

TRUSTS—CONSPIRACIES AGAINST TRADE.

SEC.

1. Defines trusts.
2. Corporations to forfeit charter for violation of this law.
3. Duty of attorney-general, etc.
4. Foreign corporations violating this act forbidden to do business.
5. Quo warranto proceedings.
6. Conspiracy against trade.
7. Requisites of indictment.

SEC.

8. Requisites of proof.
9. Persons out of the state liable to indictment.
10. Associations violating this act to forfeit \$50 a day, recoverable on suit.
11. Contracts or agreements in violation hereof void.
12. The provisions hereof cumulative.
13. Exempts live stock and agricultural products in hands of producers.
14. Emergency clause.

CHAP. 117.—[S. H. Bs. Nos. 9, 117, 136, 192, and 313.] An Act to define trusts, and to provide for penalties and punishment of corporations, persons, firms, and associations of persons connected with them, and to promote free competition in the state of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That a trust is a combination of capital, skill, or acts by two or more persons, firms, corporations, or associations of persons, or of either two or more of them for either, any, or all of the following purposes: First—To create or carry out restrictions in trade. Second—To limit or reduce the production, or increase or reduce the price of merchandise or commodities. Third—To prevent competition in manufacture, making, transportation, sale, or purchase of merchandise, produce, or commodities. Fourth—To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce, or commerce intended for sale, use, or consumption in this state. Fifth—To make or enter into, or execute or carry out any contract, obligation, or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce, or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

SEC. 2. That any corporation holding a charter under the laws of the state of Texas which shall violate any of the provisions of this act shall thereby forfeit its charter and franchise, and its corporate existence shall cease and determine.

SEC. 3. For a violation of any of the provisions of this act by any corporation mentioned herein it shall be the duty of the attorney-general or district or county attorney, or either of them, upon his own motion, and without leave or order of any court or judge, to institute suit or quo warranto proceedings in Travis County, at Austin, or at the county seat of any county in the state, where such corporation exists, does business, or may have a domicile, for the forfeiture of its charter rights and franchise, and the dissolution of its corporate existence.

SEC. 4. Every foreign corporation violating any of the provisions of this act is hereby denied the right and prohibited from doing any business within this state, and it shall be the duty of the attorney-general to enforce this provision by injunction or other proper proceedings in the district court of Travis County, in the name of the State of Texas.

SEC. 5. That the provisions of Chapter 48, General Laws of this state, approved July 9, 1879, to prescribe the remedy and regulate the proceedings by quo warranto, etc., shall, except in so far as they may conflict herewith,

govern and control the proceedings when instituted to forfeit any charter under this act.

Sec. 6. Any violation of either or all the provisions of this act shall be and is hereby declared a conspiracy against trade, and any person who may be or may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall, as principal, manager, director, agent, servant, or employe, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or orders thereunder or in pursuance thereof, shall be punished by fine not less than fifty dollars nor more than five thousand dollars, and by imprisonment in the penitentiary not less than one nor more than ten years or by either such fine or imprisonment. Each day during a violation of this provision shall constitute a separate offense.

Sec. 7. In any indictment for an offense named in this act it is sufficient to state the purposes or effects of the trust or combination, and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when, or where it was created.

Sec. 8. In prosecutions under this act it shall be sufficient to prove that a trust or combination as defined herein exists, and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

Sec. 9. Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this act which do not in their commission necessarily require a personal presence in this state, the object being to reach and punish all persons offending against its provisions whether within or without the state.

Sec. 10. Each and every firm, person, corporation, or association of persons, who shall in any manner violate any of the provisions of this act shall for each and every day that such violation shall be committed or continued forfeit and pay the sum of fifty dollars, which may be recovered in the name of the state of Texas in any county where the offense is committed or where either of the offenders reside, or in Travis County, and it shall be the duty of the attorney-general or the district or the county attorney to prosecute for and recover the same.

Sec. 11. That any contract or agreement in violation of the provisions of this act shall be absolutely void and not enforceable either in law or equity.

Sec. 12. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

Sec. 13. The provisions of this act shall not apply to agricultural products or live stock while in the hands of the producer or raiser.

Sec. 14. Whereas the people of this state are without a remedy against trusts, therefore an emergency and imperative public necessity exists requiring that the constitutional rule which requires that all bills shall be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 86 yeas, no nays; and passed the senate by a vote of 26 yeas, no nays.]

Approved, March 30, 1889.