**FOOD AND DRUGS ACT AMENDMENT BILL 1934**

**Legislative Council, 31 July 1934, pages 275-7**

Second reading

**The Hon. G. RITCHIE (Northern—Chief Secretary)**—The main object of thisBill is to give effect to a promise made by the Government some time ago that it would introduce legislation to prevent dishonest practices in the sale of food and liquor. While dealing with this matter, however, it is convenient to bring before Parliament some other amendments of less importance, but which are necessaryfor the more convenient administration of the law relating to foods and drugs. Clause 5 contains the principal matter dealt with and the real reason for the introduction of the Bill. The clause imposes a penalty of not less than £5, or more than £20, on any person who sells food or drink not true to label, or who on being asked by a purchaser to supply food or drink prepared by a particular manufacturer, deceives the purchaser by supplying an article prepared by some other manufacturer. The request for the clause came from the Brands Protection Association supported by other commercial interests. The clause, although in its terms applies to food, really applies to both food and drink, since the term “food” in the Food and Drugs Act is defined to include drinks. In practice, the clause will apply rather to drinks than to food, since the evils which it aims at have been more rife in connectionwith the sale of drinks than food. The evil is that vendors of drinks sell the products of one manufacturer from bottles bearing the labels of another manufacturer. Tests were made on behalf of parties interested and it was found that a substantial number of vendors of liquor were selling bottles of liquor the contents of which were not in accordance with the labels. It is also not uncommon for a person to ask for a drink of a particular brand and to receive one of another brand. It seemed to the Government that the legislation asked for was based on sound principles, since it did not involve any schemes for licensing, or restricting the right of any person to conduct business, but merely required that people conducting businesses should observe the rules of common honesty. The only expense in connection with the administration of the legislation would possibly be the payment of an inspector appointed to enforce the proposed law, and those who were asking for the legislation expressed themselves as willing to pay the salary and expenses of the inspector. The Government therefore submits clause 5 as a reasonable and just rule and one which, whilst being in the interests of the public, will not place any burden on public revenues.

Under subclause (1) of clause 3 it is provided that the term ‘‘drug” as used in the Food and Drugs Act, 1908, shall include soaps. The effect of this will be that the Government will be empowered to prescribe standards for the manufacture of soaps. The Government has been advised that in manufacturing soaps it is possible for a dishonest soap maker to produce an article deficient in real soap content but equal in size and appearance to the genuine article. The inferior soap can be sold to the public somewhat below the price of good soap and thus the honest manufacturer, who adheres to proper standards of manufacture, is injured by his less scrupulous competitors. In order to secure the public from imposition and the honest manufacturer from loss of business it is necessary that standards for soap should be prescribed in the same way as standards for food and drugs. At present there is no statutory power to prescribe standards for soaps in general unless the soap comes within the category of an antiseptic deodorant or some other substance which is a food or drug within the meaning of the principal Act. Much soap in common use falls outside the Act at present. It is proposed, therefore, to alter the definition of “drug” so that it will include soap in general. By subclause (2) of clause 3 the present exclusion of water from the definition of “food” in the principal Act is removed, so that in future water will be included in that definition, and will be subject to the control of the health authorities. The definition of “food” in the Act includes any article used for food or drink by man other than drugs or water, and any article which enters into or is used in the composition or preparation of human food. It will be seen that under this definition the exact application of the Act to water is doubtful. Water is an ingredient of most prepared food and of practically all drinks, and the Act applies to all food and drinks, but not to the water contained in the food. This clearly ought to be remedied to the extent at least that any water supplies used in the manufacture of human food or drink should comply with proper standards of purity and cleanliness. If all manufacturers used water drawn from the Government mains there would be little need for any control by the health authorities, since the Government water is regularly tested for harmful ingredients. But numerous manufacturers of food and drink use supplies not drawn from the Government mains and it is regarded by the Central Board of Health as necessary to prescribe standards of purity to which such water must conform.

Clause 4 is a machinery amendment only, which provides that when an election is being held for members of any county board of health and the number of nominated candidates is not in excess of the number of members required no vote need be taken. At present these elections are governed by a provision in the Health Act of 1898 which places an obligation upon the Government to send out voting forms to all the councils entitled to vote at an election for members of a county board even if there is only one candidate for a vacant seat. This is an obvious absurdity which ought to be removed. Clause 5 I have already explained.

Clause 6 prohibits the selling of drugs by the medium of automatic machines. This amendment has been asked for by the Pharmacy Board of South Australia. It does not appear that the practice of vending drugs in this way has yet grown to any proportions in this State, but it is becoming an increasing evil in other countries. The Central Board of Health, however, considers it advisable to enact laws in this matter as soon as possible so as to prevent people from investing capital in these machines and thus acquiring vested interests which might subsequently make it difficult to prohibit them. The reasons alleged by the Pharmacy Board against the introduction of automatic drug-selling machines are as follows:—

1. The accessibility of the machines to children and young people.
2. The fact that they provide an uncontrolled means of disposing of dangerous drugs.
3. The danger of manipulation whereby a noxious drug may be substituted in place of the original packet.
4. The fact that the use of the machines leads to the distribution of habit-forming drugs in small quantities, e.g., three tablets for a penny and 12 for threepence.
5. The difficulty of control under the laws relating to poisons and early closing.
6. The machines are against the interests of the small shopkeeper.
7. Shop assistants’ associations oppose the use of these machines as tending to decrease employment.

While all these reasons may not be of equal validity, the Central Board of Health is of opinion that a case has been made out for preventing the use of the machines, and the Advisory Committee under the Food and Drugs Act has recommended to the Government that legislation should be enacted for that purpose. Legislation for the same purpose has been enacted in Victoria. Clause 7 enacts a new section 30a in the principal Act. It provides that persons suffering from infectious, contagious, or loathsome diseases or who for any reason are likely to contaminate food or drugs must not handle food or drugs in the course of manufacture or sale. Although one might reasonably have expected this to be the law, it appears that there is no general provision of this kind in force. The necessity for this provision will not be queried.

The Hon. P. J. Condon—The offences will be hard to detect.

The Hon. G. RITCHIE—Yes, but it is much better to detect some than to detect none at all.

The Hon. E. C. Mowbray—That is the soun­dest provision in the Bill.

The Hon. G. RITCHIE—The proposed clause puts a penalty of £5 on any diseased person who handles food or drugs. It also provides that if any persons receives a notice from an inspector stating that the inspector thinks that that person is suffering from any infectious contagious, or loathsome disease, he must not handle food or drugs until he obtains a certificate from a medical practitioner stating that he is free from the particular disease. Some may say that this legislation interferes with the individual, and may put some people out of a job, but we are here to protect the public. Clause 8 is a technical amendment only. At present on the true construction of the Food and Drugs Act it appears that an inspector can only exercise his powers under the Act under the direction and at the cost 0f a local authority. This, however, is not the intention, because inspectors are appointed by the Central Board of Health to carry out inspections in all parts of the State, and obviously there is no point in requiring them to act only at the discretion and cost of local authorities. Clause 8 removes this difficulty. It is often said of legislation of this kind that it will create an army of inspectors, but those interested will pay for the work of these inspectors, and no liability will be thrust on the Government.

The Hon. E. W. Castine—Who will pay when they are not required1?

The Hon. G. RITCHIE—No one. Clause 9 is another technical amendment. It provides for the mode of taking samples when the commodity being sampled is contained in very small packages or parcels. The present provisions are such that they cannot conveniently be applied to cases of this kind. Clause 10 is an evidentiary provision only. It makes a supply of food or drugs by one person to another prima facie evidence of sale. It is often difficult to prove that a supply of food or drugs amounts to a sale, since money does not always pass in these transactions, and the real nature of the transaction depends on the mental intention of the parties. No serious injustice will be done if supply is made prima facie evidence of sale, since it will be open to the defendant in any case to prove that although there was a supply no sale really took place. Clause 11 provides for the registration of premises where food is prepared or manufactured for sale and which are not registered under the present laws as to factories or shops. The Central Board of Health has found some very bad cases where food for public consumption was being prepared in most unsanitary conditions. In order that the Board may be able to control this matter it is desirable that they should be made aware of all the premises where food is prepared for sale for human consumption. For this purpose it is necessary to provide some form of registration. It is therefore provided in clause 11 that regulations be made providing for the registration of premises used for preparing food for sale, if the premises are not registered under some other Act. Some members may say that we are always bringing in Bills that interfere with the public, but it is necessary that the public should have pure food. It may be said that the Bill will interfere with the baking of cakes by women in their own homes. It will if the measure is carried out to the letter, but we do not expect that the Central Board of Health would interfere in such cases. Within the last few days I learnt that one person has been turning out a large quantity of food baked in a back verandah under shocking conditions. That largely influenced me in regard to this Bill. The public require and expect every protection for a pure food supply.

The Hon. W. Hannaford—Would not the present law deal with the case you mention?

The Hon. G. RITCHIE—No. The only provisions obtaining to-day are those in the Factories Act, and a person must be an employer of labour to come under it.

The Hon. H. Tassie—You quoted a case where food was prepared under insanitary conditions. Surely the Central Board of Health has power to remedy all insanitary conditions?

The Hon. G. KITCHIE—It may have, but apparently it has not, otherwise this Bill would not be needed. If members can improve the measure I shall be pleated to accept amendments. I move the second reading.

The Hon. W. HANNAFORD secured the adjournment of the debate.