

Crown Law Office,

WELLINGTON, C.1.

22nd June, 1937.

The Director-General,
Department of Agriculture,

Honey-export Control Act, 1924
Board's Purchase of Australian Honey
Ref. Ag. 54/3/10.

In reply to your memorandum of 18th instant and with further reference to my opinion herein of 22nd April last.

I am asked to advise whether the Board's action in this matter necessitates the introduction of validating legislation. I am unable to find on the file any complete statement of what the Board's action has been or is to be. There are a number of statements in different documents and it appears that some of them have been contradicted. As far as I can gather from the file the Board's action may be summarised as follows:-

1. It purchased in Australia certain quantities of Australian grown honey the purchase being effected from Australian producers or brokers or both.
2. Some of the honey purchased was imported into New Zealand the Board becoming the owner and assuming possession of the honey.
3. The honey so imported has been exported to London remaining in the ownership of the Board and in the custody of the Board's London agents.
4. Further quantities of the honey purchased in Australia are to be forwarded to London either direct from Australian ports or via New Zealand.
5. On arrival in London the honey is to be blended by the Board (through its agents) with New Zealand honey held by the Board in London.
6. The blended honey is to be made up in packages for retail sale and in this condition sold by the Board (through its agents) to British wholesale dealers.

7. Such packages will be sold under the trade-mark known as "Imperial Bee" which has heretofore been used exclusively for packages containing honey wholly the produce of New Zealand. Besides this trade-mark the labels of packages are to bear words indicating that the packages contain New Zealand honey and other honey.
8. The expenditure involved in the purchase of honey, freight and similar charges, blending and packing have been and will be met by the Board from its general funds to which Section 21 of the Act relates.
9. The proceeds of sales in Great Britain have been or will be paid to the same account.

I should be glad if you would check this summary and it may be advisable to get it confirmed (with such alterations as you are able to make) by the Honey Control Board.

Assuming that the summary is substantially correct then for the reasons indicated in my previous opinion I advise that the steps numbered 1 to 6 and 8 were, as far as now appears, ultra vires the Board and therefore require statutory validation, whilst step number 9 should in view of the direction of the Acting Prime Minister also be the subject of statutory direction.

The action in step number 7, if irregular, may amount to breach of some contract between the Government and the Board, and may be contractually waived.

(Sgd.) A. E. Currie

Crown Solicitor.