**METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL 1950**

**Legislative Assembly, 19 October 1950, pages 1121-2**

Second reading

**The Hon. Sir GEOEGE JENKINS (Newcastle—Minister of Agriculture)—**The object of this Bill is to enact some provisions for the purpose of preventing evasions of the principal Act. As honourable members are aware, there is in existence in the metropolitan area a Milk and Cream Prices Equalization Agreement to which all the wholesale sellers of milk except one are parties. A similar scheme was in existence for some time prior to the passing of the Act and it is generally acknowledged that such a scheme is desirable in the interests of the industry. Its affairs are run by a committee upon which the producers themselves have representation. The terms of the scheme are very complicated in detail but the broad result of it is that it ensures that all licensed producers receive substantially the same return per gallon for their milk irrespective of the wholesaler to whom milk is supplied and irrespective of whether the wholesalers individually use more or less than the declared quota of the milk for city milk. The sanction for ensuring that the wholesalers join the Equalization Scheme is contained in section 43 of the principal Act. Under this section the Minister from time to time declares what percentage of his milk or cream a wholesaler may sell as whole milk or sweet cream during any period. If a wholesaler is a party to the Equalization Agreement he is regarded by virtue of his carrying out the terms of the agreement, as complying with the quotas declared from time to time; but if a wholesaler is not a party to the agreement the board is entitled to enforce the quota against him strictly and, if necessary, to take legal proceedings for this purpose under section 43. Thus, in effect, section 43 is a means of ensuring that wholesalers generally will become parties to the equalization scheme. Recently a determined effort was made to escape the obligations imposed by section 43. A wholesaler who had resigned from the equalization scheme refused to observe the quota, claiming that his business was organized in such a way that it was not within the Act. Under the present wording of section 43 the amount of milk and cream which a wholesaler can sell as whole milk or sweet cream, that is, the quota—is declared as a percentage of the milk or cream purchased by him from producers. In order to evade the quota the wholesaler referred to arranged with certain producers who supplied him with milk that he would handle their milk without purchasing it from them; in other words, he would treat and dispose of it for them as agent.

The board took proceedings against the wholesaler for an offence against the quota provisions. When the case was argued in the court it became apparent that the quota could be evaded by arrangements under which a wholesaler refrained from buying the milk which he handled. Although the case was decided on other technical points, the board’s legal advisers feel no doubt about the possibility of evading the quota in the manner which I have mentioned. The 1946 Act was drafted on the assumption—not altogether unreasonable at the time—that wholesalers requiring milk for the whole milk trade would buy it from producers and that the quota could be based on the milk so bought. But it is now necessary to provide also for the contingency that wholesalers will obtain milk otherwise than by buying it.

In order to deal with this point and other possible evasions of the quotas the Milk Board has asked that section 43 should be enacted in an altered form. Clause 3 does this, the principal alterations being:—

(a) It is provided that the milk or cream quota may be declared not only in respect of milk and cream purchased by a wholesaler, but also in respect of any milk or cream in his possession or control or on his premises.

(b) The person on whom the quota is binding need not necessarily be the holder of a milk treatment licence, that is, a licensed wholesaler as at present, but may be any person who handles milk or cream,

(c) The quota will set out the percentage of milk or cream to be sold for consumption as such. If a person is proved to have sold milk or cream it will be deemed to have been sold for consumption as such unless the seller proves that it was subsequently used for some other purpose.

Speaking generally, the object of the new clause is to give the Minister power to adapt the wording of the declaration of the quota to the varying circumstances which may arise from time to time so that the evasions of the Act which have occurred or other possible evasions which persons may devise may be dealt with from time to time as they arise.

One other small amendment made by the clause is that it inserts in the principal Act a definition of "whole milk.” The Government understands that the term “whole milk” is used to indicate milk that contains substantially the whole of the fats and solids taken from the cow; and it was in this sense that it was used in the principal Act. However, doubts have arisen as to what is the meaning of the term “whole milk” and it is proposed to insert in the principal Act a definition stating that whole milk is milk containing substantially the whole of the fats and solids which it contained in its original condition. Members will see that the quotas fixed by the Equalization Committee from time to time have proved of considerable benefit to a big proportion of producers who supply milk to the metropolitan area. The Bill will make section 43 of the Act, which it was found could be evaded under certain circumstances, watertight. I move the second reading.

Mr. O’HALLORAN secured the adjournment of the debate.