

AUSTRALIAN INDUSTRIES PRESERVATION.

No. 29 of 1910.

An Act to amend the *Australian Industries
Preservation Act 1906-1909.*

[Assented to 25th November, 1910.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and
citation.

1.—(1.) This Act may be cited as the *Australian Industries Preservation Act 1910.*

(2.) The *Australian Industries Preservation Act 1906-1909* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Industries Preservation Act 1906-1910.*

Restraint of
Inter-State or
External trade.

2. Section four of the Principal Act is amended—

(a) by inserting in paragraph (a) of sub-section (1.), before the words “with intent to restrain,” the words “in restraint of or”;

(b) by omitting the words “to the detriment of the public”;

(c) by inserting in paragraph (b) of sub-section (1.), before the words “with intent to destroy or injure,” the words “to the destruction or injury of or”;

(d) by inserting, after the words “Five hundred pounds,” the words “or, in the case of a continuing offence, Five hundred pounds for each day during which the offence continues.”

(e) by adding at the end of the section the following sub-section :—

“(3.) It shall be a defence to a proceeding for an offence under paragraph (a) of sub-section (1.) of this section, and an answer to an allegation

that a contract was made or entered into in restraint of, or with intent to restrain, trade or commerce, if the party alleged to have contravened this section proves—

- (a) that the matter or thing alleged to have been done in restraint of, or with intent to restrain, trade or commerce, was not to the detriment of the public, and
- (b) that the restraint of trade or commerce effected or intended was not unreasonable."

3. Section six of the Principal Act is amended by inserting after the words "section four" the words "and section ten." Unfair competition.

4. Section seven of the Principal Act is amended— Monopoly.

- (a) by omitting the words "with intent to control, to the detriment of the public, the supply or price of any service, merchandise, or commodity";
- (b) by inserting, before the word "offence," the word "indictable";
- (c) by inserting, after the words "Five hundred pounds," the words "for each day during which the offence continues, or one year's imprisonment, or both; or, in the case of a corporation, One thousand pounds for each day during which the offence continues";
- (d) by adding at the end of the section the following sub-section:—

"(3.) The Attorney-General may elect, instead of proceeding by indictment for an offence against this section, to institute proceedings in the High Court by way of civil action for the recovery of the pecuniary penalties for the offence; in which case the action shall be tried before a justice of that Court without a jury."

5. Section seven A of the Principal Act is amended by adding at the end of sub-section (3.) the words "and was not destructive of or injurious to any Australian industry." Unfair concessions.

6. Section ten of the Principal Act is amended by omitting the words "to the detriment of the public." Injunction.

7. After section fourteen of the Principal Act the following sections are inserted:—

"14A. In any proceeding for an offence against this Part of this Act, any indictment, information, 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. Information, &c., to suffice if in words of this Act.
Cf. 1901, No. 6, s. 250.

"14B. No person shall, in any proceeding for an offence against this Part of this Act, be excused from answering any question, put either *viva voce* or by interrogatory, or from making any discovery of documents, on the ground that the answer or discovery may tend to criminate him or make him liable to a penalty; but his answer shall not be admissible in evidence against him in any civil or criminal proceeding other than a proceeding for an offence against this Act or a prosecution for perjury.

Minutes,
records, &c., to
be evidence.

"14c. In any proceeding for an offence against this Part of this Act, wherein a combination or conspiracy or attempted combination or conspiracy in contravention of this Act is alleged, any book document paper or writing containing—

(a) any minute note record or memorandum of any proceeding at any meeting of the persons or any of the persons alleged to have been parties or privy to the combination conspiracy or attempt, or

(b) any entry purporting to be a copy of or extract from any such book document paper or writing,

shall, upon proof that it was produced by or came from the custody of those persons or any of them, or of a responsible officer or a representative of those persons or any of them,—

(i.) be admissible in evidence against those persons ; and

(ii.) be evidence that the matter and things thereby appearing to have been done by those persons or any of them were so done, and that any person thereby appearing to have been present at the meeting was so present.

Books, letters,
documents, &c.
to be evidence.

"14D. In any proceeding for an offence against this Part of this Act, any book letter document paper or writing, or anything purporting to be a copy of or extract from any book letter document paper or writing, containing any reference to any matter or thing alleged to be done in contravention of this Act, shall, upon proof that it was produced by or came from the custody of a person charged with the offence, or a responsible officer or a representative of that person,—

(a) be admissible in evidence against that person ; and

(b) be evidence of the matters and things thereby appearing, and that the book letter document paper or writing (or, in the case of a copy, that the original thereof) was written signed despatched and received by the persons by whom it purports to have been written signed despatched and received, and that any such copy or extract is a true copy of or extract from the original of or from which it purports to be a copy or extract."

Power to
require persons
to answer
questions and
produce
documents.

8. Section fifteen B of the Principal Act is amended by inserting in sub-section (4.), after the words "criminate him," the words "or make him liable to a penalty".