

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
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NOV 20 1948

SENATE
S. No. 1838

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article XII, Section 19, provides that:

“The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.”

This constitutional provision not only recognizes the danger that monopolies pose on the public interest, but also contemplates that monopolies emerging, through restraint of trade or unfair competition, must be struck down in the incipiency.

This bill is a reaction to observation of industries being cartelized when few suppliers of a vital product conspire to fix prices to the detriment of the public. In very sensitive public utilities, small operators, who collectively may be able to provide better and geographically farther-reaching service, are unable to do so because of undue restraints imposed by the giants of the sector. In protecting their turf, the giants and the virtual monopolies place public interest below the objective of protecting market share and profitability.

The bill provides for treble-damage action. The fear of treble-damage actions is one of the most potent influences in securing compliance with antitrust. Private suits are one of the important supplementary enforcement device. Beyond the scope of the bill, it must also be recognized that there is an urgent need to strengthen the administrative machinery to be tasked with implementing this Anti-Trust Law: the Department of Trade and Industry, through possibly a Trade Commission to monitor the business sector; and the Department of Justice, for the prosecution of antitrust violators.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Thirteenth Congress, Third Regular Session.

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1 AN ACT
2 AMENDING REPUBLIC ACT NO. 3815, ALSO KNOWN AS THE REVISED PENAL
3 CODE, AS AMENDED, ARTICLE 186 ON MONOPOLIES AND COMBINATIONS
4 IN RESTRAINT OF TRADE

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

5 SECTION 1. Republic Act No. 3815, also known as the Revised Penal Code, Article 186
6 on Monopolies and Combinations in restraint of trade is hereby amended to read as follows:

7 Article 186. *Monopolies and combinations in restraint of trade.* -The penalty of *PRISION*
8 *MAYOR* or a fine not exceeding ONE MILLION pesos (PhP1,000,000.00) if a corporation, or, if
9 any person, FIVE HUNDRED THOUSAND pesos (PhP500,000.00), or both shall be imposed
10 upon:

11 1. Any person who shall enter into any contract or agreement or shall take part in any
12 conspiracy or combination in the form of a trust or otherwise, in restraint of trade or
13 commerce or to prevent by artificial means free competition in the market;

14 2. Any person who shall monopolize any merchandise or object of trade or commerce, or
15 shall combine with any other person or persons to monopolize and merchandise or object
16 in order to alter the price thereof by spreading false rumors or making use of any other
17 article to restrain free competition in the market;

18 3. Any person who, being a manufacturer, producer, or processor of any merchandise or
19 object of commerce or an importer of any merchandise or object of commerce from any
20 foreign country, either as principal or agent, wholesaler or retailer, shall combine,
21 conspire or agree in any manner with any person likewise engaged in the manufacture,
22 production, processing, assembling or importation of such merchandise or object of
23 commerce or with any other persons not so similarly engaged for the purpose of making

1 transactions prejudicial to lawful commerce, or of increasing the market price in any part
2 of the Philippines, of any such merchandise or object of commerce manufactured,
3 produced, processed, assembled in or imported into the Philippines, or of any article in
4 the manufacture of which such manufactured, produced, or imported merchandise or
5 object of commerce is used.

6 SECTION 2. *Repealing Clause.* - Any law, presidential decree or issuance, executive
7 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
8 with the provisions of this Act is hereby repealed, modified or amended accordingly.

9 SECTION 3. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
10 publication in at least two (2) newspapers of general circulation.

11 Approved,

/ptmt01july2010