

Hon. Mr. Sullivan.

PREVENTION OF PROFITEERING.

ANALYSIS.

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A BILL INTITULED

AN ACT to prevent Profiteering by prohibiting the Title.
Making of Unreasonable Increases in the Prices
charged for Goods and Services.

5 BE IT ENACTED by the General Assembly of New
Zealand in Parliament assembled, and by the authority
of the same, as follows:—

1. This Act may be cited as the Prevention of Short Title.
Profiteering Act, 1936.

10 2. In this Act, unless the context otherwise requires,— Interpretation.
"Minister" means the Minister of Industries
and Commerce:

- “ Price ”, in relation to any goods or services, includes every valuable consideration whatsoever, given or demanded therefor:
- “ Sale ” includes barter and every other disposition of goods for valuable consideration. 5
- Offence of profiteering.** 3. (1) Every person commits the offence of profiteering who, either as principal or agent, sells or supplies or offers for sale or supply any goods at a price that exceeds the basic price of those goods by an unreasonable amount. 10
- “ Basic price ” defined. (2) In any proceedings for an offence against this section the basic price of the goods to which the proceedings relate shall be the lower of the following prices, namely:—
- (a) The current price at which on the first day of June, nineteen hundred and thirty-six, goods of the same nature and quality were saleable in the same locality if sold in the same quantity and on the same terms as to payment, delivery, and otherwise; or 15 20
- (b) The actual price at which on the first day of June, nineteen hundred and thirty-six, goods of the same nature and quality were sold or were offered or were available for sale by the defendant (whether as principal or agent), in the same locality, in the same quantity, and on the same terms as to payment, delivery, or otherwise. 25
- (3) The foregoing provisions of this section shall, with the necessary modifications, apply with respect to prices or rates charged for the performance of services (otherwise than pursuant to a contract of service between master and servant) in the same manner as they apply in respect of the prices charged for goods. 30
- Penalties for profiteering.** 4. Every person who commits the offence of profiteering shall be liable on summary conviction, in accordance with the special provisions of this Act, to a fine not exceeding *two hundred* pounds or to imprisonment for a term not exceeding *three* months in the case of an individual, or to a fine not exceeding *one thousand* pounds in the case of a company or other corporation. 35 40

5. (1) For the purposes of this Act the Governor-General may from time to time, by Warrant under his hand, establish one or more special tribunals, to be known as Judicial Tribunals for the Prevention of Profiteering, and by the same or any other Warrant may define an area or areas within which any such tribunal shall have jurisdiction.
- (2) If no area is defined as aforesaid, every tribunal established under this section shall have authority to exercise the jurisdiction conferred by this Act at any place within New Zealand.
- (3) Any Warrant under this section may be at any time in like manner revoked.
6. (1) For the tribunal or for every tribunal established under this Act the Governor-General may from time to time appoint a Stipendiary Magistrate to exercise jurisdiction therein, and no person other than a Stipendiary Magistrate appointed under this section shall exercise jurisdiction in any such tribunal.
- (2) While any Magistrate holds an appointment to exercise special jurisdiction under this Act he shall, in addition to his salary as fixed by section eight of the Magistrates' Courts Act, 1928, be entitled to such extra salary or allowances (if any) as may be approved by the Governor-General in Council.
7. (1) No proceedings for an offence against this Act shall be commenced except by information in accordance with the Justices of the Peace Act, 1927, laid by an officer of the Department of Industries and Commerce, acting by direction of the Minister.
- (2) All such proceedings shall be heard and determined by a Stipendiary Magistrate alone, exercising jurisdiction in a tribunal established under the foregoing provisions of this Act.
- (3) In any such proceedings the informant may appear personally or by a barrister or solicitor or by any other person appointed in that behalf by the Minister.
- (4) Except as otherwise specially provided in this Act, the provisions of Part II of the Justices of the Peace Act, 1927, shall apply with respect to all proceedings under this Act.
8. Any prosecution for an offence against this Act may be instituted at any time within three years after the commission of the offence.

Special tribunals to determine cases arising under this Act.

Stipendiary Magistrates to be specially appointed to exercise jurisdiction under this Act.

For Magistrates' Courts Act, 1928 (s. 8), see Reprint of Statutes, Vol. II, p. 100

Procedure for offences against this Act.

For Justices of the Peace Act, 1927 (Part II), see Reprint of Statutes, Vol. II, p. 365

Limitation of time for prosecution of offences.

On hearing of informations laid under this Act, Magistrate may require production of books and documents.

9. (1) In any proceedings under this Act the Magistrate, in addition to any powers that he may have under the Justices of the Peace Act, 1927, in the exercise of his jurisdiction as a Justice of the Peace, shall have all the powers that he would have if, in exercising jurisdiction under this Act, he were exercising his civil jurisdiction as a Magistrate under the Magistrates' Courts Act, 1928. 5

(2) In particular, and without limiting the operation of the *last preceding* subsection, the Magistrate may require any person to produce any books or other documents relative to the subject-matter of the proceedings, or to permit any person nominated by the Magistrate in that behalf to inspect and to make copies of or extracts from any such books or documents. 10 15

(3) Any information obtained by any person in the course of the examination of any books or documents in accordance with the foregoing provisions of this section shall be treated by him as confidential except for the purposes of the proceedings. On application made by or on behalf of the defendant during the course of the proceedings or at any time thereafter, the Magistrate, if he is satisfied that the publication of any information produced to the Court or of any evidence given in the course of the proceedings would be unduly detrimental to the defendant in the conduct of his business, may make an order prohibiting the publication of any such information or evidence. 20 25

(4) Any person who divulges or publishes any information or evidence contrary to the provisions of the *last preceding* subsection shall be guilty of contempt of Court, and shall be punishable accordingly. 30

Admissibility of evidence.

10. In any proceedings for an offence against this Act the Magistrate may, in proof of any fact in issue, admit and accept as sufficient such evidence as he thinks fit, whether such evidence would be legally admissible in other proceedings or not. 35

Matters to be taken into account by Magistrate in determining whether the making of any particular increase in the price of any goods or services was reasonable or unreasonable.

11. (1) In determining for the purposes of any proceedings under this Act whether any increase above the basic price of any goods or services has been unreasonable (so as to constitute the making of such increase an offence against this Act) the Magistrate shall, in addition to any other relevant matters, take into consideration the following special matters, namely:— 40 45

(a) The extent (if any) by which the expenses of the defendant have since the first day of June,

nineteen hundred and thirty-six, been directly or indirectly increased by the operation of any amendment of the law relating to the rates of remuneration of any workers, or to the working-hours of any workers:

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(b) The extent (if any) by which the business of the defendant has been or is likely to be increased by reason of an increased demand for goods of the kind sold or for services of the kind performed by him, due to the increased purchasing-power of persons requiring such goods or services.

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(2) Subject to the provisions of this section, the Magistrate hearing any information under this Act shall in his absolute discretion determine whether the making of any increase above the basic price of any goods or services has been reasonable or unreasonable.

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12. In all proceedings for offences against this Act the decision of the Magistrate exercising jurisdiction in accordance with this Act shall be final and conclusive.

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13. The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary for giving full effect to the intent and purpose of this Act.

Decision of
Magistrate to
be final.

Regulations.