**LIENS ON FRUIT BILL 1923**

**House of Assembly, 15 November 1923, pages 1464-5**

Second reading

The Minister of Irrigation, having ob­tained leave, introduced a Bill for an Act to provide for preferable liens on Fruit, and for other purposes. Bill read a first time.

Second reading

**The MINISTER of IRRIGATION (Hon. G. R. Laffer)—**The necessity for this Bill has been brought about through the practice which has prevailed, particularly on river areas, whereby men who own fruit blocks have obtained advances from business firms, and there is no machinery to safeguard the latter’s interests. It is very important that this should be rectified. The men whose practice it has been to finance owners of fruit blocks are becoming shy because certain owners in the past, who have received advances on their crops and given an undertaking that they will place their crops as a security, have delivered only a small portion of the crop instead of the whole, as promised. This is very unfair to the people who make the advances. The Parliamentary Draftsman’s report reads:—

This Bill has been brought down by the Government as the result of representations made by the Australian Dried Fruits Association. Its main purpose is to provide machinery whereby persons making advances to fruitgrowers on the security of their crops can by a simple and expeditious method obtain an adequate security for the repayment of the money advanced. The Bill is of particular importance to soldier settlers who are engaged in fruit growing. A great many of these soldier settlers have practically no mortgageable interest as yet in their holdings and when they require financing in order to enable them to harvest their crops the only security which they have to offer is their fruit. Institutions other than the Government, such as the Australian Dried Fruits Association, Banks, Packing Sheds, and Distillery Companies, are prepared to make the necessary advances provided that registered liens over the fruit can be given. The Bill is designed to meet their requirements in this respect.

Mr. Reidy—They should protect themselves.

The MINISTER of IRRIGATION—How can they do that if the fruit only is given as security? That is very little security, especially when owners reserve only a small portion and sell the rest. The system has broken down, and this Bill puts it on a proper basis. It is very similar to the Victorian Act. The business people find the security is not sufficient.

Mr. Butler—Is this Bill to protect the Government advances?

The MINISTER of IRRIGATION—No, but it will protect them the same as any other institution; but the Government hold a lien over these settlements which other institutions do not.

Mr. Reidy—Could not they get a bill of sale on the fruit?

The MINISTER of IRRIGATION—The present Acts are defective, and this Bill will rectify it. It will not put the growers in any worse position, but in a better position to get advances and give security to the people making advances. It is really only a machinery Bill.

Mr. Reidy—It is a very dangerous principle to protect business men in this way by Act or Parliament.

Mr. H. C. Richards—No. This makes it better for the settlers.

The MINISTER of IRRIGATION—This Bill has been placed on the Notice Paper so that honorable members will have an opportunity of looking through it before it is considered next week.

Mr. Denny—What is the defect in the existing law?

The MINISTER of IRRIGATION—There is considerable defect. I will conclude the draftman’s report, which shows the whole position :—

In addition, however, to the cases where an advance is made on the security of a fruit crop, the Bill also covers the case where a growing crop, not harvested, is sold outright, and in this case provides machinery whereby the buyer can protect his interest until harvest by obtaining a lien. The scheme of the Bill follows closely that of Victorian legislation on the subject of liens on crops, and is also analogous to the existing South Australian Act of 1855-6 dealing with liens on wool. Clause 3 of the Bill provides that when an advance of money is made, or any negotiable security is given, or any chattels supplied to the proprietor of a fruit crop on condition that the person making such advance, or giving such security, or supplying such chattels, is to receive the next crop either as security, for the repayment of money advanced, or in payment for the goods and chattels supplied, an agreement may be entered into in the form of the schedule. Such agreement may be registered within 10 days after the making of it, and upon registration the person entitled to the crop under the agreement obtains a preferable lien on the crop and is deemed in law to be in possession of the crop. He is thus in a position to exclude other persons who put forward claims to the crop. The agreement may also give the person entitled to the crop a right of sale. In cases where the agreement was made by way of a security, and not for the absolute purchase of the crop, the owner of the crop again becomes entitled to possession when he repays the money advanced or pays for the chattels supplied, or negotiable security given. Clause 4 protects the person having a lien on the crop against loss of his rights through any subsequent sale, mortgage, or encumbrance on the orchard in which the crop is growing. Clause 5 deals with cases where the person giving the lien is a tenant. In such cases, al­though the rights in respect of the crop of the person getting the lien are paramount over those of the landlord, the person getting the lien must pay any rent outstanding at the time lie takes possession of the crop not exceeding 12 months’ rent in all. Clause 6 deals with the case where the person giving the lien has mortgaged his orchard. In such case the person giving the lien has prior rights in respect of the crop, to the mortgagee, but is required to pay 12 months’ interest on the mortgage, as much as is owing not exceeding 15 months interest, out of the proceeds of the crop. Clause 7 makes the rights of the person getting the lien assignable. Clause 8 deals with registration, and provides a fee of 5s. for registering a lien, while clause 9 is a penal section inserted in order to prevent fraud.

Those are the provisions of the Bill which have been asked for very universally. As a matter of fact, it will put the river business, to a very large extent, on a proper footing. It is a great convenience for men to go to a financial institution and get advances, and it is right that those who make such advances should be protected.

Mr. Denny—The effect will be practically the same as a registered bill of sale?

The MINISTER of IRRIGATION—Yes, they have it in Victoria. A large proportion of these soldiers come to the Government now, and ask to get advances against their crop. We make advances, and although the Government have more in a general way of security than any other man, it is right that those who make advances should be protected. This question of dried fruit must be put on a proper business basis, and one of the questions which the Irrigation Commission will have to go into very carefully is that of the marketing of the fruit and provision for proper financing. However, the members of that Commission are so busy at present with work they have been called upon to do that they cannot give attention to that particular phase at the present juncture.

Mr. GUNN secured the adjournment of the debate until November 20.