**AGRICULTURAL SEEDS BILL 1938**

**House of Assembly, 20 July 1938, pages 540-2**

Second reading

**The Hon. T. PLAYFORD (Gumeracha—Com­missioner of Crown Lands)—**This Bill is introduced for the purpose of providing adequate control over the sale of agricultural seeds so that the interests of the agricultural community in this State will be properly protected in these matters. Other Bills dealing with this matter have been introduced into Parliament from time to time, but have not proved acceptable to honourable members. The present Bill is similar to one framed in 1936 after careful consideration and frequent consultation with the various interests concerned.

There are many reasons why such a Bill as this is necessary. In an agricultural State such as South Australia it is highly important that a purchaser of seeds should be assured that the seeds comply with reasonable standards and, what is more important, that the seeds delivered are of the class and quality of the seeds ordered. It may be said that the doctrine caveat emptor, that is, let the buyer beware, should apply to the sale of seeds as it does on the sale of other goods. In this State legislation has in many instances been passed which encroaches on this doctrine as far as different classes of consumers are concerned. I need only refer to the Fertilizers Act, the Pest Destroyers Act, and the Stock Licks Act, as examples. The doctrine of caveat emptor may be a fair and proper doctrine where the purchaser is in a position to judge the quality of the goods supplied. With seeds, however, the case is different. In the normal case the purchaser has not and cannot have (because of the similarity of appearance of kindred seeds) the knowledge whether the seeds delivered are those of the type he has ordered, nor, if they are so, can he judge adequately from their appearance whether their age has affected the germinable proportion thereof, and it is a poor consolation to the agriculturist to be told that he has a possible cause of action for damages on breach of warranty when his crop fails or he finds that he has laboriously cultivated a flourishing crop of noxious weeds. I do not suggest that the seed merchants in this State as a whole carry on business in other than an honourable manner, but I do suggest that, in a matter where the farmer cannot protect himself, he should be safeguarded against the operations of any seller of seeds who has no scruples against defrauding his customers.

South Australia is now the only State in the Commonwealth in which there is no legislation dealing with agricultural seeds. Without legislation in this State it is most probable that South Australia will be used as a dumping ground for seeds that have been rejected in the other States as inferior to the standards there enforced. There is also a real necessity for a Bill such as this to control and prevent the importation of noxious weeds which are not yet established in South Australia. A case in point is skeleton weed which, if established in this State, would cause tremendous damage and loss to the agricultural community. Skeleton weed is not known to exist in South Australia, but does exist in New South Wales, and has been the subject of intense

South Australia, it would be very easy for a parcel of seeds, which contained the seeds of this or any other noxious weed, to be imported into South Australia. It is obvious that all means should be taken to prevent such an occurrence. But, at present, there are no adequate powers available to the Department of Agriculture to prevent the spread of this weed into South Australia. This Bill would therefore be justified if it did no more than prevent the introduction of such a pest into the State. The purpose of the Bill is therefore to provide control over importations of seeds and to enable standards to be set up for various classes of seeds. The Bill does not prohibit the sale of seeds, below those standards, but provides that in such a case the vendor must disclose to the buyer that the seeds are below the standard set for that class of seeds.

The 1936 Bill was, before its introduction into Parliament, considered in detail by the Seedsmen’s Association of South Australia and that body expressed its approval of the Bill as then presented to Parliament. As before stated, this Bill is substantially the same as the 1936 Bill as introduced into Parliament. The Bill only applies to agricultural seeds, which are defined by clause 3 to mean "any farm, garden or vegetable seeds except flower seeds, and seeds of plants used solely for ornamental purposes.” Clause 4 provides :certain exemptions. The Bill will not apply to seeds sold for the purpose of food, nor to seeds sold to be cleaned and tested before again being sold, nor to seeds sold by a grower to a seed merchant. In addition, it will not apply to a sale by a farmer to another farmer of wheat, barley, oats, field pea, or rye corn seeds. Clause 5 deals with the procedure to be followed on the sale of any agricultural seeds to which the Bill applies. The seller must mark on the parcel or on a label attached to the parcel or on an invoice given to the purchaser, a statement of the following particulars:—

(a) his name and address;

(b) the name of the seeds;

(c) if the germinable proportion of the seeds is less than that prescribed on the standard for those seeds, the proportion must be stated;

(d) if two or more kinds of seeds are mixed in the parcel, the proportions of each must be stated. If these details are not marked on the parcel itself, the parcel must also be marked with the name and address of the seller.

Clause 6 makes it an offence for any person to sell seeds without giving the information required by clause 5 and also creates an offence when the information so given is false. Clause 7 makes it an offence for any person to sell agricultural seeds with which are mixed seeds of noxious weeds under the Noxious Weeds Act,

Under clause 26 it is proposed that regulations may be made fixing the proportions of impurities, foreign seeds, and germinable seeds which shall be the “disease-resistant,” ete., as applied to seeds which have not been tested by the department or by a Government department in another part of the Empire. Legislation authorising such schemes has been passed in Victoria, and, if carried out in this State, would, of course, be greatly to the benefit of the agricultural community. Various other incidental matters are also included in the regulation-making power. The remaining clauses of the Bill are machinery provisions, which do not require special comment.

It is anticipated that the operation of this legislation will not increase the cost of agri­cultural seeds to the community. The expenses for analysis are so small that they should not cause any increase in the price of seeds. It may, however, be necessary to increase the staff of the Agricultural Department for the purpose of administering the legislation. It is confidently submitted, however, that the gain to the State by the operation of this legislation will more than justify any increase in administrative costs that may be necessary.

Mr. O’Halloran—Clause 29 is rather important.

The Hon. T. PLAYFORD—Such a clause is necessary. If it were found that clause 8 was not strictly in accordance with the Commonwealth Constitution clause 29 would enable the rest of the measure to operate.

Mr. O’Halloran—Except that it would only apply to seeds produced in South Australia.

The Hon. T. PLAYFORD—Exactly. The other States have adopted similar legislation, and if clause 8 were proved to be inoperative the other provisions of the Bill would not be impaired. Opinions favour clause 8 being constitutional, but in view of the fact that there is a possibility of its not being constitutional clause 29 is included. I move the second reading.

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

**AGRICULTURAL SEEDS BILL 1938**

**Legislative Assembly, 6 September 1938, pages 1319-21**

Adjourned debate on second reading.

(Continued from July 20. Page 543.)

The Hon. R. S. RICHARDS (Wallaroo— Leader of the Opposition)—This is not an entirely new Bill. I have vivid recollections that a close relation to it made its appearance in this place last year. I cannot understand the relationship between this Bill and the one introduced last year insofar as the father of this one seems to have renounced his relationship with the one that was before us last session. The Minister was most hostile to the one introduced last year, but on this occasion with little embarrassment he was able to stand in his place and recommend the House to adopt the very things which were so obnoxious to him previously. It seems that there must be some influence at work, whether for good or evil I cannot say. With his added responsibility Mr. Playford seems to have lost much of his hostility. He now seems able to foster, as the representative of the Minister of Agriculture, a measure which a few short months ago he regarded as most undesirable. In his second reading speech the Minister said:—

*It may be said that the doctrine of caveat emptor, that is, let the buyer beware, should apply to the sale of seeds as it does to the sale of other goods.*

We would all agree with that, apart from the difficulty of enforcing the provisions. It seems that if the Bill becomes law we are to incur a considerable expense for an army of inspectors. If members have perused the clauses and definitions in the Bill, and have made a careful survey of the history of South Australian agriculture, they will marvel at what we have done without having such restrictions in the past. I am at a loss to understand how, without the Act, we have developed the wheat we produce to-day up to its present standard. Having attained that standard, which we pride ourselves as being second to none in Australia, we are unable to dispose of the quantity of cereals we produce. I cannot discern whether the Bill is intended to improve the quality of the seeds we produce or lessen the risk of the introduction of noxious weeds. The, Commissioner of Crown Lands was not very specific in his explanation of the measure. It seemed that he was carrying a burden he would gladly drop at any time. His second reading speech impressed me in this manner, '‘Here I am with a job. I have to carry this baby because I am representing a Minister in another place. I would much rather somebody else had the responsibility, so I will gallop through the explanation as rapidly as I can in order that members will hear very little and consequently will not be in a position to ask any questions about it. ” That was on July 20 and we have not had an opportunity of discussing the Bill until today. So far as our crop of Bills on the Notice Paper is concerned, this one apparently has been regarded in the category of a noxious weed and has been placed right at the bottom, out of sight, in the hope that it would never be able to mature.

The term, "foreign seeds", as regards any particular kind or kinds of agricultural seeds, is defined as meaning “all seeds of any other kind.” What seeds would escape that definition? I do not know. It seems most embracing. That definition would probably cover any kind of seed. It certainly does not lack variety. Looking at the provisions of clause 4 I am impelled to ask, "What seeds would be exempt under the provision? Would there be any seeds in South Australia?” The clause states:—

1. seeds (other than seeds capable of the germination of plants which are noxious weeds for the whole State under the Noxious Weeds Act, 1931-1935) sold solely for the purposes of food for man, bird, or beast;
2. seeds sold to be cleaned and tested before being again sold; or
3. seeds sold by the grower to a seed merchant; or
4. wheat, barley, oats, field pea, and rye corn seeds sold in this State by a farmer to a farmer.

I ask the Minister, in all seriousness, whether he believes that this legislation is necessary and whether we will get any great advantage from it? I am at a loss to understand why, after 100 years’ experience in South Australia, we now attempt to tie up development with the provisions of the Bill. Any member who has had dealings with nurserymen in the country knows that there are a number of restrictions in regard to seeds sold apart from cereals, even including flower seeds and imported seeds. I have more than once had occasion to write to the Department of Agriculture and impress upon it the necessity for releasing certain seeds nurserymen have imported from sister Dominions. It does not appear to strike the experts, however, that there is a suitable season for planting many of these seeds throughout the State. It seems that the policy of testing and analyzing imported seeds is to work solely on the season when seeds are planted in the metropolitan area. Nurserymen outside the metropolitan area have frequently approached me and 'complained against the official delays. The Department of Agriculture points to lack of expedition on the part of the postal authori­ties and says also that there must be a certain time allowed for testing the seeds.

The Hon. T. Playford—The work is done under Federal regulations.

The Hon. R. S. RICHARDS—It is done by the State Agricultural Department.

The Hon. T. Playford—On behalf of the Commonwealth.

The Hon. R. S. RICHARDS—There is still delay and loss occasioned to seed importers in country areas. Frequently they have been unable to use the material they have imported and have been compelled to hold the seeds over for another season because of delays in making tests to obtain the percentage capable of ger­mination.

Mr. Christian.—And some seeds are placed in quarantine for a while?

The Hon. R. S. RICHARDS—Yes. Another point is whether the provisions of the Bill are strictly constitutional. Can we do the things we are setting out to do under the Bill without running counter to the Federal Constitution? If some of the provisions do not run counter to that Constitution they run very close. In introducing the Bill the Minister said:—

The 1936 Bill was, before its introduction into Parliament, considered in detail by the Seedsmen’s Association of South Australia and that body expressed its approval of the Bill as then presented to Parliament. As before stated, this Bill is substantially the same as the 1936 Bill as introduced into Parliament. The Bill only applies to agricultural seeds, which are defined by clause 3 to mean "any farm, garden or vegetable seeds except flower seeds, and seeds of plants used solely for ornamental purposes".

I do not know whether this applies to seeds of plants used solely for ornamental purposes. Perhaps it is meant to cover seeds imported into the country, and the desire of the legislation is to prevent any noxious or undesirable seeds from coming into the State. I have not been able to satisfy myself that there is any demand- for this legislation, and unless I can get more satisfactory information and more weighty arguments in its favour I shall not support even the second reading.

Bill read a second time.