

HOUSE No. 264.

Bill accompanying the petition of Lyman W. Griswold for legislation to prevent monopolies, excessive prices and unfair discriminations. Joint Judiciary. January 15.

Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eight.

AN ACT

Relative to Monopolies and Discriminations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Every contract, agreement, arrangement
2 or combination, whereby a monopoly in the manufacture,
3 production or sale in this Commonwealth of any article
4 or commodity in common use is or may be created, estab-
5 lished or maintained, or whereby competition in this
6 state in the supply or price of any such article or com-
7 modity is or may be restrained or prevented, or whereby,
8 for the purpose of creating, establishing or maintaining
9 a monopoly within this state of the manufacture, pro-
10 duction or sale of any such article or commodity, the
11 free pursuit in this state of any lawful business, trade

12 or occupation is or may be restrained or prevented, is
13 hereby declared to be against public policy, illegal and
14 void.

1 SECTION 2. Every person, firm or corporation, or any
2 officer or agent thereof, who shall make or attempt to
3 make or enter into any such contract, agreement, arrange-
4 ment or combination, or who shall within this state do
5 any act pursuant thereto, or in, towards or for the con-
6 summation thereof, wherever the same may have been
7 made, shall be deemed guilty of a misdemeanor, and on
8 conviction thereof, shall, if a natural person, be punished
9 by a fine not exceeding five thousand dollars, or by im-
10 prisonment for not more than one year, or by both such
11 fine and imprisonment; and if a corporation by a fine
12 not exceeding ten thousand dollars.

1 SECTION 3. No person, firm, corporation or associ-
2 ation doing business in this Commonwealth, and engaged
3 in the production, manufacture, sale or distribution of
4 any article or commodity in common use for the support
5 of life, comfort or health, shall demand an excessive price
6 for the same, or shall intentionally, for the purpose of
7 destroying the business of a competitor, discriminate un-
8 fairly between different sections, communities, cities or
9 towns, by selling such article or commodity at a lower
10 rate in one section, community, city or town than is
11 charged for such commodity by said party in another sec-
12 tion, community, city or town, after making due allow-
13 ance for the difference, if any, in the grade or quality
14 and in the cost of transportation from point of production,
15 if a raw product, or from the point of manufacture, if
16 a manufactured product: *provided*, that nothing in this
17 section shall prevent a person, firm or corporation, having

18 an established business in any such article or commodity
19 in any section, community, city or town, from meeting,
20 by a reduction of price, a lower price fixed by a com-
21 petitor, in such section, community, city or town, and
22 offering such article or commodity for sale at the lower
23 price fixed by said competitor. All contracts or agree-
24 ments made in violation of or for the purpose of violating
25 the provisions of this section shall be void.

1 SECTION 4. The attorney-general, or, by his direction,
2 a district attorney, may bring an action in the name of
3 the Commonwealth against any person, trustee, director,
4 manager, or other officer or agent of a corporation, or
5 against a corporation, to restrain the doing in this Com-
6 monwealth of any act herein forbidden or declared to be
7 illegal, or any act in, toward or for the making or con-
8 summation of any contract, agreement, arrangement or
9 combination herein prohibited, wherever the same may
10 have been made. The superior court shall have juris-
11 diction to restrain and enjoin any act herein forbidden
12 or declared to be illegal. A corporation refusing or neg-
13 lecting to comply with any restraining order or injunc-
14 tion issued by said court may, if a domestic corporation,
15 upon an information filed by the attorney-general, have
16 its charter revoked, and if a foreign corporation have its
17 right to do business in this Commonwealth cancelled.

1 SECTION 5. Whenever the attorney-general has deter-
2 mined to commence an action or proceeding under this
3 chapter he, or, by his direction, a district attorney, may
4 present to any justice of the superior court, before begin-
5 ning such action or proceeding, an application in writing
6 for an order directing the persons mentioned in the appli-
7 cation to appear before a justice of the superior court,
8 or an auditor designated in such order, and answer such

9 questions as may be put to them, or to any of them, and
10 produce such papers, documents and books concerning any
11 alleged illegal contract, agreement, arrangement or com-
12 bination, or other act forbidden or declared to be illegal
13 by the provisions of this chapter; and it shall be the duty
14 of the justice of the superior court, to whom such applica-
15 tion for the order is made, to grant such application and
16 issue the order. The application for such order may
17 simply show, upon information and belief, that the testi-
18 mony of such person or persons is material and necessary.
19 The order granted by the justice of the superior court
20 shall specify the time when and the place where the wit-
21 nesses are required to appear, and such examination shall
22 be held either in the city of Boston, or in the county in
23 which the witness resides, or in which the principal office
24 within this state, of the corporation affected is located.
25 The justice or auditor may adjourn such examination
26 from time to time and witnesses must attend accordingly.
27 The testimony of each witness must be subscribed by him,
28 and all must be filed in the office of the clerk of courts
29 of the county in which the order for examination is filed.

1 SECTION 6. The order for such examination must
2 be signed by the justice making it, and the service of a
3 copy thereof, with the endorsement of the attorney-
4 general, or a district attorney acting by direction of the
5 attorney-general, signed by him, to the effect that the per-
6 son named therein is required to appear and be examined
7 at the time and place, and before the justice or auditor
8 specified in said endorsement, shall be sufficient notice
9 for the attendance of witnesses. Such endorsement may
10 contain a clause requiring such person to produce on such
11 examination all books, papers and documents in his pos-
12 session, or under his control, relating to the subject of

13 such examination. The order shall be served upon the
14 person named in the endorsement thereof, in the same
15 manner in which subpoenas are required to be served, and
16 the witness shall receive the fees allowed for travel and
17 attendance in civil actions in the superior court.

1 SECTION 7. No person shall be excused from answer-
2 ing any questions that may be put to him, or from pro-
3 ducing any books, papers or documents, on the ground
4 that the testimony or evidence, documentary or other-
5 wise, required of him may tend to incriminate him, but
6 no person shall be prosecuted in any criminal action or
7 proceedings, or subjected to any penalty or forfeiture for
8 or on account of any transaction, matter or thing con-
9 cerning which he may testify, or produce evidence, docu-
10 mentary or otherwise, before said justice or auditor ap-
11 pointed in the order for his examination, or in obedience
12 to the subpoena of the justice or auditor, or either of them,
13 or in any such case or proceeding.

