**FOOD AND DRUGS ACT AMENDMENT BILL 1943**

**Legislative Assembly, 9 December 1943, pages 992-4**

Second reading

**The Hon. T. PLAYFORD (Gumereha Premier and Treasurer)—**This Bill makes a number of amendments to the Food and Drugs Act the greater number of which are amendments of an administrative nature. Clause 3 is inserted as the result of a suggestion of the Queensland Government, and has been suggested by that Government in order to provide some control over trade between the States in articles of food and drugs. Cases have occurred where various articles of food or drugs have been dispatched on sale from one State to another and the articles so dispatched have been adulterated so that they do not comply with the requirements, either of the State of origin or the State to which they are dispatched. There have been some unfortunate experiences with the adulteration of olive oil. Under the present law, no offence is created by such a sale. A provision similar to clause 3 has been enacted in Queensland with a view to obtaining uniform legislation in the other States of Australia. The clause provides that it shall be an offence to dispatch or offer to tender or dispatch on sale any article of food or drug which is adulterated contrary to the Pood and Drugs Act or which is packed or labelled, etc., contrary to that Act, whether the actual sale is effected or is to become effective in South Australia or elsewhere.

Clause 2 is the usual provision inserted in legislation of this nature and provides that the Food and Drugs Act is to be read subject to the Commonwealth of Australia Constitution Act and so that any part of the Food and Drugs Act is held to be in excess of the legislative power of the State, the remaining provisions of the Act shall not be vitiated by reason thereof. Clause 4 makes drafting amendments to subsection (2) of section 29 of the principal Act. That subsection is intended to provide that, in any prosecution in respect of the sale of milk or cream from a vehicle or receptacle, if the name of any person is inscribed on the vehicle or receptacle, it is presumed that any person in charge of the vehicle or receptacle is the servant of the person whose name is inscribed on the vehicle or receptacle. As at present drafted, the subsection is not clear and the purpose of the amendments is therefore to remove the drafting ambiguities in the subsection.

Section 57 of the Food and Drugs Act provides that if a person is charged with an offence under the Act with respect to any article of food or drug and he proves that he purchased the article from another person and with a written warranty from that person, the complaint is to be dismissed. It is considered that this provision is deficient inasmuch as there is no right to demand such a warranty. Clause 5 repeals the present section and reenacts a new section which is substantially the same as the Victorian provision relating to this matter. It is provided by the clause that any person who purchases any article of food or drug for re-sale may demand from the vendor a warranty that the article complies with such of the provisions of the Act as are applicable thereto. Any vendor who refuses any such warranty will be guilty of an offence

Mr. Moir—Where does that warranty come in?

The Hon. T. PLAYFORD—I believe it was the matter mentioned which necessitated an amendment to the Act. If a man manufactures butter and places it in a wrapper branded "choice butter ” it is a warranty that it is choice butter, and he would be guilty of an offence if the grade of butter contained in the wrapper was not choice. He would also be guilty of an offence if he refused to give a warranty regarding the grade of butter.

Mr. Moir—What is a milk vendor to do once he leaves milk on a person’s doorstep? Where does the warranty come in there?

The Hon. T. PLAYFORD—If the hon member will study the Bill he will see that, pro­vided the product is up to standard at the time it is delivered, a vendor or manufacturer is not responsible for any deterioration which may afterwards occur. Other provisions of the clause are similar to provisions of the existing section and provide that a person who purchases any article of food or drug with such a warranty shall, on being prosecuted for an offence in respect of that article, be entitled to have the complaint dismissed upon showing to the court that the article was sold in the same state as when it was purchased and that when he sold the article, he had no reason to believe that the article did not comply with the Act. It is also provided by the clause that a warranty may be given in respect of specific articles or given generally in respect of articles purchased by the purchaser from the person giving the warranty.

Clause 6 amends subsection (6) of section 58. This subsection provides that any person who gives a false warranty in respect of any article of food or drug sold by him shall be guilty of an offence unless he proves to the satisfaction of the court that, when he gave the warranty he had reason to believe that the statements or description contained therein were statements or description contained therein were true. It is proposed by clause 6 to strike out this exception to the subsection. If a person gives such a warranty, it is considered that this duty should be absolute. It is further suggested by the Metropolitan County Board that this exception renders prosecutions so difficult that the value of the provision is considerably diminished. Clause 7 extends the regulation- making powers of the Governor to include power to make regulations prescribing the form of advertisements for articles of food and drugs. Instances occur where advertisements, particularly those relating to some patent medicine, make unjustified claims in respect of the goods advertised. National Health and Medical Research Council and the State Advisory Committee under the Food and Drugs Act have both recommended that control should be exercised over these advertisements.

Clause 8 provides that regulations made under the Food and Drugs Act may require that any drug shall comply with the requirements of any pharmacopoeia or pharmaceutical codex. This is a very convenient method of prescribing the requirements of certain drugs but, at the present time, there is no legislative power to do this. It is also provided that any regulation may provide that any plant, machine, receptacle, vehicle, or premises shall be of a kind approved by the Central Board of Health o a local authority or by an inspector of either of these bodies.

Under section 62 of the Food and Drugs Act regulations made under the Act can be disallowed by either House of Parliament by resolution passed within 30 days after the time the regulations are tabled. The general rule relating to the disallowances of regulations is contained in the Acts Interpretation Act under which regulations may be disallowed by either House by resolution moved within 14 sitting days after the regulations are tabled. It is desirable that there should be a uniform practice in this regard and clause 9 provides that, in future, the rule provided in section 38 of the Acts Interpretation Act shall apply to regulations under the Food and Drugs Act. Members will see that no contentious matters are contained in the Bill. It is designed to clear up weaknesses which have been found to exist under the, principal Act. This legislation is of a type which is not only desirable but essential in the interests of the community, and I move the second reading.

The Hon. R. S. RICHARDS (Wallaroo— Leader of the Opposition)—I agree, in the main, with the provisions contained in the Bill, but there are one or two phases on which I am not clear. They relate to powers to be given under regulations. I agree with the Premier that it is desirable to have uniformity of legislation in the various States so that we can control the sale of drugs. I agree, too, that where it is found that certain prac­tices are not allowed in one State but are permitted in another, we should take action in the public interest to see that ample safeguards are provided. I can understand the first part of paragraph (13) which deals with advertising, as set out under clause 7, but I am not clear about the words "or other written or printed matter" in the latter part. Do they apply to screen advertisements? In view of certain happenings we should make it abundantly clear what the position is. Clause 8, which deals with regulations, also requires explanation. It is proposed to insert after section 61 in the principal Act a new section 61a as follows:—

Any regulation made under this Act (whether made before or after the passing of the Food and Drugs Act Amendment Act, 1943) may provide that any drug shall conform to the description or tests or to the description and tests prescribed in any pharmacopoeia or pharmaceutical codex referred to in the regulation and may provide that any such drug shall conform as aforesaid with any addition or alteration to any such pharmacopoeia or pharmaceutical codex made from time to time and whether made after the making of the regulation.

How can we make a regulation which was drafted prior to the commencement of this Bill conform to. the conditions which are pre­scribed under it without making any new regulation? We could draft a new regulation, but how could we apply the old one that does not deal with these matters?

The Hon. T. Playford—The regulation does not comply with the original powers, but it does comply with the present powers. Previously there was no power to make a regulation in these terms.

The Hon. R. S. RICHABDS—I assume that there were regulations—

The Hon. T. Playford—Of doubtful validity.

The Hon. r. S. RICHABDS—That clears up the point. I can see now that certain things that were illegal will become legal after the passing of this measure.

The Hon. T. PLAYFOBD (Premier and Treasurer)—There is not the slightest doubt that advertising upon the screen would be included in the general term " advertising", without its being specifically stated.

Mr. Whittle—Must the text of the advertisement be submitted for approval?

The Hon. T. PLAYFOBD—A form of advertising that is prevalent is the assertion that a given proprietary line is the equivalent of, say, three dozen eggs and 5 lb. of steak, etc.

Mr. Laeey—And it is not true to label.

The Hon. T. PLAYFOBD—Not only is it not true to label, but it is a claim which cannot be substantiated in fact, and this will prevent that inaccurate form of advertising which, unfortunately, is becoming rife, particularly with regard to patent medicines.

Bill read a second time.