

and governments an early opportunity to register with the Commission their views on current conditions in the petroleum industry."

At the pre-hearing on July 27, strong differences were expressed about the order in which the various aspects of the Inquiry should be heard. The Director of Investigation and Research under the Act, the Consumers Association of Canada and the National Automotive Trades Association wanted the marketing aspect heard first. The major oil companies wanted the hearing to follow the order of the Director's Green Book -- international aspects, domestic production and transport of crude, refining and, lastly marketing. Counsel for the Director maintained that it was for the Director to decide how he should present his case.

Another concern that was expressed by some of the oil companies at the pre-hearing was whether or not s. 45 of the Act was to apply. One effect of s. 45 is to establish the prima facie probative value of documents introduced "in any proceedings before the Commission or in any prosecution or proceedings before a court under or pursuant to this Act". The question arose when the Director tendered as evidence many of the seized documents which are referred to in his "Green Book". The Commission has now stated that "it considers that s. 45 is not applicable to this inquiry". The documents will become available for public review after the owners have had an opportunity of indicating if they object to any being publicly disclosed. Any documents to which objection is taken will be dealt with on a case by case basis as the hearing proceeds.

ECONOMIC COUNCIL URGES COMPETITION LAW REFORM

The Economic Council of Canada, in its final report on its regulation reference¹ released in June, came out strongly in favour of speedy competition law reform. The Council stated:

"Implicit in the reform of direct regulation is the view that the market is normally the more efficient control mechanism and is preferable to a statutory regulatory agency. Following that perspective, the ultimate responsibility for policing the marketplace lies with the Bureau of Competition Policy of the federal Department of Consumer and Corporate Affairs... In addition to the recommendations we have put forth, important areas of competition policy -- particularly in such matters as mergers and monopolies, where

¹ Reforming Regulation, Economic Council of Canada, Ottawa, 1981

present legislation is almost totally ineffective -- need to be reformed. We would, therefore, encourage the speedy presentation and discussion of amendments to the Combines Investigation Act to address these issues." (page 137).

The Council also recommended action by the Provinces if test cases show that restrictions by professional groups cannot be dealt with under the Combines Investigation Act because of constitutional problems. The Council recommends:

"59 We recommend that if the Combines Investigation Act does not effectively address the professional restrictions limiting competition, provincial governments themselves undertake to prohibit unnecessary restrictions on the freedom of individual practitioners to set their own prices and disseminate information."

That recommendation is consistent with the view respecting the federal-provincial distribution of responsibility for competition policy which the Council expressed in its 1969 Interim Report on Competition Policy. At that time, in proposing a civil law basis for parts of competition law, the Council referred to the constitutional uncertainties. It proposed either an attempt to reach agreement with the provinces on a constitutional change or else to refer proposed legislation to the Supreme Court of Canada under the existing constitution. And the Council stated in its 1969 report:

"It could be that the prospects of success via either route would be enhanced if the federal government sought only to enact civil legislation in respect of goods and services affecting international and interprovincial trade... "

LAWSON HUNTER BECOMES NEW COMBINES DIRECTOR

The appointment of Lawson Hunter to succeed Robert Bertrand as Director of Investigation and Research, Combines Investigation Act, was announced on July 28, 1981.

Mr. Hunter, who is 36, received an LL.M. from Harvard in 1971 and joined the Department of Justice as a legal adviser in 1972. He served as Executive Assistant to the Deputy Minister, Department of Consumer and Corporate Affairs in 1973. From 1974 to 1977 he was Co-ordinator of Policy Development in the Bureau of Competition Policy. He then spent a year as