CITRUS INDUSTRY ORGANIZATION ACT AMENDMENT BILL 1967

House of Assembly, 19 October 1967, page 2852

Second reading

**The Hon. G. A. BYWATERS (Minister of Agriculture)** obtained leave and introduced a Bill for an Act to amend the Citrus Industry Organization Act, 1965. Read a first time.

The Hon. G. A. BYWATERS: I move:

*That this Bill be now read a second time.*

It is designed to make certain alterations and additions to the Citrus Industry Organization Act. Since the Citrus Organization Committee was established by that Act, the Adelaide market has become the most stable market in Australia for the sale of citrus fruit, and the citrus industry has been organized far more efficiently than it had been before the committee was established. To enable orderly marketing of citrus fruit to continue, certain amendments to the Act have become necessary and desirable. The main objects are to overcome certain difficulties which have been experienced with regard to the definition of “marketing” contained in section 5 of the Act, to enable the committee to take action with regard to diseased fruit, and to provide for representative members of the committee to be elected from certain zones, instead of on a State-wide basis. It also provides different requirements for election to and voting for the committee, and gives the committee’s inspectors wider powers.

Clause 4 provides for several additions and alterations to section 5, which is the interpretation section of the principal Act. Paragraphs (a) and (b) of clause 4 alter the existing definitions of “grower” to provide clearly that all parties to partnership and share-farming agreements under which citrus fruit is grown or produced for sale are “growers”. Paragraph (c) of this clause replaces the existing definition of “licensee” with definitions of both “licence” and “licensee”; there is at present no definition of “licence”. Paragraph (d) is the first of several amendments designed to alter the existing references in the Act to “marketing” as one operation consisting of sundry steps, and to treat “marketing” as a series of operations. It simply provides that “marketing” will no longer mean the processes set out in the definition, but will “include each step taken in relation to such processes”. By characterizing “marketing” as having component parts all ancillary to the whole, the existing Act makes it almost impossible for a person, for instance, packing citrus fruit in South Australia for sale by wholesale in another State, to be compelled to be licensed to pack citrus fruit. Such a person could, in a prosecution for packing without a licence, claim that the activity he was engaged in was “marketing”, that is every process from the harvesting of fruit to its sale by wholesale; thus, because there was an interstate element in his marketing activity, he could claim a defence based on section 92 of the Commonwealth Constitution.

If packing and selling are referred to as separate processes, instead of components of the one process, the interstate element in such a person’s selling activity will have far less relevance to his packing activity. Thus, the effect of paragraph (d) and other amendments in the Bill should be to compel such a person to have a licence for packing. A definition of “partnership” is inserted by paragraph (e); this is necessary because of the altered definitions of “grower”. Paragraph (f) provides a definition of “quality”, which is mentioned in section 22 (2) (d) of the Act but was not previously defined. It also provides definitions of “register of growers” and “registered grower”, also not previously defined. Paragraph (g) alters the existing definition of “representative member”; this is necessary because of the amendments to section 9 of the Act proposed by clause 7 of this Bill.

The expanded definition of “sell” in paragraph (h) closely follows that in section 4 of the Dairy Industry Act. Paragraph (i) defines “the prescribed day” and “zone” and the various zones referred to in clause 7 of this Bill. Clause 5 retains the provision in section 6 that nothing in the Act shall apply in relation to the harvesting by a grower of his own crop of citrus fruit, but adds an exception regarding section 22 of the Act, the powers conferred on the committee by that section and any order made by the committee pursuant to any of those powers. A consequential amendment of section 22 is provided by clause 15 (a) of this Bill. These amendments will enable the committee to prevent, where necessary, the harvesting of diseased fruit. The definition of “marketing” contained in section 5 of the Act includes “harvesting”, so that the proposed amendments simply enforce this concept of marketing.

Clause 6 provides for the addition of the passage “or any product thereof” after the passage “citrus fruit” wherever it occurs in section 7 of the principal Act. The Act is inconsistent in several places where it refers only to citrus fruit, where “products” clearly are intended to be referred to as well. Clause 7 provides for the reconstitution of the committee, by inserting new subsections in lieu of existing subsections (1), (2) and (3) of section 9. New subsection (1) provides that the committee as presently constituted shall continue in office until a prescribed day. New subsection (1a) provides that on and after the prescribed day the committee shall consist of eight members, five of whom are each to be appointed after election by growers in a particular zone. Subsection (1b) is concerned with the change from the present to the new committee, and subsections (2) and (2a) deal with vacancies in the offices of members.

Subsection (3) provides that only a grower who grows at least 500 trees, or who is a party to a partnership or share-farming agreement under which, or a nominee of a body corporate by which, at least 500 trees are grown for the production and sale of citrus fruit, is eligible to become a representative member of the committee. At present there is a danger that all the representative members of the committee could be small growers. I point out that 500 trees represents a smaller than average holding; allowing for a proportion of immature and old trees, it represents a yield of about 1,500 cases of fruit a year, or a gross return of a maximum of $2,000. Figures supplied by the committee indicate that there are some 1,522 citrus holdings in the State, having between them some 1,642,147 trees; thus the average holding is over 1,000 trees. Accordingly, the requirement of 500 trees for membership of the committee is more realistic than the present requirement of 50 trees.

Subsection (3a) provides that a representative member of the committee must be a registered grower in the zone which he represents and subsection (3b) provides that not more than one party to a partnership or share-farming agreement may be a member of the committee at the same time, unless such a party is also a registered grower in another capacity. In respect of the 1,522 citrus holdings, there are 824 partnerships; thus partnerships, especially family partnerships, are common, and in some instances have several members. It is desirable to have as many citrus holdings as possible represented on the committee, and thus undesirable for two or more members of a partnership to be members of the committee at the same time. Clause 8 amends section 11 of the Act, which provides for the election of representative members. Paragraphs (a) and (b) merely point to the amendments proposed by paragraph (c) which provides new subsections in lieu of subsections (3) and (4) of section 11.

New subsections (3) and (3a) are machinery provisions. New subsection (4) provides for the election of the representative members of the new committee. It is provided in subsections (4a) and (4b) that a grower may only vote in the zone in which he is a registered grower, and that not more than one party to a partnership or share-farming agreement may vote, unless such a party is also a registered grower in another capacity. Subsections (4c) and (4d) provide for the determination of which member of a partnership is entitled to vote. At the last elections held for the committee some 2,367 ballot papers were sent out to growers registered in respect of the 1,522 citrus holdings; it is not desirable that several people who are partners with respect to the same property should have one vote each, whereas a person who is a grower on his own account on a property of equal size should have only one vote. Paragraph (d) of clause 8 is a machinery provision providing for the case where the number of persons nominated is equal to the number to be elected.

Clause 9 repeals and re-enacts section 12 of the principal Act, relating to grower companies but, when read with clauses 7 and 8, does not affect the substance of section 12. Clause 10 repeals and re-enacts section 13 of the Act, relating to the register of growers. The new section 13 provides that there is to be a separate part of the register for each of the five zones; if a grower has a citrus holding of at least 50 trees in two or more zones his name is to be shown in such part of the register as the committee decides. Provision is made for the name of nominees of partnerships and bodies corporate to appear in the register. Section 14 of the Act, relating to the terms of office of members of the committee, is repealed and re-enacted by clause 11 of the Bill. Representative members are to hold office for three years, except that, to ensure that not all of the members will retire at any one time, two of the representative members of the new committee are to hold office for two years. The other appointed members are to hold office for the term specified in the instruments of their appointment. The other provisions of the new section 14 are the same as the existing provisions.

Clauses 12 and 13 convert into decimal currency the references to the old currency in sections 15 and 20 of the principal Act. Clause 14 makes certain amendments to section 21 (1) of the Act. The powers of the committee contained in subsection (1) (a) and (b) are more closely specified, by reference to the definition of “marketing”, but without relying solely on a reference to a process called “marketing”, and a reference to citrus products is added to paragraphs (6) (c) (f) and (i). Clause 15 amends section 22 of the Act relating to marketing orders. Paragraphs (a) and (b) of the clause give the committee power to prohibit the buying as well as the selling of citrus fruit; whereas the existing paragraph (b) of subsection (1) contains only the power to prohibit selling. These amendments bring the committee’s powers into line with those of the Potato Board (section 20 (1) (b) of the Potato Marketing Act.) Paragraph (a) also gives the committee power to prohibit, either absolutely or except as specified in the order, the harvesting of citrus fruit, enabling the committee to control the harvesting of diseased fruit where necessary.

Paragraph (c) enables the committee to fix minimum prices, as well as set prices, at which citrus fruit may be sold. For the committee to provide a stable market for citrus fruit it should have the power to fix minimum prices, but it is not necessary in every case for it to fix sellers’ margins. Clause 16 converts into decimal currency the reference to the old currency in section 23. Clause 17 clarifies subsection (1) of section 24 of the Act by inserting after the passage “such information”, the passage “or returns”. The clause also makes an amendment relating to decimal currency. Clause 18 converts into decimal currency the reference to the old currency in section 26. Clause 19 generally enlarges the powers of inspectors under section 27 of the Act, incorporating in a new section 27 the powers of inspectors under the Fruit and Vegetables (Grading) Act which are necessary if the Act is to be implemented effectively.

New section 27 (1) (b) gives an inspector the power to enter any vehicle by which citrus fruit or products are being conveyed, to make inspections. Paragraph (c) gives him the power to open packages containing citrus fruit or products, although he must first call upon the owner or person in charge of the citrus fruit or products to open such packages. In paragraphs (d) and (e) he is given the power to take samples of citrus fruit and products, and, if he has reasonable grounds for suspecting that, with respect to such citrus fruit or products, there is or has been a contravention of the Act, the power to detain the same for such time as is necessary to complete his inspection of it. He is given powers in paragraph (f) with regard to false marks on citrus fruit or products, and paragraph (g) enables him to give directions regarding compliance with the Act. Subsections (2) and (3) provide that an inspector detaining fruit or products for examination, or taking any action with regard to false marks on fruit or products, shall give notice of such detention or action to the owner or person in charge of such fruit or products.

Subsections (4), (5), (6), (7) and (8) provide for duties of persons in relation to inspectors, and for offences in connection with inspections. Subsection (9) enlarges the present definition of “inspector” to include “a member of the Police Force”. Clause 20 converts into decimal currency the reference to the old currency in section 28. Clause 21 amends section 30 of the Act relating to offences in connection with the marketing of citrus fruit. The existing subsection (1) of section 30 provides that a person shall not “do any act, matter or thing included in the marketing of citrus fruit” without a licence. The committee at present wishes only to provide licences for persons who pack, sell by wholesale or process citrus fruit. Hence clause 21 (a) provides only that a person shall not carry on these activities without a licence, although it also provides that regulations may be made prohibiting persons from carrying on other activities without the appropriate licences.

Paragraph (b) makes an amendment to subsection (2) of the section relating to decimal currency. Paragraph (c), in order to avoid a reference to a composite activity called “marketing”, replaces the passage “included in the marketing of” with the passage “in relation to”. Clause 22 amends section 34 of the principal Act relating to regulations. Paragraph (a) enables regulations to be made regarding information and returns to be made to the committee by growers. Paragraph (b) is an adaptation of section 28 (11) of the Dairy Industry Act, and enables regulations to be made regarding the prevention of decay and infection in fruit. Paragraphs (c) and (d) provide for inspectors of the committee to have the power to require any persons, and not only persons transporting fruit, to answer questions relating to citrus fruit. This is in line with the powers of inspectors under regulations made under section 24 (a) of the Potato Marketing Act.

Paragraph (e) provides for regulations relating to the terms and conditions under which citrus fruit may be bought by the committee; some control is desirable if the committee is to undertake the marketing of fruit. Paragraph (f) is also an adaptation of a section of the Dairy Industry Act: section 28 (2). It provides for regulations discriminating according to time, place and circumstances, recognizing that different fruitgrowing areas have different problems, and that some controls may be required during only some periods of the year. Paragraph (g) relates to decimal currency. Clause 23 contains provisions relating to polls on the continuation of the Act which are similar to those relating to elections contained in clause 8 of the Bill.

Mr. QUIRKE secured the adjournment of the debate.