DRIED FRUITS ACT AMENDMENT BILL 1938

Legislative Assembly, 29 September 1938, pages 1661-3

Second reading

The Hon. T. PLAYFORD (Gumeracha— Commissioner of Crown. Lands)—The principal object of the Bill is to deal with difficulties in the administration of the Dried Fruits Act which were created by the decision of the Privy Council in the famous case of James versus the Commonwealth. In this case the Privy Council declared that the Commonwealth had no power to control interstate trade. It therefore became possible for any dried fruits merchant purchasing fruit in one State to transport and sell that fruit in another State without restriction as to the amount which could be sold on the Australian market. Such conduct might well lead to the breakdown of the whole system of dried fruits control, but fortunately, upon consideration of the position, it has become clear that the States are not without power to substitute new arrangements for the system of Commonwealth control which has been declared invalid. The position arising from James’ case was thoroughly considered at conferences of the Australian Agricultural Council, and the main provision of this Bill carries into effect a resolution adopted by that council for the purpose of dealing with the difficulty. At the same time the Government has taken the opportunity to make other amendments of the Dried Fruits Bill which have been asked for by the Dried Fruits Board to facilitate the administration of the Act and to deal with the period of operation of the dried fruits legislation.

I will, explain the clauses in the order in which they appear in the Bill. Clause 3 deals with the term of office Of the Dried Fruits Board. The board is an elective one and elec­tions are held every two years, but it is proposed to alter this to three years. The board considers it is an unnecessary burden and expense to have elections every two years, and by increasing the term of office to three years the work and expense connected with elections will be cut down by one-third, without any disadvantage to anyone.

Clause 4 deals with the registration of dealers. The proposal is that, subject to a right of appeal to the Minister and to the Executive Council, the power to grant or refuse applications for registration or renewal of registration as a dealer shall be in the sole discretion of the board. By the proposed section 24a, if the board refuses any application, the applicant may request the Minister of Agriculture to reconsider the application and the Minister must reconsider it accordingly and send a recommendation to .the Governor in Council, who will finally decide the matter. When the question of dealing with the difficulties, raised by the/decision in the James’ case was considered at th6 Agricultural Council it was decided that the simplest way to maintain the present dried fruits scheme was to give the administrative authority power to ensure that the persons holding important posts of control in the dried fruits industry, such as dealers and owners of packing houses, should be persons who were willing to co-operate with the board in carrying out the accepted scheme of control. Eminent counsel advised the board that such arrangements would be perfectly legal and that the simplest way to achieve the object was to give, the board a complete discretion to determine who should be dealers and who should be packers, since it is these persons whose actions may break down the scheme of control. The assets of one or two persons who were known to be opposed to the control have been purchased at considerable expense, so that at present the persons in the industry are almost entirely supporters of the control. That is one phase which this House should recognize, because it simplifies the question of dealing with the industry. Australians generally are fair-minded and would support any provision which enabled a fair standard of living to be maintained. They like to see the producer get a fair return for his labour. The Government, whilst in sympathy with the suggestion of. the Agricultural Council, considers that the principle aimed at can be carried out without giving the board uncontrolled power over dealers and packers, and proposes that any decision of the board refusing an application for registration as a dealer or for registration of a packing house should be subject to an appeal to the Minister and to the Governor in Council. Clause 4, coupled with clause 6, carries out this proposal as regards registration of dealers. Clause 5 carries out the same principle as regards packing houses, giving the board the right to decide as it thinks fit applications for registration and renewal of registration of packing houses, and providing an appeal against the refusal of the board to register.

Clause 5 also makes one or two other minor amendments. In the first place it increases the penalty for processing fruit in an unregistered packing house. At present the penalty for this offence is a fine up to £100 with an additional £2 for every day on which the offence is continued. It is proposed to strike out this penalty and provide that any person who contravenes the section will be subject to the general penalty provided by section 34 of the Act. This general penalty is a fine not exceeding £500 with an additional fine not exceeding £10 for every day on which the offence is continued. Illegal trade in dried fruits may sometimes be exceedingly profitable and small penalties may not be a sufficient deterrent. Another matter dealt with in clause 5 is the renewal of registration of what are called “private packing houses". Certain packing houses have been registered to enable their owners and occupiers to process only fruit grown by themselves. There is the possibility, however, that if the board grants the transfer of the registration of any such packing house, the transferee would not be bound by the restriction and thus the packing house might become a public packing house. It is desired to enable the board to grant the transfer of a private packing house on condition that the packing house will continue to be used as a private packing house only.

Clause 6 gives the right of appeal against decisions of the board to the Minister of Agri­culture and the Governor in Council, as I have already explained. The decision of the Governor is made final and not subject to review in the courts. Clause 7 is designed to enable the Minister administering the Dried Fruits Act to inspect the books and accounts kept by packing houses in relation to dried fruits. Such an inspection will, if the clause is passed, be allowable for the purpose of the administration of any Act other than a Taxation Act. Parliament will doubtless appreciate the fact that it is necessary that the Government should have accurate returns as to the amount of dried fruits produced and sold, not only for the purpose of administering the Dried Fruits Act, but also in connection with the administration of other Acts under which the irrigation areas in the River Murray are managed. The Government does not, however, desire to use any powers under the Dried Fruits Act in connection with taxation, and it is expressly pro­vided that the Minister is not to have power to secure information for this purpose.

Clause 8 alters the general penalty for offences against the Act. he present penalty is a fine not exceeding £500. The clause adds a provision that in the ease of a continuing offence the court may impose an additional fine not exceeding £10 for every day on which the offence is continued. Clause 9 deals with the time within which proceedings for an offence against the Act must be instituted. At present the period fixed is 12 months from the commission of the offence. In the administration of the Dried Fruits Act, however, it not infrequently happens that the commission of an offence against the Act is not discovered until after the expiration of 12 months from the time when the offence was committed. For example, illegal trading may not be discovered until after the annual returns have been filed, which may be a year or more after the offence. The board has asked that the period should be raised to two years, and in view of the special nature of dried fruits legislation the Government has agreed to insert this amendment.

Clause 10 repeals section 39 of the principal Act, which declared that the Act is to remain in force until March 31, 1940. The control of the dried fruits industry has been going on for so long now, and is so essential a part of the Australian economic system that the Government considers the time has come when we should recognize that this system of control is not merely a temporary expedient, and therefore the time limit in our law should be removed. I move the second reading.

The Hon. J. McINNES secured the adjournment of the debate.