

meaning of prejudicial to any industry? Would that mean it must not be prejudicial to the industry as a whole or the industry in the narrower sense, being the business of the competitor it is sought to undermine? And, again, that the nature of the charge against him if practised or reiterated would not be prejudicial either to any industry carried on in New Zealand or the public welfare. There, again, it is really making a greater difficulty of those difficulties which have been mentioned in the cases since the 1910 Act was in force.

*Mr. Sullivan.*] What you are aiming at is the prohibition of the 1933 legislation?—Well, I want the 1910 Act, sections 3 and 4, preserved if only so far as petroleum products are concerned and have the petroleum products at least excepted from the operation of the amendment. Another point also is that up to the present no Order in Council has been promulgated under the Motor-spirits (Regulation of Prices) Act, and until such an Order in Council is in force, and during any period in which an Order in Council was not in force fixing the prices under the Act, then the only legal safeguard immediately available would be sections 3 and 4. We would have to fall back on sections 3 and 4 of the 1910 Act, so that you will see that particularly section 4 is, notwithstanding the passing of the 1933 Act, still of very great advantage to our company and, indirectly, to the public at large. We have assisted in getting the price of petrol reduced below what it was when we came into the business. What I say is this: if after due consideration it was felt it would not be right and proper to accede to Submissions No. 1 or No. 2, it might be there is a possibility—and I want to avoid the possibility, for even lawyers and judges differ—that the amending Bill may affect the Motor-spirits (Regulation of Prices) Act, 1933. We may have our Full Court or Court of Appeal in New Zealand absolutely unanimous on a judgment which may go to the Privy Council and be unanimously overruled by the Privy Council, so that, although eight or ten lawyers out of fifteen might say there is nothing in my point, I say you never know. I say this: the fact is that this amendment of the Commercial Trusts Act is a later statute; if it becomes law it will be a later statute than the 1933 Act and it may be argued later on that it has to some extent amended the 1933 Act for motor-spirits regulation. To that extent it will whittle away the rights—

*The Chairman.*] Is it suggested that petrol be removed from the Schedule?—No, I do not suggest that.

You cannot have it both ways?—Might I point out that what I am asking is only what was done on the passing of the Motor-spirits Act, 1933, page 707. This position was foreseen then and it was recognized by the House at the time that, notwithstanding the passing of the Motor-spirits (Regulation of Prices) Act, it was essential to keep the Commercial Trusts Act alive in respect of motor-spirits. See section 14 of 1933 Act: “Nothing in this Act shall be construed to affect the provisions of any other Act in force on the passing of this Act.” I think Parliament put that section in for the purpose of preserving the rights under the Commercial Trusts Act of 1910. We look upon it this way: that although there is nothing at the moment threatening us on those lines, still we wish to be safeguarded as to the future. I will not be calling any evidence.

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Evidence of FREDERICK CAMPBELL SPRATT, Barrister and Solicitor, of Wellington, Counsel for the New Zealand Petrol Resellers Association and the Wellington Petrol Resellers Association.

*Mr. Spratt:* Before reading my statement I would draw attention to what you yourself and Mr. Ansell remarked—namely, that the lists of goods about which there is apparently so much dispute are largely outside of the Act and the Act will not affect proprietary articles other than foodstuffs. Actually, if one refers to the Schedule of the Act one sees that it covers agricultural implements, coal, petroleum products, and tobacco, tobacco having been eliminated recently, and it also includes all foodstuffs or ingredients—that is, articles of food—for human consumption and ingredients used in the make-up of any such article. As I understand the position, the only objection to the Bill arises from dealers in petrol and from what we may call storekeepers who deal in foodstuffs and also in other articles that are really not covered by the Bill. It is very important to bear that in mind, because, as I shall submit, the considerations that apply to storekeepers and grocers and, to a limited extent, to chemists, who may sell such articles of food as invalid's food, do not necessarily apply to the trade of dealers, wholesale or retail, in petrol. I just want to make one other preliminary observation, and that is in regard to Mr. Miller's letter. Mr. Miller is a petrol-reseller; he is not, and never has been, a member of the association, and he is a man who has always caused the association members in Auckland a great deal of trouble. There has been a long period of uneconomic trading due to his cutting prices and, if the wholesalers—that is, the major oil companies—have acted as he says then my clients have no objection to that action on the part of the major oil companies in that case and in those circumstances.

*Mr. Harris.*] In refusing to supply?—Because he was price-cutting. They are agreeing to supply him again. We may have objection to that, because on another occasion I have put before you we have had constant price-cutting over a period of years. The petrol-resellers have represented to this Committee and the Government that they have been made the chopping-block for the disputes between the major oil companies as between themselves, and later between the major oil companies on the one hand and the independent on the other. That is the position we wanted to get away from.

My name is Frederick Campbell Spratt. I am a barrister and solicitor, of Wellington, and appear as counsel for the New Zealand Petrol Resellers Association and the Wellington Resellers Association.

1. I advised my clients on the 20th August, and subsequently, with the president and secretary of the said associations, attended on the Honourable Mr. Masters and handed him a copy of my opinion.

2. At that stage we approached the subject in no hostile spirit, but rather with a view of ascertaining the effect of the proposed legislation, and of going as far as possible to meet the wishes of the Government in the matter of the Bill.