this section shall not apply to or extend to any accumulating or withholding by any farmer, gardener, or other person, of the products of any farm, garden or other land cultivated by him, nor shall any manufacturer, wholesaler or jobber, because of anything herein contained, be under obligation to sell to other than such classes of persons as are accustomed to purchase from manufacturers, wholesalers or jobbers, respectively, nor shall any person be under obligation to sell otherwise than in accordance with the ordinary course of business.

Proviso as to farmers and gardeners, and as to manufacturers selling to classes of persons accustomed to purchase from them.

18. (1) The Board is empowered and directed to inquire into and to restrain and prohibit,—

Powers of Board to restrain and prohibit violation of Act, unfair profits, and practices to unfairly enhance prices.

- (a) any breach or non-observance of any provision of this Act;
- (b) the making or taking of unfair profits for or upon the holding or disposition of necessities of life;
- (c) all such practices with respect to the holding or disposition of necessities of life, as, in the opinion of the Board, are designed or calculated to unfairly enhance the cost or price of such necessities of life.

(2) For the purposes of this Part of this Act, an unfair profit shall be deemed to have been made when, pursuant to and after the exercise of its powers by this Act conferred, the Board shall declare an unfair profit to have been made, and an unfair enhancement of cost or price shall be such enhancement as has resulted from the making of an unfair profit.

Unfair profit defined for purposes of this Act.

(3) The Board and each Commissioner thereof, shall deposit with its secretary all orders and declarations made by it or him under this Part of this Act, and the same shall be open at all reasonable times to the inspection of any person.

Orders of Board open to inspection.

19. (1) In addition to its general powers, otherwise provided, the Board may, by notice in writing under the hand of its Secretary, require any person who operates, controls, or manages any cold storage plant, packing house, cannery, factory, mine, warehouse, or other premises in which or in any part of which any necessary of life is prepared, manufactured, produced or held by such person for himself or for another, or who in any manner deals in any necessary of life, to make and render unto such Board, and or the Dominion Statistician, within a time set in such notice, or from time to time, and such person shall make and render unto such Board or Statistician, precisely as required, a written return under oath or affirmation showing in detail,—

Powers of Board to order operator of cold storage plant, packing house, cannery, factory, mine, or other premises to make prescribed returns.

- (a) the species and amount of any necessary of life held by such person at any indicated time or times, including any time preceding the passing of this Act, where and for whom said necessary is held, and if held for another upon what terms held;
- (b) the time when any or all of such necessary of life was prepared, manufactured, produced, acquired, or taken into possession;
- (c) the cost of such necessary of life, including all charges and expenses of an overhead or other nature, affecting such cost;
- (d) the price at which such necessary of life, if already sold, has been sold, or, if unsold, is held for sale;
- (e) such other information, deemed by the Board to concern any necessary of life, as the Board may require, including a full disclosure of all existing contracts or agreements which such person or his principal or agent may have at any time entered into with any other person touching or concerning the sale or resale prices of any necessary of life, or the period of time during which any necessary of life should be held, as bailee or otherwise, before sale or resale, or limiting the quantity of any necessary of life which should be sold to any one buyer or combination of buyers or within any limited district.

Board may investigate business and examine premises and appoint examiners.

(2) If, after the receipt by the Board of any such return made in purported compliance with this Part of this Act, the Board shall consider that any circumstances so justify, or if, after a return under these regulations has been required, none is made or none is made within the time set in the notice requiring such return or within such further time as the Board may upon special application to it allow, the Board shall have power to investigate the business and to enter and examine the premises, books, papers, and records of the person making or failing to make such return, as the case may be, and, for those purposes the Board may appoint an examiner or examiners and may authorize in writing any examiner so appointed to investigate such business and to enter and examine the premises, books, papers and records of such person, and to take the evidence under oath or affirmation of any person whom such examiner may believe has knowledge relating to such matters as ought to have been included within a proper return, according to the circumstances.

Access to premises and records.

(3) Every person who is in possession or control of any such premises, books, records or papers shall give and afford to such examiner admission and access thereto whenever and as often as demanded.

No one to impede examination.

(4) No person shall in any manner impede or prevent or attempt to impede or prevent any such investigation or examination.

(5) Every person in any manner required by such examiner to give evidence under oath or affirmation touching or concerning the matters committed to such examiner for investigation shall attend before said examiner and give evidence whenever so required.

Attendance of parties as required.

20. Whenever, in the opinion of the Board, an offence has been committed against this Part of this Act, the Board may remit to the Attorney General of any province within which such offence shall have been committed, for such action as such Attorney General may be pleased to institute because of the conditions appearing, certified copies of (a) any return or returns which may have been made or rendered pursuant to this Act and are in the possession of the Board and relevant to such offence; and of (b) the evidence taken on any such investigation or examination and the report of the examiner.

Board may transmit papers to Attorney General of Province upon offence being committed.

(2) The Board may, in lieu of, or before, remitting any such case to the Attorney General, except in cases where it has reached its conclusion solely by means of proceedings under section nineteen of this Act, declare or find as to the guilt of the person concerned, and it may order or prohibit the doing or omission of any act or practice relevant to or connected with the offence, and in case of disobedience by such person of any term of such order he shall be guilty of an indictable offence and liable to a penalty not exceeding one thousand dollars and costs for every day after the expiration of four days or such further extension of time as in the opinion of the Board may be reasonable or necessary, from the date of the service upon such person of the Board's order during which such person continues to disobey or to omit to perform such order, or to imprisonment for a term not exceeding two years; and any director or officer of a company or corporation who shall assent to or acquiesce in such disobedience by his company or corporation, shall be guilty of such offence personally, and cumulatively with his said company or corporation and with his co-directors or associate officers.

Board may declare or find as to guilt of party concerned, and order or prohibit any act or practice.

Penalty for disobeying order.

Personal and cumulative liability of officers of company.

(3) The Board may, when the circumstances seem to it to so require, recommend to any Attorney General a prosecution under this Part of this Act, and furnish such Attorney General with a certified copy of the record of any case which has been before it, including any evidence taken, and with any other relevant proofs or information.

Board may recommend prosecution by Attorney General.

21. (1) No prosecution for a contravention or non-observance of any provision of this Part of this Act shall be commenced, otherwise than at the instance of the Attorney General of a province, without the written leave of the Board expressing whether such prosecution shall be

No prosecution other than by Attorney General except on written leave of Board.

by way of indictment or under Part XV of the *Criminal Code*.

Place of
prosecution.

(2) Such prosecution shall be commenced only in the judicial district, county or municipality in which some or all of the necessary of life with respect to which the alleged offence was committed was situated at the time of the commission of the offence, or in the judicial district, county or municipality in which the person charged resides or carries on business.

Penalty for
contravening
or failing to
observe
provisions
of this Part,
except section
20.

22. (1) Any person who contravenes or fails to observe any of the provisions of this Part of this Act other than section twenty shall be guilty of an indictable offence and liable upon indictment or upon summary conviction under Part XV of the *Criminal Code* to a penalty not exceeding five thousand dollars, or to imprisonment for any term not exceeding two years or to both fine and imprisonment as specified, and any director or officer of any company or corporation who assents to or acquiesces in the contravention or non-observance by such company or corporation of any of the said provisions shall be guilty of such offence personally and cumulatively with his company or corporation and with his co-directors or associate officers.

Speedy trials.

(2) For the purposes of the trial of any indictment for any offence against this Part of this Act, section five hundred and eighty-one of the *Criminal Code*, authorizing speedy trials without juries, shall apply.

Order in
Council
continued.

23. All proceedings instituted or had under Order in Council P.C. 3069 of the eleventh day of December, 1918, but not fully concluded, shall continue and may proceed under this Part of this Act, with the Board substituted for the Minister of Labour, as fully and effectually as if said Order in Council continued in force, notwithstanding the rescission thereof.

Governor in
Council may
admit
necessary of
life free of
duty, or
reduce duty,
to secure
reasonable
competition.

24. Whenever, from or as a result of an investigation under the provisions of this Act, it appears to the satisfaction of the Governor in Council with regard to any necessary of life, that the making or taking of unfair profits thereon is facilitated by the duties of custom imposed on such necessary of life, the Governor in Council may direct either that such necessary of life be admitted into Canada free of duty or that the duty thereon be reduced to such amount or rate as will, in the opinion of the Governor in Council, give the public the benefit of reasonable competition.