**METROPOLITAN AND EXPORT ABATTOIRS ACT AMENDMENT BILL 1937**

**House of Assembly, 21 September 1937, pages 723-6**

Second reading

**The Hon. M McINTOSH (Albert-Commissioner of Crown Lands)** – The principal object of the Bill is to deal with the claim which has been put forward recently by metropolitan and district councils for the sum of £153,000 representing, as is alleged, the accumulated profits of the Metropolitan Abattoirs between the years 1908 and 1933. In the view of the Government this claim is without merit, and it is not in the public interest that it should be pursued. I will explain briefly the nature of the claim and the reasons which justify the Government in asking Parliament to restrain it.

The Metropolitan Abattoirs Act, 1908, required that at least two-thirds of the surplus revenue of the Metropolitan Abattoirs Board arrived at after allowing for payment of management expenses, interest, cost of maintenance and repairs and sinking fund charges should be distributed among the metropolitan, municipal, and district councils. No such distribution was ever made, although in some years there were surpluses. The Act also required that any deficiency in the accounts of the Metropolitan Abattoirs Board should be made good by the councils. In some years there were debits in the revenue account of the board, but the councils were never called upon to contribute any money. The councils apparently acquiesced in the position that they should not receive any of the profits and should not be called upon to make good any of the losses. At any rate the councils’ representatives on the board knew what was being done, and at no time brought the matter of distributing profits before the board.

The councils apparently now claim that as the old Abattoirs Board failed to distribute the profits, and the new board succeeds to the liabilities of the old board, therefore, the new board is liable to them for the profits. The amount which the councils have elected to claim, namely, £153,000, appears to be based on the fact that the board’s accounts as at November 30, 1933, showed reserves of approximately £153,000, and the councils consider that these reserves were built up out of profits of the old board. In the view of the Government nothing but harm can accrue to the public if this claim is pursued and the Bill proposes a clause which will annul it.

The Act of 1933 enacted that the councils were not entitled to share in the profits, funds, or property of the board. It may be granted that “profits” meant future profits. But how could the councils recover £153,000 from the board, except out of the funds and property of the board, in contravention of the Act! Further, the 1933 Act set out what was to be done with the revenues of the board in future, and there is no provision for meeting any claims made by councils in respect of past profits. The profits of the Abattoirs have been earned almost entirely from moneys advanced by the Crown; the only part of the Abattoirs capital not advanced by the Crown was a small loan from a trading bank. The councils have contributed no capital to the Abattoirs; and whatever the legal position may be, there is little merit in their claim to share in the profits earned by funds advanced by others.

There is no doubt that the board was perfectly justified as a matter of sound business finance in building up reserves out of its profits; such reserves were obviously necessary to extend the works to meet the increasing demands of the public, and to enable the board to scrap obsolete plant and methods whenever that became desirable. If the board had paid out its profits to the councils from year to year, and had been left, in consequence, without funds available for improving its methods, it is quite likely that it would have made heavy losses, which under the Act the councils were liable to make good. Indirectly, therefore, the councils have already benefited to some extent from the fact that the board retained the profits for use in the business; now that this business has been taken over by another board, the reserves created should remain in the business for the purposes for which they were established.

If the councils are allowed to pursue their claim the position will be that expensive litigation, beneficial to nobody, will go on between two public bodies at the expense of the public. If the councils win, the Metropolitan and Export Abattoirs Board will have to raise large sums of additional capital to pay the claim. If the board wins, the councils will have spent their ratepayers’ money in futile litigation. Apart from the strict legal interpretation of the Act of 1933 there is no doubt that Parliament, when creating the new Abattoirs Board, intended that the councils, who had not found any capital for the Abattoirs, and had not been called upon to make good any of its losses, should drop out of the Abattoirs financial system altogether.

Mr. Perry—They carried all the responsibility.

The Hon. M. McINTOSH—They did not; the Government advanced the money and when there were any losses it was called upon to meet them.

Mr. Perry—The board paid depreciation right through those years.

The Hon. M. McINTOSH—No, the consuming public did.

The Hon. G. P. Jenkins—How much did it cost the municipalities?

The Hon. M. McINTOSH—Nothing. The Government found the money, except one small advance. To all intents and purposes it was a semi-governmental concern, under a board elected by municipal authorities. For *20* years the councils have acquiesced in the practice of the old Abattoirs Board under which the profits were not distributed, but were used for building up the necessary reserves of the board, and under which the councils were not called upon to make good any of the board’s losses. Now, when it is too late to restore any of the parties to the position they would have been in if the old Act had been observed, the councils put forward a claim for the benefits under the old legislation, although they have borne none of the burdens. There are no merits in such a claim, and it would be well, before any public money is wasted, for Parliament to make it known that it will not allow the claim to be pursued. Members are aware that most debts are barred in six years

or less; and although the law may prescribe a longer period for bringing claims under Acts of Parliament, it must be remembered that the longer a claimant procrastinates in asserting his rights, the less are his merits.

I come now to the less important provisions of the Bill. Clause 3 amends the law relating to the auditors of the Abattoirs. Under the principal Act members of any municipal or district council within the Abattoirs area are disqualified from holding office as auditors. This state of law was possibly justifiable when the councils were financially interested in the Abattoirs. For the future, however, apart from what may happen in respect of the claim now pending, the councils will not be financially interested in the Abattoirs and there seems, therefore, no good reason for continuing the rule which disqualifies a councillor from holding office as an auditor. A further amendment of the law relating to the auditors is proposed by way of a clause abolishing the rule that auditors cannot hold office for more than two years. The board does not desire to be compelled to make continual changes in its auditors and is anxious to have the right either to reappoint its old auditors or make fresh appointments, as circumstances may require.

Clause 4 amends that provision of the principal Act which enables the board to control the number of stock sold in any one day in the market under the control of the board. It does not introduce a new principle, as since 1933 the board has had power to fix the maximum number of stock to be sold on any one day in its market and to refuse to receive stock in excess of the maximum fixed by the board. The object of the amendment is to give the board ancillary powers to carry out the principle of the original section. The new clause provides that the board may, in addition to limiting the total number of stock to be sold on any one day, limit the stock which may be brought into the market on any day from any particular area or areas or by any particular person. The reason for the amendment is that it is difficult for the board to limit the total number of stock coming into the market, unless it also has power to say what areas or persons are to have the right to send stock to the market within the limits fixed.

Mr. Bardolph—The object is to keep up the price of meat to the consumer?

The Hon. M. McINTOSH—No, to regulate the supply so that the Abattoirs will not have more stock than they can handle. If more sheep or lambs arrive at the Abattoirs than can be handled they deteriorate rapidly, and it is only possible to export lambs if they are marketed in the best condition. If a dry spell sets in, farmers in the dry areas might want to rush all their lambs in within the shortest possible period. This will give the board power to say from which areas the lambs are to come and prevent the lambs and the export trade from suffering.

Mr. Lacey—It would be nice to have a friend on the board.

The Hon. M. McINTOSH—I assume that the honourable member has in mind a good market and one supplier being favoured to the extent of being allowed to get his sheep in, but after fairly extensive dealing in stock I can say that a man is very fortunate if he can predict what the next market is going to be. In addition, the amending clause also provides that at least one week’s clear notice must be given by advertisement in a daily newspaper before the board restricts the number of stock coming into the market. The Government is advised that the general policy of regulating the flow of stock through the market is approved by persons in the trade, and all that is required is that the board should have the necessary power to make the scheme work more smoothly. I realise that the new provision is fairly wide, but it will make conditions fair and provide that each person will have an opportunity of marketing his stock in the best condition. If it is an early district the board will say it is ready to take so many lambs from that district, whereas from a later district it will take a smaller number. Under that system, as the year advanced all the stock could be marketed in good condition whereas to-day much of the stock is kept waiting too long, and year after year we hear members in this House saying that the stock at the Abattoirs is wasting because of the inability of the butchers to handle it.

Clause 5 empowers the Minister of Agriculture to license export meat works. Under the principal Act the board has the sole right to slaughter stock for export within the metropolitan area, but there is no control over the establishment of new export meat works outside the metropolitan area. The board’s existing right, however, to slaughter for export within the Metropolitan Abattoirs area and, indeed, the meat works at Port Lincoln, may be threatened by the establishment of other works outside the metropolitan area. It is desirable, in view of the large sum of taxpayers’ money which is already invested in export meat works in this State, that the Government should have some control over the establishment of new works which might injuriously affect the existing works without any commensurate benefit to the producer or taxpayer. For this purpose. it is proposed to give the Minister of

Agriculture power to control the establishment of new works outside the metropolitan area. Licences should be granted in areas where requirements are not met by existing works. I think the House will agree to that. In view of the huge amount of taxpayers’ money which has been invested we should not allow works to be established just outside the metropolitan area and operate to the detriment of the taxpayers and the producers.

Mr. Stephens—Would the new places come under the control of the board?

The Hon. M. McINTOSH—They would be licensed by the Minister of Agriculture. I cannot visualise a licence being required for Port Lincoln, but it may be desired to establish a freezing works in the South-East and as it would not be in competition with the Metrospolitan Abattoirs it would receive a licence. Clause 6 deals with the borrowing powers of the Metropolitan and Export Abattoirs Board. The policy of the legislation in the past has been to grant the board from time to time limited power to borrow specific sums of money; Doubtless the matter has been dealt with in this way because in the past the board’s capital has been subscribed by the Treasurer. It is, however, desirable, that the board should now raise its money wherever it can most cheaply and conveniently do so. In particular, the board is anxious to fund some of its existing loans at a lower rate of interest and with a longer term for repayment. The new clause, therefore, gives the board power to borrow any sums of money which it requires for the purposes of the Act, and, in addition, empowers the board to fund existing loans and make its sinking fund payments on a 42 year basis as computed from the date of the funding of the loan. This general power conferred upon the board will not affect the control of Parliament over the expenditure of public money, since it will be necessary for the Government to obtain Parliamentary approval on the Loan Estimates for any money lent by the Treasurer to the board in future.

Clause 8 deals with the introduction into the Abattoirs area of meat slaughtered outside the area. Under section 77 of the principal Act the board was empowered to grant permits for the introduction into and sale within, the metropolitan area of certain beef and pork slaughtered outside the area. Under the present section, a very elaborate and strict procedure is laid down, requiring that the beef and pork should be brought to special freezing works approved of by the board and inspected and branded, and in some cases accompanied by a certificate of a veterinary, surgeon. It is desired to make the procedure more simple and flexible and, at the same time, to allow the board a wider discretion in, granting permits than formerly. It is also desired to place the law on a more logical basis. Formerly, although a permit was required for the bringing of meat into the Metropolitan Abattoirs area from places outside that area, and the Act assumed that it was forbidden to bring the meat in without a permit, nevertheless, this position was not clearly set out. The proposed new section sets out clearly that meat is not to be brought into the Metropolitan Abattoirs area except under a permit, and provides that the board may grant permits for beef intended for human consumption, for pork intended to be cured as bacon and for carcasses intended to be used as food for dogs. The board is also empowered to grant a permit in any other case in which it thinks fit. The rigid conditions imposed under section 77, as it now stands, are abolished and the board is given a discretion to impose other and, if thought fit, less stringent conditions.

Clause 9 makes a minor amendment only. At present section 86 of the principal Act requires the owner or person in charge of stock which dies in the metropolitan area, or is killed inside the area, but not at the Abattoirs, to apply to an inspector for leave to bury the carcass. It is desirable to alter this rule, so that leave will be obtained from the manager of the Abattoirs or the person for the time being acting on his behalf. This will simplify the procedure, because at present the board’s inspection staff consists of three travelling inspectors and inspectors actually working at the Abattoirs. It is inconvenient to make application to these persons.

Clause 10 is an evidentiary provision only. It makes two small amendments of the law. Section 87 makes it an offence to sell, or offer for sale, or deliver on sale, or carry for delivery on sale a carcass not branded at the Abattoirs as required by the Act. It is sometimes difficult to prove that a carcass is unbranded when only portion of the carcass is found, because although the meat seized bears no brand the defence can argue that the prosecution has not established that the carcass from which the meat came was, in fact, unbranded. This fact is peculiarly within the knowledge of the person in whose possession the unbranded meat is found, and it is reasonable that he should be made to prove that the carcass was branded, if indeed it was. Another amendment made by this clause is to facilitate proof that unbranded carcasses were exposed for sale. Occasions have arisen where inspectors have discovered unbranded carcasses, or portions of unbranded carcasses, in a room adjoining a butcher’s shop. Although the butcher may have the carcasses for sale it would be difficult, if not impossible, to prove that they were exposed for sale as they were not actually in the butcher’s shop. The amendment proposed will bring any meat on the actual premises to which access can be gained from the shop within the category of meat exposed for sale. This is a reasonable provision to prevent evasions of the Act.

Mr. Stephens—The onus of proof is to be on the defendant?

The Hon. M. McINTOSH—Yes. If the carcass were cut up into small pieces it would be almost impossible to obtain proof that the carcass had been branded. The object of branding is to see that only a wholesome article is sold to the public. Any person dealing in foodstuffs for the public should have the responsibility of carrying out certain obligations. Regarding the claim of £153,000 by the councils, not one member of this House conceived when the Bill was going through in 1933 that the councils would have a claim.

Mr. Blackwell—They never suspected it themselves.

The Hon. M. McINTOSH—No. If they get the money the new board will have to borrow and charge increased fees in order that the money might be recouped. The consumers would have to pay. Should any further information be required by members during the debate I shall be glad to supply it. I ask members not to deal with the matter lightly as it is important that the Bill should pass. Any legal action taken by the councils cannot benefit anybody, but it can do the councils and the State a considerable amount of harm. I move the second reading.

Mr. LACEY secured the adjournment of the debate.