**FRUIT FLY BILL 1947**

**Legislative Assembly, 28 August 1947, page 435**

Second reading

**The Hon. Sir GEORGE JENKINS (Newcastle—Minister of Agriculture)—**This Bill gives effect to the promise made by the-Government that persons who have suffered loss as a result of action taken by the Department of Agriculture to destroy fruit fly will receive compensation. Members have already had a fair amount of information about this fly and it is now generally known that it is a deadly and destructive pest which, if allowed to multiply, would cause loss far greater than the expense incurred in the effort to destroy the fly. I will read for hon. members a short summary of the information about the fly which has been prepared by Mr. Strickland, the Government’s principal horticultural expert:—

"No species of fruit fly had ever been found in South Australia prior to the discovery of Queensland fruit fly maggots in a Glen Osmond home garden on January 30, 1947. It was soon established that the initially discovered outbreak at Glen Osmond was not restricted to one garden, and that fruit of many kinds, externally perfect, but inwardly maggoty and rotten could be found over an area of approximately one square mile in the eastern suburbs. Subsequently the pest was found to be established also over an area of about half a square mile at Glenelg, and in afew trees near the south parklands. The investigation, over a period of several months, of upwards of a 1000 reports of suspected fruit fly from many suburbs and country districts did not bring to light any further record of the pest. It may, therefore, be assumed reasonably that fruit fly was present last summer only in the areas mentioned. The discovery of fruit fly demanded immediate and vigorous action to prevent spread to other areas, particularly commercial fruit districts, and to eradicate it, if possible, in the areas known to be infested. Such action was designed in consultation with entomological authorities and within a few hours of the discovery of each centre of infestation carefully considered eradication measures were being implemented.

The alternative to eradication would have been acceptance of the pest as a permanent inhabitant, with many contingent repercussions. If fruit fly were to become established in this State, most people would give up home fruit growing in disgust, commercial fruit production would be loaded with heavier costs for reduced production, and some of our export markets would be lost to us because of quarantine barriers.

At the present time it is impossible to determine definitely the results of the eradication measures, but there is reasonable justification for hoping that the removal of all possible host fruits from the areas concerned, and the substitution of poison baits for normal fruit fly food material will make it impossible for the pest to survive the present winter. Warmer temperatures in spring will enable the presence or absence of fruit fly to be determined, and by the end of October the success of the campaign should be known.”

The loss and damage which have been caused by the action taken to destroy the fly is of two kinds. First, there is the loss of trees, plants, fruit, and vegetables. This loss was unavoidably caused by the action taken pursuant to the fruit fly regulations made under the Vine, Fruit, and Vegetable Protection Act. At common law no-one has any right to compensation for loss of this kind, because the rule is that acts done pursuant to statutory powers and without negligence do not give rise to a claim for damages. Secondly, a small amount of injury was done to property other than trees, plants, fruit, and vegetables, for example, to gates and fences. To the extent to which this injury was caused by negligence, or was not necessary for the purpose of destroying the fly, it does give rise to a claim for damages at common law.

This Bill applies to losses and damage of both the kinds I have mentioned. There is no obligation on the Government other than the promise made to pay compensation to fruit-growers or owners of land for loss incurred as a result of the work done in eradicating the fruit fly.

The Hon. E. S. Richards—No legal obligation, but a moral one.

The Hon. Sir GEORGE JENKINS—Under existing legislation everyone was responsible for the destruction of the fly on his own property, and instead of compensating people in respect of the work it did for them the Government actually has the right to charge them for the work. However, the extent of the infestation, the danger to South Australia unless steps were taken to eradicate it, and the effect on commercial growers of tomatoes and other commodities, were such that the Government felt it had an obligation to compensate people, and this Bill is the result.

The general nature of the proposals in the Bill will become clear from an explanation of the details of the clauses. Clause 3 establishes a committee to be called the “Fruit Fly Compensation Committee”. It will consist of a Judge, an officer of the Department of Agriculture, and a person who, in the Governor’s opinion, is a suitable person to represent the interests of persons who have suffered loss or damage for which compensation is payable under the Act. The Government will decide the term of office and the other conditions of appointment of the members of the committee. Clause 4 confers the right to compensation. It provides that persons who have suffered loss by reason of anything done pursuant to the Fruit Fly Regulations or in the intended exercise of powers given by those regulations or in the course of or incidental to the doing of any Act. under the regulations, shall be entitled to compensation for his loss as provided in the Bill.

Clause 5 sets out the procedure to obtain compensation. The claimant must give the committee notice of his claim in the prescribed form. A form will be prescribed by regulations. A claim for loss incurred before the regulations are gazetted must be made within three months after that time. A claim for loss incurred after the regulations are gazetted must be made within three months after the doing of the act from which loss resulted. The committee, however, may for reasonable cause extend the time for making any claim. The committee is obliged to give every claimant a reasonable opportunity of placing his case before it, and must give full consideration to all facts and arguments submitted to it. As regards the amount of compensation to which a person is entitled for loss or damage to any tree, plant, fruit, or vegetable, the decision of the committee is to be regarded as final. If, however, a claimant is not satisfied with the amount of compensation awarded to him by the committee on any ground other than the loss of trees, plants, fruit, or vegetables he may bring an action against the committee for that compensation. Such an action must be instituted within three months after the decision of the committee, and unless the amount claimed exceeds £750 the action will be brought in the local court.

Clause 6 provides that the Minister is to pay claimants the amount of compensation awarded to them and the Treasurer is required out of the general revenue of the State to make money available for this purpose. The other costs of administering the Act, e.g., the expenses of establishing and paying the committee will be paid out of moneys, voted by Parliament. Clause 7 empowers the committee to summon witnesses and secure evidence. Clause 8 provides that proceedings for compensation in respect of action taken to destroy the fruit fly shall not be taken except as provided in the Bill. Clause 9 contains the usual regulation making power. The maximum penalty for breach of any regulation is a fine not exceeding £50.

Only the prompt action taken by the Government at the time prevented a tremendous disaster to the fruit-growing industry in South Australia. Wherever fruit fly has established itself in other States the result has been disastrous, particularly for the home gardener. I was informed by a man who recently came from Sydney to take up an important position in agriculture here that practically all the home gardens in Sydney had been wiped out as a result of the infestation.

Mr. Teusner—Has the Minister any idea how this fruit fly was introduced into South Australia?

The Hon. Sir GEORGE JENKINS—No. There are many means by which it could have been introduced. It is impossible to make a perfect policing Act which would prevent someone in another State from, say, putting an infested apple or peach in his pocket and carrying it to South Australia by air or train; but we do take all the precautions possible to ensure that no such fruit is introduced. There are regulations in regard to the importation of fruit from the other States in order to protect fruit-growers in this State from such pests, and, of course, other States have similar regulations in respect of importations from this State; for instance, to prevent the introduction of codling moth. That applies to the taking of apples from South Australia to Western Australia.

Mr. Pattinson—How do you check up on that?

The Hon. Sir GEORGE JENKINS—That is Western Australia’s problem, but every endeavour is made to ensure that it will not be introduced there. Some time ago a truck load of tomatoes was sent from Western Australia to Victoria. Our regulations provide that any tomatoes coming through South Australia must be in a sealed van. Unfortunately when the tomatoes reached Mile End, owing to a temporary station master not being aware of the regulations, they were allowed to be taken off the train and put on a van. My Chief Horticultural Adviser got in touch with me and asked what was to be done. I told him that the man had to get out of South Australia with his tomatoes as quickly as possible in order to avoid any fruit fly danger here. It would have been foolish if we had made him handle all that stuff again. That is an indication of the care that is taken with regard to fruit from an infested State coming to South Australia. We have asked for the co-operation of the airways and railways to ensure that as far as possible no infested fruit comes here from the eastern States or Western Australia.

Mr. Macgillivray—Do you think the humid conditions last year had anything to do with the infestation?

The Hon. Sir GEORGE JENKINS—Speaking not as an expert, possibly the humid conditions of the last two summers contributed in some measure to the spread of the fly, but they did not cause it to appear here in the first place. Maggots must have been brought to South Australia in fruit to enable the fly to establish itself here. Humid conditions probably encouraged its breeding to a greater extent than would have been the case under our normal dry summer conditions. However, whatever the conditions were, the Government could not afford to take the risk of not adopting prompt steps for the destruction of the fly.

I move the second reading.

The Hon. R. S. RICHARDS secured the adjournment of the debate.