

1964-65.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

VOTES AND PROCEEDINGS

OF THE

HOUSE OF REPRESENTATIVES.

No. 138.

TUESDAY, 7TH DECEMBER, 1965.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable Sir John McLeay) took the Chair, and read Prayers.
2. QUESTIONS.—Questions without notice were asked.
3. DROUGHT ASSISTANCE—MINISTERIAL STATEMENT.—Sir Robert Menzies (Prime Minister), by leave, made a ministerial statement regarding the Commonwealth's undertaking to provide financial assistance in respect of the cost of drought relief measures undertaken by the States of New South Wales and Queensland.
Mr. Pollard, by leave, also made a statement with reference to the matter.
Mr. Nelson asked leave to make a statement in connexion with the matter.
Objection being raised, leave not granted.
4. PAPER—LEAVE TO PRESENT NOT GRANTED.—Mr. Aston asked leave to present a paper and move a motion.
Objection being raised, leave not granted.
5. MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS.—A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:—
4th December, 1965—Message No. 149—
Customs Tariff (No. 3) 1965.
Tobacco Marketing 1965.
Tobacco Charge (No. 1) 1965.
Tobacco Industry 1965.
States Grants 1965.
States Grants (Special Assistance) 1965.
Foot and Mouth Disease 1965.
Judiciary 1965.
Judges' Remuneration 1965.
States Grants (Research) 1965.
6. BRIGALOW LANDS AGREEMENT BILL 1965.—Mr. Forbes (Minister assisting the Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Brigalow Lands Agreement Act 1962*.
Bill read a first time.
Mr. Forbes moved, That the Bill be now read a second time.
Debate adjourned (Mr. Luchetti), and the resumption of the debate made an order of the day for the next sitting.
7. TRADE PRACTICES BILL 1965.—The House, according to order, resolved itself into a committee of the whole for the further consideration of the Bill.

(In the committee.)

Clause 41 further considered and agreed to.

Clause 42—

On the motion, by leave, of Mr. Snedden (Attorney-General), the following amendments were made together:—

Page 20, lines 27 and 28, omit “, or within such further time as the Commissioner, within that period, allows”.

Page 21, lines 2 and 3, omit “, or within such further time as the Commissioner, within that period, allows”.

Page 21, at the end of the clause add the following sub-clause:—

“ (8.) A person referred to in sub-section (4.) of this section may, before the expiration of the time within which, apart from this sub-section, the particulars are required to be furnished, apply in writing to the Commissioner for an extension of that time and, where such an application is made, the time within which the particulars are required to be furnished shall not be taken to expire—

(a) whether or not the application is granted—before the expiration of fourteen days after the date on which the Commissioner informs the applicant in writing of his decision on the application; or

(b) if the application is granted—before the expiration of the period of the extension granted by the Commissioner.”

Clause, as amended, agreed to.

F.14710/65.

7th December, 1965.

Clause 43—

On the motion, by leave, of Mr. Snedden, the following amendments were made together, after debate:—

Clause 43, page 22, line 4, omit " One thousand pounds ", insert " Two thousand dollars ".

Clause 85, page 40, line 15, omit " Five thousand pounds ", insert " Ten thousand dollars ".

Clause 85, page 40, lines 16 and 17, omit " Two thousand pounds ", insert " Four thousand dollars ".

Clause 86, page 41, line 15, omit " Five thousand pounds ", insert " Ten thousand dollars ".

Clause 86, page 41, lines 16 and 17, omit " Two thousand pounds ", insert " Four thousand dollars ".

Mr. Killen moved the following further amendment to clause 43:—

Page 22, sub-clause (4.), after paragraph (c) insert the following paragraph:—

" (d) he believed on reasonable grounds that the agreement was not registrable,".

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided (the Chairman, Mr. Lucock, in the Chair)—

AYES, 8.

Mr. Buchanan
Mr. Haworth

Sir W. Kent Hughes
Mr. Killen

Mr. Stokes
Mr. Wilson

Tellers:
Mr. L. H. Irwin
Mr. Wentworth

NOES, 90.

Mr. Allan
Mr. Anthony
Mr. Armstrong
Mr. Bate
Mr. Beazley
Mr. Benson
Mr. Birrell
Mr. Bosman
Mr. Bridges-Maxwell
Mr. Brimblecombe
Mr. Bryant
Mr. K. M. K. Cairns
Mr. Calwell
Mr. Cameron
Mr. Chaney
Mr. Clark
Mr. Cleaver
Mr. Collard
Mr. Connor

Mr. Cope
Mr. Costa
Mr. Courtney
Mr. Coutts
Sir J. Cramer
Mr. Crean
Mr. Daly
Mr. Davis
Mr. Devine
Mr. Drury
Mr. England
Mr. G. D. Erwin
Mr. Failes
Mr. Fairbairn
Mr. Fairhall
Mr. Forbes
Mr. Fox
Mr. Fulton
Mr. Galvin

Mr. Gibbs
Mr. Giles
Mr. Gray
Mr. Griffiths
Mr. Hallett
Mr. Hansen
Mr. Harding
Mr. Harrison
Mr. Hayden
Mr. Holt
Mr. Holten
Mr. Howson
Mr. Hughes
Mr. Hulme
Mr. Jack
Mr. James
Mr. Jess
Mr. Johnson
Mr. Jones

Mr. Kelly
Mr. King
Mr. Lindsay
Mr. Luchetti
Mr. Mackay
Mr. Maisey
Mr. McEwen
Mr. McIvor
Mr. McMahan
Mr. McMahon
Sir R. Menzies
Mr. Minogue
Mr. Mortimer
Mr. Nicholls
Mr. Nixon
Mr. O'Connor
Mr. Opperman
Mr. Pettitt
Mr. Pollard
Mr. Reynolds

Mr. Riordan
Mr. Sexton
Mr. Shaw
Mr. Sinclair
Mr. Snedden
Mr. Stewart
Mr. Swartz
Mr. Turnbull
Mr. Turner
Mr. Uren
Mr. Webb
Mr. Whitlam

Tellers:

Mr. Aston
Mr. Duthie

And so it was negatived.

Clause, as amended, debated and agreed to.

Proposed new clause—

Mr. Whitlam moved, That the following new clause be inserted in the Bill:—

" 43A.—(1.) Where any particulars have not been furnished as required by this Act, every person who is guilty of an offence by reason of the non-furnishing of the particulars is subject to a continuing obligation to furnish those particulars, which obligation continues until he or some other such person has furnished the particulars.

Continuing failure to register.

" (2.) A person who makes default in compliance with his obligation under the last preceding sub-section is guilty of an offence punishable by a penalty not exceeding Two thousand dollars for each week during which the default continues."

Debate ensued.

Proposed new clause negatived.

Clauses 44 and 45, by leave, taken together, and agreed to.

Clause 46—

Mr. Killen moved the following amendment:—Page 23, lines 6 and 7, omit " and ' would be contrary to the public interest ' "

Debate ensued.

Amendment negatived.

Clause agreed to.

Clause 47—

On the motion of Mr. Snedden, the following amendment was made:—

Page 23, after sub-clause (5.) insert the following sub-clause:—

" (5A.) Where proceedings have been instituted under this section, the Commissioner shall cause notice of the proceedings, together with a copy of the document referred to in the last preceding sub-section, to be served, as prescribed, on every other party to the proceedings."

Clause, as amended, agreed to.

Clause 48—

On the motion of Mr. Snedden, the following amendment was made:—

Page 24, at the end of the clause add the following sub-clause:—

" (3.) Where a person (other than the Commissioner) taking part in consultations under this section indicates his wish that the consultations, or any part of the consultations, be on a ' without prejudice ' basis, evidence of any statement, admission or offer made by any person (including the Commissioner) in the consultations, or in that part of the consultations, as the case may be, shall not be admitted in proceedings before the Tribunal under this Act or under a complementary State law except with the consent of all parties to the proceedings."

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Mr. Killen moved the following further amendment:—

Page 24, at the end of the clause add the following sub-clause:—

“(4.) In connexion with consultations under sub-section (1.) of this section, the provisions of section 103 and section 104 shall be of no effect.”.

Debate ensued.

Amendment negatived.

Clause, as amended, agreed to.

Clause 49—

Mr. Killen, by leave, moved the following amendments together:—

Page 24, line 20, omit “ after such inquiry as it considers appropriate ”.

Page 24, line 21, omit “ if it is satisfied ”.

Page 24, line 29, omit “ in accordance with its opinion,”.

Debate ensued.

Amendments negatived.

On the motion of Mr. Snedden, the following amendment was made:—Page 24, line 35, after “ state ” insert “ , and record in the records of the Tribunal,”.

Mr. Snedden moved the following further amendment:—

Page 24, omit sub-clause (3.), insert the following sub-clause:—

“(3.) The Tribunal shall not find that a practice of monopolization is proposed to be engaged in unless the Tribunal is satisfied that the person or combination concerned is already, within the meaning of section 37 of this Act, in a dominant position in the trade in goods of the particular description concerned, or in the supply of services of the particular description concerned, in Australia or in a part of Australia.”.

Question—That the sub-clause proposed to be omitted stand part of the clause—put and negatived.

Further question proposed—That the sub-clause proposed to be inserted be so inserted.

Mr. Killen moved the following amendment to the sub-clause proposed to be inserted:—Omit “ the Tribunal is satisfied that ”.

Amendment negatived.

Question—That the sub-clause proposed to be inserted by Mr. Snedden be so inserted—put and passed. Clause, as amended, agreed to.

Clause 50—

On the motion of Mr. Snedden, the following amendment was made:—Page 25, line 10, after “ restriction ” insert “ or the practice ”.

Mr. Killen moved the following further amendment:—Page 25, line 11, omit “ are to ”, insert “ may be ”.

Debate ensued.

Amendment negatived.

Mr. Killen moved the following further amendment:—

Page 25, line 31, after “ competition ” insert “ or resulting from any proved undue advantage taken in imposing prices or other terms or conditions of dealing ”.

Debate ensued.

Amendment negatived.

Clause, as amended, debated and agreed to.

Clause 51—

On the motion, by leave, of Mr. Snedden, the following amendments were made together:—

Page 25, line 39, omit “ the restriction ”, insert “ observance of the restriction on and after that date ”.

Page 25, line 43, omit “ the practice ”, insert “ engaging in the practice on and after that date ”.

Page 25, at the end of the clause add the following sub-clause:—

“(3.) Where the Tribunal determines that a restriction or practice is contrary to the public interest, a transaction entered into, whether before or after the making of the determination, in pursuance of the restriction or in accordance with the practice is not illegal or unenforceable by reason only of the making of that determination.”.

Clause, as amended, agreed to.

Clause 52—

Mr. Killen moved the following amendment:—Page 26, line 3, omit “ as it thinks proper ”.

Debate ensued.

Amendment negatived.

On the motion of Mr. Snedden, the following amendment was made:—Page 26, line 6, after “ restriction ” insert “ or any restriction to the like effect ”.

Mr. Snedden moved the following further amendment:—

Page 26, omit sub-clause (2.), insert the following sub-clause:—

“(2.) Where the Tribunal determines that a practice is contrary to the public interest, it may make such orders as it thinks proper for restraining the person concerned, or the combination concerned or any of its members—

(a) from engaging or further engaging in the practice;

(b) from engaging in practices of a like kind; or

(c) from doing acts or things that, in the opinion of the Tribunal, would, unless there were a change in circumstances, amount to, or contribute to, a continuance or repetition of the practice or engagement in a practice of a like kind.”.

Question—That the sub-clause proposed to be omitted stand part of the clause—put and negatived.

Further question proposed—That the sub-clause proposed to be inserted be so inserted.

Mr. Killen moved the following amendment to the sub-clause proposed to be inserted:—Omit “ as it thinks proper ”.

Amendment negatived.

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Question—That the sub-clause proposed to be inserted by Mr. Snedden be so inserted—put and passed.

Mr. Killen, by leave, moved the following further amendments together:—

Page 26, line 24, omit “ as the Tribunal thinks necessary ”.

Page 26, lines 31–32, omit “ as it thinks proper ”.

Amendments negatived.

On the motion of Mr. Wentworth, the following further amendment was made, after debate:—Page 27, sub-clause (7.), before “ Orders ” insert “ Subject to section 57 of this Act,”.

Clause, as amended, agreed to.

Clause 53 agreed to.

Clause 54—

Mr. Killen, by leave, moved the following amendments together:—

Page 27, lines 32–33, omit “ the Tribunal is satisfied that ”.

Page 27, line 41, omit “ as it thinks fit ”.

Amendments negatived.

Mr. Whitlam moved the following amendment:—

Page 28, at the end of the clause add the following sub-clause:—

“ (3.) The Tribunal may make an interim order of the kind referred to in sub-section (1.) of this section in relation to an alleged examinable agreement or practice on the application of a person who satisfies the Tribunal that, unless such an order is made, that person is likely to suffer grave hardship or irremediable injury, and such an order remains in force, unless sooner revoked, for such period as the Tribunal determines.”.

Debate ensued.

Amendment negatived.

Mr. Killen moved the following amendment:—

Page 28, at the end of the clause add the following sub-clause:—

“ (3.) No order under this section shall be made unless the Commissioner shall undertake to pay to any party restrained damages arising from an order restraining the party where it is subsequently determined by the Tribunal that the agreement or practice was not contrary to public interest.”.

Amendment negatived.

Clause agreed to.

Clause 55—

On the motion, by leave, of Mr. Snedden, the following amendments were made together:—

Page 28, omit sub-clauses (2.) and (3.), insert the following sub-clauses:—

“ (2.) Where an agreement that was an examinable agreement has been determined, by effluxion of time or otherwise, or has been so varied that a restriction under the agreement has ceased to be in force, the Commissioner may, with the leave of the Tribunal constituted by a presidential member, institute proceedings under section 47 of this Act in respect of a restriction that was accepted under the determined agreement, or in respect of the restriction that has ceased to be in force, as the case may be.

“ (2A.) Leave shall not be granted under the last preceding sub-section for the institution of proceedings in respect of a restriction unless the Tribunal is satisfied that there are reasonable grounds for believing that the parties, or former parties, to the agreement or any of them have entered into, or are likely to enter into, another examinable agreement, or a further variation of the agreement, under which a restriction to the like effect is or may be accepted.

“ (3.) If, while proceedings under section 47 of this Act in respect of an agreement are pending, it is shown to the Tribunal that the agreement has been determined, by effluxion of time or otherwise, since the institution of the proceedings, the Tribunal may, if the Commissioner requests it to do so, continue the proceedings in respect of the determined agreement, but otherwise shall dismiss the proceedings.”.

Page 28, line 26, omit “ shall ”, insert “ may ”.

Clause, as amended, agreed to.

Clause 56—

Mr. Snedden moved the following amendment:—

Page 28, omit sub-clause (1.), insert the following sub-clauses:—

“ (1.) The Commissioner shall not institute proceedings under section 47 of this Act in respect of a practice unless—

(a) the proceedings relate to a practice that the Commissioner alleges is being, or is proposed to be, engaged in; or

(b) the Tribunal constituted by a presidential member has granted leave to institute the proceedings.

“ (1A.) Leave shall not be granted under the last preceding sub-section for the institution of proceedings in respect of a practice unless the Tribunal is satisfied that there are reasonable grounds for believing that the person or combination concerned is likely to engage again in the practice or to engage in a practice of a like kind, or that a combination in which that person, or a member of that first-mentioned combination, is or will be included is likely to engage in a practice of a like kind.”.

Question—That the sub-clause proposed to be omitted stand part of the clause—put and negatived.

Further question proposed—That the sub-clauses proposed to be inserted be so inserted.

Mr. Killen moved the following amendment to sub-clause (1A.) proposed to be inserted:—Omit “ the Tribunal is satisfied that ”.

Amendment negatived.

Question—That the sub-clauses proposed to be inserted by Mr. Snedden be so inserted—put and passed.

On the motion of Mr. Snedden, the following further amendment was made:—Page 28, line 40, omit “ shall ”, insert “ may ”.

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Mr. Killen moved the following further amendment:—

Page 28, after sub-clause (2.) insert the following sub-clause:—

“(2A.) Where in accordance with the last preceding sub-section proceedings are continued with respect to a practice that has ceased to be engaged in, the Commissioner shall include in his report to Parliament the reasons why he requested the Tribunal to continue proceedings.”.

Debate ensued.

Amendment negatived.

On the motion of Mr. Snedden, the following further amendment was made:—Page 29, line 4, omit “shall”, insert “may”.

Clause, as amended, agreed to.

Clause 57—

On the motion of Mr. Snedden, the clause was omitted, and the following clause inserted in place thereof:—

“57.—(1.) A determination or order of the Tribunal under this Division (other than an interim order) remains in force, subject to Division 3 of this Part and to any variation made in accordance with this Division, until rescinded by the Tribunal in accordance with the next succeeding section. Duration and operation of orders.

“(2.) An order of the Tribunal under this Division is binding only on the persons on whom it is expressed to be binding.

“(3.) Subject to the next succeeding sub-section, an order of the Tribunal under this Division shall not be expressed to be binding on a person unless that person, or a person appointed, in accordance with the regulations, to represent that person in the proceedings, was a party to the proceedings.

“(4.) Where a trade association, an officer of a trade association or a person appointed, in accordance with the regulations, to represent all or any of the members of a trade association is a party to proceedings, an order under this Division in those proceedings may be expressed to bind all or any persons from time to time acting on behalf of the trade association.”.

Clause 58 agreed to.

Clause 59—

On the motion of Mr. Snedden, the following amendment was made:—

Page 30, at the end of the clause add the following sub-clause:—

“(6.) In this section—

‘examinable agreement’ includes a proposed agreement that would be, or might be, an examinable agreement;

‘examinable practice’ includes a proposed practice that would be, or might be, an examinable practice;

‘restriction’ includes a proposed restriction.”.

Clause, as amended, agreed to.

Clause 60 agreed to.

Clause 61—

On the motion of Mr. Snedden, the following amendment was made, after debate:—

Pages 30 and 31, omit sub-clause (2.), insert the following sub-clause:—

“(2.) If, on an application under this section—

(a) the Tribunal is satisfied that the application arises out of a proposal for a new venture, or for a substantial extension of an existing venture, and there is furnished to the Tribunal a statutory declaration by the applicant, or by a person acting on behalf of the applicant and having, in the opinion of the Tribunal, sufficient means of knowledge, by which it is declared that—

(i) the restrictions or practice in respect of which the application is made are or is necessary to the success of the venture, or of the extension of the venture; and

(ii) the proposal will not be, or is unlikely to be, carried out unless there is an assurance of the legality of the restrictions or practice; or

(b) the Tribunal is satisfied that—

(i) the application relates to restrictions or a practice in respect of which consultations have been commenced in accordance with section 48 of this Act;

(ii) a reasonable period for the consultations has elapsed; and

(iii) the Commissioner has neither instituted proceedings under section 47 of this Act in respect of the restrictions or practice nor applied for leave to file a certificate under section 59 of this Act as a result of the consultations,

the Tribunal may, in its discretion, by order, direct the Commissioner to take action in accordance with this section in respect of the restrictions or practice.”.

Mr. Snedden moved the following further amendment:—

Page 31, after sub-clause (3.) insert the following sub-clauses:—

“(3A.) Where—

(a) the Tribunal gives a direction under sub-section (2.) of this section by reason of the provisions of paragraph (a) of that sub-section; and

(b) as a result of the direction, the Commissioner applies for leave to file a certificate under section 59 of this Act,

the Commissioner shall state in his application for leave a proposed minimum period of operation of the certificate, not being less than five years, and, if leave to file a certificate is granted, the certificate filed shall specify that period as the minimum period of operation of the certificate, and an application for leave to revoke the certificate shall not be made before the period so specified has elapsed since the filing of the certificate.

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“(3B.) Where—

- (a) the Tribunal gives a direction under sub-section (2.) of this section by reason of the provisions of paragraph (a) of that sub-section;
- (b) as a result of the direction, the Commissioner institutes proceedings in the Tribunal in respect of the restrictions or practice to which the direction relates; and
- (c) the Tribunal, in those proceedings, determines that a restriction or practice is not contrary to the public interest,

the determination shall specify a period, not being less than five years, as the minimum period of operation of the determination, and an application by the Commissioner under section 58 of this Act for leave to apply for rescission of the determination shall not be made before the period so specified has elapsed since the making of the determination.”

Mr. Whitlam moved the following amendment to sub-clause (3A.) proposed to be inserted:—At the end of the sub-clause add “ except where a party to the agreement, or the person engaging in the practice, has accepted a further restriction, or commenced to engage in a further practice, that is relevant to the question whether the restriction or practice to which the certificate relates is contrary to the public interest”.

Debate ensued.

Amendment to proposed amendment negatived.

Original amendment agreed to.

Clause, as amended, agreed to.

Clause 62—

On the motion of Mr. Snedden, the following amendment was made:—Page 31, at the end of the clause add “, but shall not include the presidential member who heard, or presided at the hearing of, the proceedings in which the determination of which a reconsideration is sought was made”.

Clause, as amended, agreed to.

Clause 63—

Mr. Killen moved the following amendment:—Page 32, line 9, after “ law ” insert “ or of fact ”.

Debate ensued.

Amendment negatived.

Clause agreed to.

Clause 64—

Mr. Killen, by leave, moved the following amendments together:—

Page 32, line 24, omit “ may, in its discretion,”, insert “ shall ”.

Page 32, line 25, after “ order ” insert “ allowing the appeal or ”.

Page 32, sub-clause (4.), at the end of paragraph (c) add “ or the error of fact ”.

Amendments negatived.

Clause agreed to.

Clause 65—

On the motion of Mr. Snedden, the following amendment was made:—

Page 33, omit sub-clause (5.), insert the following sub-clause:—

“(5.) The Tribunal as constituted, in accordance with section 18 of this Act, for the purposes of proceedings under this section may consist of or include the member, or all or any of the members, who constituted the Tribunal in the proceedings in which the determination that is to be reconsidered was made.”.

Clause, as amended, agreed to.

Clause 66—

Mr. Killen moved the following amendment:—Page 33, line 29, omit “ if it thinks fit,”.

Debate ensued.

The committee continuing to sit until after midnight—

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Debate continued.

Amendment negatived.

On the motion of Mr. Snedden, the following amendment was made:—Page 33, lines 36 and 37, omit

“, but the Court may, for special reasons, decline to answer such a question ”.

Clause, as amended, agreed to.

Clause 67 agreed to.

Clause 68—

On the motion, by leave, of Mr. Snedden, the following amendments were made together:—

Page 34, lines 24 and 25, omit “, upon application made by the Attorney-General,”.

Page 34, after sub-clause (4.) insert the following sub-clause:—

“(4A.) Proceedings before the Court in accordance with this section shall not be instituted except with the consent in writing of the Attorney-General.”.

Clause, as amended, agreed to.

Clause 69—

On the motion of Mr. Snedden, the following amendment was made:—

Page 35, lines 10 and 11, omit “ arising directly or indirectly out of the transaction ”, insert “, whether as a party to the transaction or as a person claiming directly or indirectly under a party to the transaction,”.

Clause, as amended, agreed to.

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Clause 70—

Mr. Killen moved the following amendment:—Page 35, sub-clause (1.), omit paragraph (c).

Amendment negatived.

Clause agreed to.

Clause 71 agreed to.

Clause 72—

Mr. Killen moved the following amendment:—Page 35, line 36, omit “ may ”, insert “ shall ”.

Debate ensued.

Amendment negatived.

Clause agreed to.

Clauses 73 and 74, by leave, taken together, and agreed to.

Clause 75—

On the motion of Mr. Killen, the following amendment was made, after debate:—Page 36, line 22, before “ member ” insert “ presidential ”.

Clause, as amended, agreed to.

Clauses 76 and 77, by leave, taken together, and agreed to.

Clause 78—

Mr. Killen moved the following amendment:—Page 37, at the end of the clause add the following paragraph:—“ and (e) to allow costs where appropriate.”

Debate ensued.

Amendment negatived.

Clause agreed to.

Clauses 79 to 84, by leave, taken together, and agreed to.

Clause 85, as previously amended (*see clause 43, page 500*), debated.

Mr. Killen moved the following further amendment:—Page 39, sub-clause (4.), after paragraph (b) insert the following paragraph:—

“ (c) the agreement concerned was in the public interest ”.

Debate continued.

Amendment negatived.

Clause, as amended, agreed to.

Clause 86, as previously amended (*see clause 43, page 500*)—

On the motion of Mr. Snedden, the following further amendment was made:—

Page 41, after sub-clause (3.) insert the following sub-clause:—

“ (3A.) It is a defence to a prosecution under sub-section (2.) of this section if the defendant satisfies the Court that—

(a) the agreement concerned was not made for the purposes of a particular auction; and

(b) at the time of the alleged offence—

(i) full and accurate particulars of the agreement and of any variation of the agreement were contained in the Register; and

(ii) there was not in force an order of the Tribunal that was contravened by the conduct constituting the alleged offence.”

Clause, as amended, agreed to.

Clause 87—

On the motion of Mr. Snedden, the following amendment was made:—

Page 41, sub-clause (1.), omit paragraph (b), insert the following paragraphs:—

“ (b) the agreement is between partners, in relation to the terms of the partnership or the conduct of the partnership business or in relation to competition between a partner and the partnership;

“ (ba) the agreement is between trustees, in relation to the conduct of a business carried on by them as trustees; or ”.

Clause, as amended, agreed to.

Clause 88—

Mr. Whitlam moved the following amendment:—

Page 42, line 5, omit all words from and including “ contravention ” to the end of sub-clause (1.), insert “ contravention of any of the provisions of Part IX. may sue for and recover from that other person treble damages for the loss or damage ”.

Debate ensued.

Amendment negatived.

On the motion of Mr. Snedden, the following amendment was made:—

Page 42, omit sub-clause (3.), insert the following sub-clause:—

“ (3.) In an action under this section in respect of an act in contravention of section 85 or 86 of this Act, the provisions of sub-section (4.) of section 85 or of sub-section (3A.) of section 86, of this Act apply as if the reference to a prosecution were a reference to the action and as if the reference to the alleged offence were a reference to that act.”

Clause, as amended, agreed to.

Clauses 89 and 90, by leave, taken together, and agreed to.

Clause 91 debated.

Mr. Killen moved the following amendment:—Page 42, line 31, omit “ and whether express or implied ”.

Debate continued.

Amendment negatived.

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On the motion of Mr. Whitlam, the following amendment was made, after debate:—Page 42, at the end of sub-clause (3.) add “ or made at any time before the date of commencement of this Act ”.
Clause, as amended, agreed to.

Clause 92—

On the motion of Mr. Snedden, the following amendment was made:—Page 44, line 39, omit “ that ”.
Clause, as amended, agreed to.

Clauses 93 to 96, by leave, taken together, and agreed to.

Clause 97—

On the motion of Mr. Snedden, the clause was omitted, and the following clause inserted in place thereof:—

“ 97.—(1.) Subject to any direction under section 73 of this Act, a person may, on application in accordance with the regulations and on payment of the prescribed fee—

(a) inspect the document recording a determination or order of the Tribunal or any other document filed in the Tribunal or recorded in the records of the Tribunal in pursuance of this Act or the regulations; and

(b) obtain a copy of any such document, certified to be a true copy under the hand of the Registrar or a Deputy Registrar.

“ (2.) A copy of a determination or order of, or undertaking given to, the Tribunal, certified to be a true copy under the hand of the Registrar or a Deputy Registrar, shall be received in all courts as evidence of the determination, order or undertaking.”

Inspection of, furnishing of copies of, and evidence of, documents.

Clause 98 debated and agreed to.

Clauses 99 and 100, by leave, taken together, and agreed to.

Clause 101—

On the motion of Mr. Snedden, the following amendment was made:—

Page 46, at the end of the clause add the following sub-clause:—

“ (5.) A prosecution for an offence against section 43, 85 or 86 of this Act may be commenced at any time after the commission of the offence.”

Clause, as amended, agreed to.

Clause 102 agreed to.

Clause 103—

On the motion of Mr. Snedden, the following amendment was made, after debate:—Page 47, line 20, omit “ Five hundred pounds ”, insert “ One thousand dollars ”.

Clause, as amended, agreed to.

Clause 104 agreed to.

New clause—

On the motion of Mr. Snedden, the following new clause was inserted in the Bill, after debate:—

“ 104A.—(1.) The Commissioner shall, within sixty days after the end of each year, furnish to the Attorney-General, for presentation to the Parliament, a report with respect to his operations in that year.

Commissioner to furnish annual report.

“ (2.) In this section, ‘ year ’ means a year ending on the thirtieth day of June, but does not include a year that ended before the date fixed by Proclamation under sub-section (2.) of section 2 of this Act.”

Proposed new clauses—

Mr. Connor moved, That the following new clause be inserted in the Bill:—

“ 104B.—(1.) The Commissioner shall, within thirty days after the end of each quarter, furnish to the Attorney-General, for presentation to the Parliament, a report with respect to his operations during that quarter and shall include in the report information as to—

Annual reports.

(a) the matters in which he has carried out investigations;

(b) the matters in which he has decided to institute proceedings in the Tribunal; and

(c) the matters in which he has decided not to institute proceedings in the Tribunal.

“ (2.) The Attorney-General shall, as soon as practicable after every thirtieth day of June, report to Parliament on the operation of this Act in the year ending on that thirtieth day of June.

“ (3.) In this section, ‘ quarter ’ means a period of three months ending on the last day of September, December, March or June.”

Proposed new clause negatived.

Mr. Killen moved, That the following new clause be inserted in the Bill:—

“ 104B. The President shall, within sixty days after the end of each year, furnish to the Attorney-General, for presentation to the Parliament, a report with respect to the operations of the Tribunal in that year ”.

Debate ensued.

Proposed new clause negatived.

7th and 8th December, 1965.

Clause 105—

On the motion of Mr. Snedden, the following amendment was made, after debate:—

Page 48, at the end of the clause add the following sub-clause:—

“(2.) Regulations under this section may provide that all or any of the provisions of this Act shall not apply to or in relation to all or any agreements made by, or practices of, a specified organization or body that performs functions in relation to the marketing of primary products.”.

Clause, as amended, agreed to.

Schedule agreed to.

Title agreed to.

Bill to be reported with amendments.

The House resumed; Mr. Lucock reported accordingly.

On the motion of Mr. Snedden, by leave, the House adopted the report.

Mr. Snedden moved, by leave, That the Bill be now read a third time.

Debate ensued.

Question—put and passed.—Bill read a third time.

8. ADJOURNMENT.—Mr. Snedden (Attorney-General) moved, That the House do now adjourn.

Question—put and passed.

And then the House, at twenty-nine minutes to two o'clock in the morning, adjourned until this day at half-past two o'clock p.m.

PAPERS.—The following papers were deemed to have been presented on the 7th December, 1965, pursuant to statute—

Explosives Act—Explosives Regulations—Order—Berthing of a vessel.

Papua and New Guinea Act—Ordinances—1965—

No. 57—Poisons and Dangerous Substances.

No. 58—Workers' Compensation.

No. 59—Mining (New Guinea).

Public Service Act—Appointments—Department—

Supply—J. Miller.

Treasury—G. J. Erwin.

Public Service Arbitration Act—Public Service Arbitrator—Determinations—1965—

No. 249—Amalgamated Engineering Union and others.

No. 250—Australian Federated Union of Locomotive Enginemen.

No. 251—Administrative and Clerical Officers' Association, Commonwealth Public Service.

No. 252—Amalgamated Engineering Union and Boilermakers and Blacksmiths' Society of Australia.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Adermann, Mr. Barnard, Mr. Beaton, Mr. Bowen, Mr. Bury, Mr. Chipp, Mr. Cockle, Mr. Cross, Mr. Curtin, Mr. J. M. Fraser, Mr. Freeth, Mr. Gibson, Mr. Hasluck, Mr. Mackinnon, Mr. Peters and Mr. Robinson.

A. G. TURNER,

Clerk of the House of Representatives.