

- (4) The estimated cost to the Department of marketing the dairy-produce concerned, and also the cost of the general administration of this Act:
- (5) Any other matters deemed to be relevant:
- (6) Due regard having been paid to the several matters, the prices fixed in respect of any dairy-produce exported after the thirty-first day of July, nineteen hundred and thirty-seven, shall be such that any efficient producer engaged in the dairy industry under usual conditions and in normal circumstances should be assured of a sufficient net return from his business to enable him to maintain himself and his family in a reasonable state of comfort.

It is obvious that it would be a matter of extreme difficulty to say that any payment to the dairy-farmers, since price is the only payment contemplated, even one in excess of a previously promulgated price, was not in respect of one of these factors, and a payment made because of a fluctuation in any single one, is in pursuance of an obligation and not a free grant or subsidy. The preamble recognizes that export butter and locally consumed butter need separate treatment owing to different processing required for overseas and local markets. Acquisition of ownership is essential in the one case; in the other apparently not. The distinction is carried into the operative sections of the statute, and provision is made that the price for butter sold locally shall be fixed at a price which will allow the producer a net return equal to that he obtains for export butter. If, then, the price fixed by the Government for local sale does not ensure that return, a subsequent payment to the industry by the Government to equalize returns is in pursuance of an obligation and not a free grant or subsidy.

Unless, then, it can be shown that by authorized agreement the Government has acquired absolute control of the funds in the Stabilization Account and been relieved of its obligation to equate the price of locally sold butter to its production cost, the answer to the question put to the Commission must, in my opinion, be in the negative.

I turn then to the agreement of 1943 to see whether these fundamental planks in the structure of the parliamentary plan are removed and ascertain whether a payment, in my view, presumptively not a subsidy, is to be considered a subsidy. The agreement, since we are told it is to receive parliamentary sanction, should be read as if it were a section added to the Primary Products Marketing Act. In that case its provisions must be read so as to conform to the general scheme of the Act.

Apart from the language in which the agreement is expressed, the only aids properly available to assist in the interpretation of the agreement, despite the wealth of material displayed before us, are the status, rights, and obligations of the parties created by statute to which I have already paid attention and the character of the many subsidies affecting the dairy industry granted prior to the agreement. With those aids the ordinary rules of construction applicable to a document must be applied—that is, the intention should be gathered from the document as a whole, and the language employed must be given its plain and literal meaning. A special meaning will not be attributed to any particular term unless it be shown use of its ordinary meaning will render the agreement insensible or untractable.

Such subsidies as were in existence at the time the agreement was entered into were made by the Government from non-controlled funds—namely, the War Expenses Fund—funds not related to a primary industry account in any way, and were paid not to the primary producer, but to the supplier whose goods the primary producer purchased.

The agreement has two objects—(1) to remove from the scope of the Dairy Industry Accounts overseas increases which, though related to dairy-produce and in form an increase in price of that produce, have in fact been made for some general national purpose (paragraphs 3 and 5); (2) to relieve the War Expenses Account of the burden of liability for further subsidies to manufacturers or suppliers of goods essential to a primary industry and certain increases in existing subsidies with reference to a determined date. Unless this is the effect of paragraph 6, I think it is insensible. Insensible because I venture to say no statistician preparing a comparative table of the costs of production of butter in New Zealand and any other country would insert the cost of keeping the price of local butter down as a cost in New Zealand. In a comparison of the producers' returns it would find an appropriate place.