

Mr. Shera.

RESTRAINT OF MONOPOLIES.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Combinations respecting monopolies declared unlawful. 3. Monopolies and combinations to monopolize made punishable. 4. Power of Court to restrain and prohibit.</p>	<p>5. Power to bring third parties before the Court. 6. Property of unlawful combination forfeitable. 7. Private persons sustaining injury may recover threefold damage. 8. Interpretation of "person" and "persons" so as not to include industrial unions and associations. 9. Definition of the word "combination." 10. Method of procedure.</p>
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A BILL INTITULED

An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies. Title.

5 WHEREAS it is desirable to prevent and declare unlawful all combinations in restraint of trade and commerce, save and except such combinations as may from time to time be authorised under any enactment having for its object the adjustment of labour disputes and the settlement of differences between employers and employed : Preamble.

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

1. The Short Title of this Act is "The Restraint of Monopolies Act, 1893." Short Title.

15 2. From and after the coming into operation of this Act, every contract or combination in any form whatever, or conspiracy, in restraint of trade or commerce, made, entered into, or engaged in in the Colony of New Zealand, or partly within and partly without the said colony, is hereby declared to be illegal. And every person who shall make any such contract, or engage in any such combination or 20 conspiracy, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable, at the discretion of the Court, to a fine not exceeding *five hundred* pounds, and at the like discretion to be imprisoned for a term not exceeding *one* year, with or without hard labour.

25 3. From and after the coming into operation of this Act, every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce of the Colony of New Zealand, or of the Combinations respecting monopolies declared unlawful.  
Monopolies and combinations to monopolize made punishable.

trade or commerce of the said colony with parts beyond sea, shall be deemed guilty of a misdemeanour, and shall, on conviction thereof, be liable at the discretion of the Court to a fine not exceeding *five hundred* pounds, and at the like discretion to be imprisoned for a term not exceeding one year, with or without hard labour.

Power of Court to restrain and prohibit.

4. The Supreme Court of the Colony of New Zealand is hereby invested with jurisdiction to prevent and restrain violations of this Act; and it shall be the duty of the several district Crown Solicitors in their respective districts, under the direction of Her Majesty's Attorney-General for the said colony, to institute proceedings to prevent and restrain such violations. Such proceedings may be by way of petition, setting forth the case and praying that such violation shall be restrained or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the Court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the Court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Power to bring third parties before the Court.

5. Whenever it shall appear to the Court, during the pendency of any proceeding under section *four* of this Act, that the ends of justice require that other parties within its jurisdiction should be brought before the Court, the Court may cause them to be summoned, whether they reside within the judicial district in which the Court is held or not.

Property of unlawful combination forfeitable.

6. Any property owned under any contract, or by any combination, or pursuant to any conspiracy mentioned in the *second* section of this Act (and being the subject thereof), and being in the course of transportation from one part of the Colony of New Zealand to another, or to parts beyond sea, shall be forfeited to Her Majesty, and may be seized and condemned by the like proceedings as by law provided for the forfeiture, seizure, and condemnation of property imported into the said colony contrary to law.

Private persons sustaining injury may recover threefold damage.

7. Any person who shall be injured in his business or property by any other person, or by any corporation, by reason of anything forbidden or declared to be unlawful by this Act, may sue therefor in any Court of competent jurisdiction in the district wherein the person so injured may reside, and shall recover threefold the damage by him sustained, and the costs of suit as taxed between solicitor and client.

Interpretation of "person" and "persons" so as not to include industrial unions and associations.

8. The word "person," or "persons," wherever used in this Act, shall be deemed to include corporations and associations existing under or authorised by the laws of the Colony of New Zealand, or by the laws of the United Kingdom or of any of Her Majesty's possessions, or of any foreign company: Provided always that the provisions of this Act shall not extend to industrial unions and associations capable of being registered and duly registered under any Act passed for facilitating the settlement of industrial disputes, so as to render such unions and associations liable for any act, matter, or thing done or committed under the provisions of any such Act.

Definition of the word "combination."

9. "Combinations," whether of persons or of corporations, or partly of persons and partly of corporations, the object or design whereof is to raise the price or restrict the production or output of

any mineral, commodity, product, or thing, or to secure to such combination the possession of the sole power, privilege, or license of buying and selling, or buying or selling, making, working, or using anything whatsoever, shall also extend to and include every act,  
 5 matter, and thing whereby Her Majesty's subjects in general may be restrained in their liberty of manufacturing or trading, or whereby the course of free and open competition may be in any way impaired: Provided always that the said combinations shall in no way be deemed to extend to or include unions or associations  
 10 registered as aforesaid.

10. The method of procedure to be followed in the prosecution for any offence by this Act made a misdemeanour shall be the same as by law provided for the trial of indictable offences in general. Method of procedure.