Date Introduced: 26 October 1978
House: House of Representatives
Presented by: Hon. W. Fife, M.P., Minister for Business and Consumer Affairs

Short Digest of Bill

Purpose

To amend the Trade Practices Act 1974, in particular s.45D, in order to broaden the scope of secondary boycotts caught by that section, especially those affecting overseas and interstate trade and commerce.

Background

According to the Second Reading Speech the Government has introduced the amending Bill in an attempt to counter conduct which disrupts Australia's interstate and overseas trade and commerce. It is important to Australia as a trading nation that its sea and air links remain open "so that we can export and import our goods at times most favourable to our seasons, to our economy and to our balance of trade". Further there are costs to business and the community if interstate trade is prevented from functioning.

The immediate reason for the introduction of the legislation appears to have been the ban imposed during April 1978 by the Australasian Meat Industry Employees Union on the export of live sheep to the Middle East. This dispute could potentially have brought waterfront stoppages throughout Australia and other flow-ons in the meat industry. In a press statement issued on 11 April 1978 the Minister for Employment and Industrial Relations, Hon. A.A. Street, M.P. stated: "This Government will not permit such actions by a union, nor will the Government permit this minority of the trade union movement to seriously jeopardise a section of Australia's export contracts amounting to some $300 million from being fulfilled".

Provisions

Clause 4 inserts a new sub.s.45D(1A) which provides that a person shall not engage in concerted conduct with another person for the purpose and effect of preventing or substantially hindering a third person (not being the employer of the first mentioned person) from engaging in
interstate, territorial or overseas trade or commerce. New sub. s.45D(1B) provides defences where the conduct did not constitute a contravention of other restrictive trade practices provisions or where the dominant purpose for which the defendant engaged in the conduct was to preserve or further a business carried on by him.

Clause 5 amends s.76 by ensuring that a person is liable for only one pecuniary penalty even if a contravention of two or more provisions of Part IV (restrictive trade practices) occurs.

Clause 6 redrafts sub.s.88(7) relating to the grant of authorisation by the Trade Practices Commission for conduct that may come within s.45D.