

control under which the dairy industry operates. As the statute has to be more than once referred to and its purpose kept constantly in mind, I venture as a preface to more detailed examination to set out the title and preamble:—

Title

An Act to make Better Provision for the Marketing of Dairy-produce and other Primary Products so as to ensure for Producers an Adequate Remuneration for the Services rendered by them to the Community :

Preamble

WHEREAS it is considered essential in the public interest that producers of primary products should, as far as possible, be protected from the effect of fluctuations in the market-prices thereof: And whereas it is thought that the most effective and appropriate way of affording such protection, so far as relates to primary products intended for export, is to provide that the Government, on behalf of the Crown, shall acquire the ownership of such products at prices to be fixed and promulgated from time to time, and, so far as relates to primary products intended for consumption in New Zealand, is to empower the Government in its discretion either to acquire the ownership thereof at fixed prices or to control the sale and distribution thereof: And whereas it is not feasible to put into operation forthwith any plan or plans to deal effectively with all classes of primary products, and it is considered desirable that in the meantime a plan should be inaugurated in respect of dairy-produce (including certain other products usually associated with dairy-farming):

It appears, then, from the preamble that the ownership taken by the Crown is assumed as an operative step in a plan designed for the public interests and the protection of the farmer. It is therefore a special ownership, and, inasmuch as it is acquired to protect the farmer and maintain and stimulate production, the necessary corollary is the insertion of provisions for the retention of surpluses arising from good years to meet the deficits that can be expected from lean years. Consequently we find stringent provisions in the statute that moneys derived from the sale of dairy-produce shall be paid into, not the Consolidated Fund, but into an account to be established at the Reserve Bank of New Zealand, and to be known as “the Dairy Industry Account.” Over this account Parliament has expressly retained strict control and specified what shall be paid into it and what shall be paid out of it (sections 10 and 12). The principal payments out are to meet the price paid by the Crown, the costs of freight, insurance, storage and marketing, and salaries and other expenditure incurred in the administration of the Act.

It is quite clear that under the statute no free grant moneys can be made from this account. The moneys in the account are held for the purposes set out in the preamble just as the ownership acquired is for those purposes. Any claim to an ownership in the moneys in that account that implies an absolute right of disposal is therefore, in my opinion, unjustified, and no interpretation of any subsequent agreement can be based on an assumption of a prior unfettered right to dispose of surpluses arising from the sale of butter overseas. On this ground alone, without the clearest authority from an agreement made with parliamentary approval, neither party to this controversy can make a free grant or subsidy to the other out of these surpluses.

Turning again to the preamble to consider whether a payment to meet costs incurred in production is a free grant, or is made in pursuance of an obligation, it is plain the plan contemplates an obligation on the Government to pay to the dairy-producer prices computed by taking into account his costs of production and other specified factors. As those factors are in their nature not constant prices cannot be constant and are to be promulgated from time to time. A glance at the factors the statute then directs shall be taken into account in fixing the prices shows the necessity for constant revision if the plan set up is to operate efficiently. They are set out in section 20 of the statute, and are as follows:—

- (1) The necessity in the public interest of maintaining the stability and efficiency of the dairy industry :
- (2) The costs involved in the efficient production of dairy-produce :
- (3) The general standard of living of persons engaged in the dairy industry in comparison with the general standard of living throughout New Zealand :