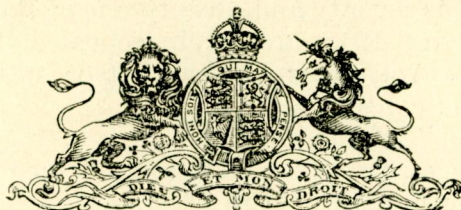


I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 20 December, 1923.*

New South Wales.



ANNO QUARTO DECIMO

GEORGII V REGIS.

Act No. 54, 1923.

An Act to amend the law relating to monopolies and restraint of trade ; to repeal certain sections of the Industrial Arbitration Act, 1912 ; and for purposes connected therewith. [Assented to, 21st December, 1923.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Monopolies Short title Act, 1923."
2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. B. WALKER,
Chairman of Committees of the Legislative Assembly.

Monopolies.

Division of
Act.

2. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY.

PART II.—MONOPOLIES AND RESTRAINT OF
TRADE.

PART III.—INQUIRIES.

PART IV.—PENALTIES AND PROCEDURE.

Repeal.
1912, No. 17,
ss. 70, 71.
Interpreta-
tion.

3. Sections seventy and seventy-one of the Industrial Arbitration Act, 1912, are hereby repealed.

4. In this Act, unless the context or subject-matter otherwise indicates or requires—

“Action” includes suit.

“Board of Trade” and “Board” means the New South Wales Board of Trade.

“Combination” includes any agreement arrangement or understanding, and “combine” has a meaning corresponding with that of combination.

“Commodity” includes goods wares and merchandise.

“Conviction” includes verdict judgment or decree, and “convicted” has a meaning corresponding with that of conviction.

“Indictable offence” means an indictable offence against this Act.

“Offence” means an offence against this Act.

“Person” includes any association of persons, whether incorporated or unincorporated.

“Trade” means trade or commerce within New South Wales or any part thereof.

PART II.

MONOPOLIES AND RESTRAINT OF TRADE.

Monopoly.

5. (1) No person shall monopolise, attempt to monopolise, or combine with any other person to monopolise, the trade in any commodity or service, with intent to control, to the detriment of the public, the supply or price of the commodity or service.

(2)

Monopolies.

(2) Any person who contravenes this section shall be guilty of an offence.

(3) Every contract made or entered into in contravention of this section shall be illegal and void.

6. (1) No person shall be or continue to be a member of or engage in any combination with intent to restrain, to the detriment of the public, trade in any commodity or service. Restraint of trade.

(2) Any person who contravenes this section shall be guilty of an offence.

(3) Every contract made or entered into in contravention of this section shall be illegal and void.

7. (1) Any combination of producers of any commodity which is reasonably necessary for the maintenance of the industry of such producers shall not be deemed to be to the detriment of the public. Producing industries.

(2) For the purposes of this section a combination of producers shall include any association of producers whether incorporated or unincorporated, and in particular—

- (a) any rural society registered under the Co-operation, Community Settlement, and Credit Act, 1923 ;
- (b) any company under the Companies Act, 1899, which has objects the same as, or similar to, those of such rural society.

PART III.

INQUIRIES.

8. (1) The Board of Trade may, upon complaint made as prescribed by regulation under this Act, and shall, upon reference by the Attorney-General, make an inquiry into any of the following matters, that is to say, whether there is or has been— Board of Trade.

- (a) any monopoly of, or attempt or combination to monopolise, the trade in any commodity or service, with intent to control the supply or price of the commodity ;
- (b) any combination with intent to restrain trade in any commodity or service ;
- (c)

Monopolies.

(c) any combination for limiting or regulating the output or supply, or for raising maintaining or regulating the price, of any commodity or service;

(d) any combination for limiting or excluding competition in the trade in any commodity or service, or any abuse for that purpose of a power to control such trade.

(2) In making any such inquiry the board shall consider whether, reasonable regard being had to the interests of producers distributors and consumers, any such monopoly or combination is or is not detrimental to the public.

Report.

9. (1) The board shall report to the Attorney-General the result of any such inquiry, together with such recommendations, if any, as the board may deem proper.

(2) The report shall be laid before Parliament.

Powers and privileges.

10. (1) For the purposes of any inquiry under this Act the president of the board shall have the powers rights and privileges of a chairman of a Royal Commission within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and a member of the board shall have the powers rights and privileges of a commissioner within the meaning of that Division.

(2) The provisions of the Royal Commissions Act, 1923, with the exception of Division 2 of Part II, shall apply to and with respect to the inquiry.

PART IV.

PENALTIES AND PROCEDURE.

Aiding and abetting.

11. Every person who aids, abets, counsels, or procures, or is in any way knowingly concerned in the commission of an offence shall be deemed to have committed the offence.

12.

Monopolies.

12. Every person who commits an offence after having been previously convicted of an offence shall be guilty of an indictable offence.

13. (1) Every person who commits an offence shall, unless this Act otherwise provides, be liable to a penalty not exceeding five hundred pounds.

(2) Every person who commits an indictable offence shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both.

14. (1) Except where proceedings by indictment are instituted for an indictable offence, proceedings for the recovery of a pecuniary penalty for an offence shall be instituted by way of civil action.

(2) Instead of proceeding by indictment for an indictable offence, the Attorney-General may elect to institute proceedings by way of civil action for the recovery of the pecuniary penalty for the offence.

(3) No proceeding for an indictable offence or for the recovery of a pecuniary penalty shall be instituted under this Act except by the Attorney-General or some person authorised by him.

15. (1) A civil action for the recovery of a pecuniary penalty for an offence may be instituted in the Supreme Court either at common law or in equity, and shall be tried before a judge without a jury.

(2) The judge before whom the action is tried may exercise any power or jurisdiction of the Supreme Court at common law or in equity.

16. (1) An indictment for an indictable offence shall be tried before a judge of the Supreme Court with a jury.

(2) The jury panel for the trial shall be taken from the list of special jurors.

17. (1) If any person is convicted of an offence, any judge of the Supreme Court may, upon application by or on behalf of the Attorney-General, grant an injunction restraining the convicted person and his servants or agents from the repetition or continuance of the offence of which he has been convicted.

(2)

Monopolies.

(2) Any person who does any act or thing in disobedience of such injunction shall be guilty of an offence and liable to a penalty not exceeding five hundred pounds for each day during which the offence continues.

(3) This section shall not be deemed to derogate from the power of the Supreme Court, apart from this section, to enforce obedience to the injunction.

Action for
treble
damages.

18. (1) Any person who is injured in his person or property by any other person, by reason of any act or thing done by that other person in contravention of this Act, or by reason of any act or thing done in contravention of any injunction granted under this Act, may, in the Supreme Court before a judge without a jury, sue for and recover treble damages for the injury.

(2) No such action shall be instituted without the written consent of the Attorney-General.

Statement of
offence.

19. In any proceeding for an offence any indictment, information, declaration, statement of claim, conviction, warrant, or other process shall suffice if the offence is set forth as nearly as may be in the words of this Act.

Regulations.

20. (1) The Governor may make regulations for giving effect to this Act.

(2) The regulations shall be published in the Gazette and shall take effect from the date of publication or from a later date to be specified in the regulations.

(3) The regulations shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

In the name and on behalf of His Majesty I assent to this Act.

W. P. CULLEN,

Lieutenant-Governor.

Government House,

Sydney, 21st December, 1923.

1923.

Legislative Council.

Monopolies Bill, 1923.

EXPLANATORY NOTE.

THIS Bill deals with monopolies and restraint of trade within the State or any part of the State. Inter-State and foreign trade is a matter for Federal legislation.

The Bill prohibits any monopoly or combination with intent to control or restrain trade in any commodity or service to the detriment of the public, as regards either the supply or the price of the commodity or service.

The monopoly or combination with any such intent is a criminal offence.

A contract in contravention of the Bill is illegal and void.

The Bill does not affect the existing law as to trade unions, or the usual stipulations which are entered into for such purposes as the protection of a person who buys a business, by restricting the right of the seller to set up a rival business.

Provision is made for inquiries by the Board of Trade. These inquiries may be made not only into monopolies and combinations with intent to restrain trade, but also into combinations to limit output or supply, to raise or maintain prices, or to limit or exclude competition. The Board is to consider whether, reasonable regard being had to the interests of producers, distributors, and consumers, the monopoly or combination is or is not detrimental to the public. The report of the Board, with any recommendations is to be made to the Attorney-General, and is to be laid before Parliament. The Board is to have the powers of an ordinary Royal Commission.

The punishment for a first offence is a penalty up to £500. Any subsequent offence is indictable and the offender is liable to a penalty up to £500, to imprisonment up to 12 months, or to both.

Proceedings for a pecuniary penalty may be taken by way of civil action in the Supreme Court before a Judge without a jury. An indictment is to be tried before a Supreme Court Judge with a jury, the jury panel being taken from the list of special jurors.

If a person is convicted, a Judge may grant an injunction against the repetition or continuance of the offence. Disobedience of the injunction is an offence, with a daily penalty up to £500.

Any person who is injured by anything done in contravention of the Bill, or in contravention of an injunction granted under the Bill, may bring an action for treble damages, if he obtains the written consent of the Attorney-General.

THE STATE OF TEXAS, COUNTY OF DALLAS, this 1st day of August, 1901, before me, the undersigned, a Notary Public in and for said State and County, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 1st day of August, 1901.

Notary Public in and for the State of Texas.

WITNESSED my hand and seal of office this 1st day of August, 1901.

Notary Public in and for the State of Texas.

My commission expires this _____ day of _____, 1901.

Attest: My hand and seal of office this _____ day of _____, 1901.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 19 December, 1923.

New South Wales.



ANNO QUARTO DECIMO

GEORGI V REGIS.

Act No. , 1923.

An Act to amend the law relating to monopolies and restraint of trade ; to repeal certain sections of the Industrial Arbitration Act, 1912 ; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Monopolies Act, 1923."

Monopolies.

2. This Act is divided into Parts, as follows :—

Division of Act.

PART I.—PRELIMINARY.

PART II.—MONOPOLIES AND RESTRAINT OF TRADE.

5 PART III.—INQUIRIES.

PART IV.—PENALTIES AND PROCEDURE.

3. Sections seventy and seventy-one of the Industrial Arbitration Act, 1912, are hereby repealed.

Repeal. 1912, No. 17, ss. 70, 71.

4. In this Act, unless the context or subject-matter otherwise indicates or requires—

Interpretation.

“Action” includes suit.

“Board of Trade” and “Board” means the New South Wales Board of Trade.

15 “Combination” includes any agreement arrangement or understanding, and “combine” has a meaning corresponding with that of combination.

“Commodity” includes goods wares and merchandise.

20 “Conviction” includes verdict judgment or decree, and “convicted” has a meaning corresponding with that of conviction.

“Indictable offence” means an indictable offence against this Act.

25 “Offence” means an offence against this Act.

“Person” includes any association of persons, whether incorporated or unincorporated.

“Trade” means trade or commerce within New South Wales or any part thereof.

30 PART II.

MONOPOLIES AND RESTRAINT OF TRADE.

5. (1) No person shall monopolise, attempt to monopolise, or combine with any other person to monopolise, the trade in any commodity or service, with intent to control, to the detriment of the public, the supply or price of the commodity or service.

(2)

Monopolies.

(2) Any person who contravenes this section shall be guilty of an offence.

(3) Every contract made or entered into in contravention of this section shall be illegal and void.

5 **6.** (1) No person shall be or continue to be a member of or engage in any combination with intent to restrain, to the detriment of the public, trade in any commodity or service. Restraint of trade.

10 (2) Any person who contravenes this section shall be guilty of an offence.

(3) Every contract made or entered into in contravention of this section shall be illegal and void.

15 **7.** (1) Any combination of producers of any commodity which is reasonably necessary for the maintenance of the industry of such producers shall not be deemed to be to the detriment of the public. Producing industries.

(2) For the purposes of this section a combination of producers shall include any association of producers whether incorporated or unincorporated, and in particular—

20 (a) any rural society registered under the Co-operation, Community Settlement, and Credit Act, 1923;

25 (b) any company under the Companies Act, 1899, which has objects the same as, or similar to, those of such rural society.

PART III.

INQUIRIES.

30 **8.** (1) The Board of Trade may, upon complaint made as prescribed by regulation under this Act, and shall, upon reference by the Attorney-General, make an inquiry into any of the following matters, that is to say, whether there is or has been— Board of Trade.

35 (a) any monopoly of, or attempt or combination to monopolise, the trade in any commodity or service, with intent to control the supply or price of the commodity;

(b) any combination with intent to restrain trade in any commodity or service; (c)

Monopolies.

- (c) any combination for limiting or regulating the output or supply, or for raising maintaining or regulating the price, of any commodity or service;
- 5 (d) any combination for limiting or excluding competition in the trade in any commodity or service, or any abuse for that purpose of a power to control such trade.
- (2) In making any such inquiry the board shall
10 consider whether, reasonable regard being had to the interests of producers distributors and consumers, any such monopoly or combination is or is not detrimental to the public.
9. (1) The board shall report to the Attorney-General Report.
15 the result of any such inquiry, together with such recommendations, if any, as the board may deem proper.
- (2) The report shall be laid before Parliament.
10. (1) For the purposes of any inquiry under this Powers and privileges.
Act the president of the board shall have the powers
20 rights and privileges of a chairman of a Royal Commission within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923, and a member of the board shall have the powers rights and privileges of a commissioner within the meaning of
25 that Division.
- (2) The provisions of the Royal Commissions Act, 1923, with the exception of Division 2 of Part II, shall apply to and with respect to the inquiry.

PART IV.

30 PENALTIES AND PROCEDURE.

11. Every person who aids, abets, counsels, or Aiding and abetting.
procures, or is in any way knowingly concerned in the commission of an offence shall be deemed to have committed the offence.

12.

Monopolies.

12. Every person who commits an offence after having been previously convicted of an offence shall be guilty of an indictable offence.

13. (1) Every person who commits an offence shall, unless this Act otherwise provides, be liable to a penalty not exceeding five hundred pounds.

(2) Every person who commits an indictable offence shall be liable to a penalty not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both.

14. (1) Except where proceedings by indictment are instituted for an indictable offence, proceedings for the recovery of a pecuniary penalty for an offence shall be instituted by way of civil action.

15. (2) Instead of proceeding by indictment for an indictable offence, the Attorney-General may elect to institute proceedings by way of civil action for the recovery of the pecuniary penalty for the offence.

(3) No proceeding for an indictable offence or for the recovery of a pecuniary penalty shall be instituted under this Act except by the Attorney-General or some person authorised by him.

15. (1) A civil action for the recovery of a pecuniary penalty for an offence may be instituted in the Supreme Court either at common law or in equity, and shall be tried before a judge without a jury.

(2) The judge before whom the action is tried may exercise any power or jurisdiction of the Supreme Court at common law or in equity.

30 16. (1) An indictment for an indictable offence shall be tried before a judge of the Supreme Court with a jury.

(2) The jury panel for the trial shall be taken from the list of special jurors.

35 17. (1) If any person is convicted of an offence, any judge of the Supreme Court may, upon application by or on behalf of the Attorney-General, grant an injunction restraining the convicted person and his servants or agents from the repetition or continuance of the offence of which he has been convicted.

Monopolies.

(2) Any person who does any act or thing in disobedience of such injunction shall be guilty of an offence and liable to a penalty not exceeding five hundred pounds for each day during which the offence continues.

5 (3) This section shall not be deemed to derogate from the power of the Supreme Court, apart from this section, to enforce obedience to the injunction.

18. (1) Any person who is injured in his person or property by any other person, by reason of any act or thing done by that other person in contravention of this Act, or by reason of any act or thing done in contravention of any injunction granted under this Act, may, in the Supreme Court before a judge without a jury, sue for and recover treble damages for the injury. Action for treble damages.

15 (2) No such action shall be instituted without the written consent of the Attorney-General.

19. In any proceeding for an offence any indictment, information, declaration, statement of claim, conviction, warrant, or other process shall suffice if the offence is set forth as nearly as may be in the words of this Act. Statement of offence.

20. (1) The Governor may make regulations giving effect to this Act. Regulations.

(2) The regulations shall be published in the Gazette and shall take effect from the date of publication or from a later date to be specified in the regulations.

(3) The regulations shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

30 (4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.