

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
6th May, 1936.*

*Hon. Mr. Nash.*

## PRIMARY PRODUCTS MARKETING.

### ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Act divided into Parts.</p>	<p>PART II. MARKETING OF DAIRY-PRODUCE. 16. "Dairy-produce" defined. 17. Application of this Part. 18. All exported dairy-produce to become property of Crown. 19. Price to be paid for exported dairy-produce. 20. How price of exported dairy-produce to be fixed. 21. Provisions with respect to dairy-produce intended for consumption in New Zealand. 22. Fixing prices in respect of dairy-produce intended for consumption within New Zealand. 23. Validity of Order in Council fixing prices not to be questioned. 24. Restriction on sale of dairy-produce that does not conform with requirements of Department. 25. Offence to sell dairy-produce except at fixed prices. 26. Penalties for offences against Act.</p>
<p>PART I. ADMINISTRATION. 3. Minister of Marketing. 4. Primary Products Marketing Department. 5. Appointment of administrative and other officers. 6. Functions of Department. 7. How functions of Department to be exercised. 8. Transfer to Department of functions of Executive Commission of Agriculture. 9. Director and Assistant Director may together act as Commission of Inquiry. 10. Dairy Industry Account. 11. Subsidiary accounts. 12. Moneys payable into or out of Dairy Industry Account. 13. With a view to promotion of reciprocal trade, Minister may arrange terms of provisional trade agreements. 14. Annual report and accounts to be presented to Parliament. 15. Regulations.</p>	<p>PART III. THE NEW ZEALAND DAIRY BOARD. 27. Commencement of this Part. 28. Reconstitution of New Zealand Dairy Board. Consequential repeal. Quorum of Board. 29. Restricting functions of New Zealand Dairy Board.</p>

## A BILL INTITULED

- 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. 5
- 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 10 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 15 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 20 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): And whereas, 25 in order to enable the Government to put into operation its present plan with respect to dairy-produce and to formulate its plans with respect to other primary products, it is intended to establish a Department of State, to be known as the Primary Products 30 Marketing Department, to be charged with the special duty of marketing all primary products in which the Government has acquired ownership or over which the Government has assumed control, and charged also with such general duties and functions as may from time to 35 time be imposed or conferred on it: And whereas legislation is required to give effect to the intentions hereinbefore recited:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Primary Products Marketing Act, 1936. Short Title.

2. This Act is divided into Parts as follows:— Act divided into Parts.

PART I.—Administration.

PART II.—Marketing of Dairy-produce.

PART III.—The New Zealand Dairy Board.

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PART I.

ADMINISTRATION.

3. (1) The Governor-General may appoint a member of the Executive Council to hold office during his pleasure as the Minister of Marketing (hereinafter referred to as the Minister). Minister of Marketing.

(2) The Third Schedule to the Civil List Act, 1920, is hereby consequentially amended by adding to the list of Ministerial offices specified in Part I thereof a reference to the Minister of Marketing. See Reprint of Statutes, Vol. I, p. 1028

4. There is hereby established a Department of State to be called the Primary Products Marketing Department (hereinafter referred to as the Department), which, under the control of the Minister, shall be charged with the administration of this Act. Primary Products Marketing Department.

5. (1) There shall from time to time be appointed a Director of Marketing (hereinafter referred to as the Director). The Director shall be the administrative head of the Department. Appointment of administrative and other officers.

(2) There may also from time to time be appointed one or more Assistant Directors of Marketing, and such other officers as may from time to time be considered necessary.

(3) The Assistant Director or any Assistant Director (if more than one) may, with the authority in writing of the Director, exercise any of the powers of the Director. Nothing in this subsection shall be construed to affect the operation of section five of the Public Service Act, 1912. See Reprint of Statutes, Vol. VII, p. 523

- (4) Notwithstanding anything to the contrary in the Public Service Act, 1912, any person (not being a Minister of the Crown) who, on the passing of this Act, is a member of the Executive Commission of Agriculture established under the Agriculture (Emergency Powers) Act, 1934, may be appointed by the Public Service Commissioner to be the Director or an Assistant Director, and any person who, on the passing of this Act, is an officer of the New Zealand Dairy Board established under the Dairy-produce Act, 1923 (as amended by the Agriculture (Emergency Powers) Act, 1934), or who, not being such an officer, has technical or other expert knowledge of the dairy industry, may be similarly appointed a permanent officer of the Department. 5
- 1934, No. 34
- See Reprint of Statutes, Vol. VIII, p. 659 1934, No. 34 10
- Functions of Department. 15
6. (1) The principal functions of the Department shall be to make all necessary arrangements with respect to—
- (a) The acquisition, on behalf of the Crown, of any primary products in accordance with this Act or in accordance with any other lawful authority that may hereafter be conferred: 20
- (b) The marketing, in New Zealand or overseas, of primary products, whether or not such products have been acquired on behalf of the Crown. 25
- (2) Notwithstanding anything to the contrary in any other Act, no contract for the carriage by sea of any primary products intended for export shall be made after the passing of this Act save by the Minister or in conformity with conditions approved by the Minister. 30
- Every contract made otherwise than in conformity with this section shall be void. 30
- (3) Every person other than the Minister who, after the passing of this Act, exports any primary products shall, on making entry therefor under the Customs Acts and before such entry has been passed, produce to the Collector or other officer of Customs sufficient evidence to satisfy him that the contract for shipment was made before the passing of this Act or has been approved by the Minister. 35
- How functions of Department to be exercised. 40
7. (1) All the functions of the Department may be exercised by the Minister. 40
- (2) The Minister may from time to time, by writing under his hand, delegate to the Director such of his powers as he thinks fit. 45

(3) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister in person.

5 (4) Any such delegation may be made subject to such conditions and restrictions (if any) as the Minister thinks fit, and may be made either generally or in relation to any particular matter.

10 (5) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Director to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director or for the time being exercising the functions of the Director.

20 (6) The fact that the Director or any Assistant Director or other person lawfully acting for the Director exercises any power of the Minister shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do.

25 8. (1) The functions of the Executive Commission of Agriculture (as formulated in section six of the Agriculture (Emergency Powers) Act, 1934), shall hereafter be functions of the Department.

Transfer to Department of functions of Executive Commission of Agriculture.

30 (2) The authority conferred on the Governor-General by section seven of the Agriculture (Emergency Powers) Act, 1934, as extended by section twenty-five of the Tobacco-growing Industry Act, 1935, to transfer to the said Commission the powers of the several Boards therein referred to may hereafter be exercised so as to transfer any such powers to the Minister. For the purposes of this subsection the references to the Commission in the said section seven or in section 35 eight of the same Act shall hereafter be read as references to the Minister.

1934, No. 34  
1935, No. 38

40 (3) The Executive Commission of Agriculture shall be abolished on a date to be fixed in that behalf by the Governor-General in Council. If, before the date so fixed, any member of the Commission has been appointed to be the Director of Marketing, or to be an Assistant Director of Marketing, he may hold both offices concurrently but shall be entitled to receive salary only in 45 respect of such one of those offices as the Minister may determine.

(4) While the Commission remains in existence it shall continue to have the powers conferred on it by subsection two of section six of the Agriculture (Emergency Powers) Act, 1934, but shall exercise such powers only with the concurrence of the Minister. The Commission shall also have such powers as may be delegated to it by the Minister, and the Minister may delegate any of his powers accordingly. The provisions of section *seven* of this Act, as to the delegation of the powers of the Minister, shall apply with the necessary modifications to the delegation of powers by the Minister to the Commission.

Director and Assistant Director may together act as Commission of Inquiry.

9. For the purpose of obtaining any information that may be deemed necessary or of value to enable the Department to fulfil its functions or to enable the Government to determine whether or not the functions of the Department should be extended or varied, the Director, acting with an Assistant Director or with any other person or persons who may be appointed in that behalf by the Minister, shall have all the powers of a Commission appointed under the Commissions of Inquiry Act, 1908.

See Reprint of Statutes, Vol. I, p. 1036

Dairy Industry Account.

See Reprint, of Statutes, Vol. VII, p. 46

10. (1) For the purposes of this Act there shall be established at the Reserve Bank of New Zealand an account to be known as the Dairy Industry Account.

(2) Part X of the Public Revenues Act, 1926, shall apply with respect to the Dairy Industry Account in the same manner as it applies to the several accounts mentioned therein.

(3) The Dairy Industry Account shall be operated only by cheque signed by the Director or an Assistant Director, and countersigned by the Audit Office.

(4) No limits imposed by any Act upon the borrowing powers of the Government of New Zealand or of any person on behalf of that Government shall operate to limit the authority conferred on the Reserve Bank of New Zealand by paragraph (*gg*) of section thirteen of the Reserve Bank of New Zealand Act, 1933, as amended by section twelve of the Reserve Bank of New Zealand Amendment Act, 1936, and the said paragraph shall be construed as an authority for the Bank to grant and for the Government to receive accommodation by way of overdraft in aid of the Dairy Industry Account, and the said account may be overdrawn accordingly.

11. For the purposes of the Dairy Industry Account there may be opened at the Reserve Bank or at any other bank, in New Zealand or elsewhere, such imprest or other subsidiary accounts as may from time to time be authorized in accordance with the Public Revenues Act, 1926.

Subsidiary accounts.

12. (1) There shall from time to time be paid into the Dairy Industry Account all moneys derived from the sale of dairy-produce by the Department, and any other moneys that may be lawfully payable to the Account.

Moneys payable into or out of Dairy Industry Account.

(2) There shall from time to time, without further appropriation than this section, be paid out of the said account all moneys payable by the Crown in respect of the price of any dairy-produce or in respect of the freight, insurance, storage, or marketing of any dairy-produce.

(3) There shall also from time to time be paid out of the said Account, in accordance with the appropriation of Parliament, the salaries and allowances of officers and all other expenditure incurred in the administration of this Act:

Provided that any such expenditure incurred with the approval of the Minister in respect of the financial year ending on the thirty-first day of March, nineteen hundred and thirty-seven, may, in anticipation of appropriation by Parliament, be paid without further appropriation than this section.

13. (1) With a view to facilitating the making by the Government of New Zealand of agreements with the Governments of other countries for the promotion of reciprocal trade, it shall be one of the functions of the Minister, on behalf of the Government of New Zealand, to enter into negotiations, as and when he thinks it opportune so to do, with the accredited representative or with accredited representatives of the Government of the United Kingdom or of any other part of His Majesty's Dominions, or the Government of any other country.

With a view to promotion of reciprocal trade, Minister may arrange terms of provisional trade agreements.

(2) The basis of any such agreement shall be that, in consideration of the purchase by the Government of any such country of any primary products of New Zealand or in consideration of the establishment or maintenance in any such country of favourable marketing conditions for any primary products of New Zealand,

the Government of New Zealand will undertake to arrange through the Reserve Bank of New Zealand that the whole or a substantial part of the financial credits thereby established in such country will be utilized for the purchase of approved goods or classes of goods being the produce or manufacture of that country. 5

Annual report  
and accounts  
to be  
presented to  
Parliament.

**14.** (1) The Minister shall within three months after the thirty-first day of July in every year cause to be prepared a report on the operations of the Department for the period of twelve months ended on that date. 10

1932, No. 11

(2) The said report, together with statements of account to be prepared by the Department in accordance with section fifty-seven of the Finance Act, 1932, shall be laid before Parliament within fourteen days after it has been received by the Minister if Parliament is then sitting, or if Parliament is not sitting, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session thereof. 15

(3) Notwithstanding anything in the said section fifty-seven of the Finance Act, 1932, the statements of account for the Department prepared pursuant to that section may be made for the period of twelve months ending on the thirty-first day of July in any year instead of for the financial year. 20

Regulations.

1934, No. 34

**15.** (1) The power to make regulations conferred on the Governor-General in Council by section twenty-seven of the Agriculture (Emergency Powers) Act, 1934, is hereby extended so as to authorize the making under that section of all such regulations as may be required for the purpose of giving effect to this Act. 25 30

(2) The reference in the said section to the Executive Commission of Agriculture shall hereafter be read as a reference to the Minister of Marketing.

## PART II.

### MARKETING OF DAIRY-PRODUCE. 35

"Dairy-  
produce"  
defined.

**16.** For the purposes of this Part of this Act the term "dairy-produce" includes—

(a) Milk and cream;

(b) Butter, cheese, and all other products of milk or cream, whether derived therefrom by manufacturing processes or otherwise; and 40



5 (c) Any other products of a kind derived from operations usually carried on in conjunction with dairy-farming operations (such as the rearing of calves and pigs), whether such products are actually produced on dairy-farms or elsewhere.

10 17. (1) This Part of this Act shall apply with respect to all butter and cheese that is manufactured from milk or cream delivered to a dairy-factory on or at any time after the first day of August, nineteen hundred and thirty-six, and, by notice published in the *Gazette*, may be applied by the Minister at any time to any other kind of dairy-produce: Application of this Part.

15 Provided that nothing in this Part of this Act shall apply with respect to any dairy-produce that is both produced and consumed in the Chatham Islands.

20 (2) Without limiting any of the powers conferred on the Minister by this Act or that may be conferred on him by regulations made under this Act, the Minister shall have full authority to make such arrangements and give such directions as he thinks proper for the following matters:—

25 (a) For the handling, pooling, transport, and storage of any dairy-produce to which this Part of this Act applies:

(b) For the shipment of any such dairy-produce that is intended for export, on such terms and in such quantities as he thinks fit:

30 (c) For the insurance against loss of any such dairy-produce:

(d) Generally for all such matters as are necessary for the exercise of any of the powers herein expressly conferred.

35 18. All dairy-produce to which this Part of this Act applies that is intended for export shall, as soon as it is placed, with the concurrence of the Department, on board any ship for export from New Zealand, become the property of the Crown in respect of the Government of New Zealand, free and discharged from all right, title, or interest possessed in respect thereof by any other person: All exported dairy-produce to become property of Crown.

40 Provided that the Minister may, in respect of any such dairy-produce, determine by notice published in the *Gazette* that the ownership thereof shall pass to the Crown at any specified time prior to shipment.

Price to be  
paid for  
exported  
dairy-produce.

1934, No. 34

How price of  
exported  
dairy-produce  
to be fixed.

19. Whenever any dairy-produce has become the property of the Crown in accordance with the *last preceding* section, the price thereof, as fixed in accordance with the *next succeeding* section, shall become payable, and, after deduction therefrom of the levy (if any) payable to the New Zealand Dairy Board pursuant to section twenty-three of the Agriculture (Emergency Powers) Act, 1934, shall be paid forthwith out of the Dairy Industry Account to the company or other owners of the factory in which such produce was manufactured or to any other person entitled thereto. 5 10

20. (1) The prices to be paid by the Crown in respect of dairy-produce exported from New Zealand as aforesaid shall from time to time be fixed by the Governor-General by Order in Council. 15

(2) Different prices may be fixed in respect of different kinds of dairy-produce, or in respect of different grades or qualities of the same kind of produce, or different prices may be fixed in respect of the same kind or grade or quality of any dairy-produce by reason of any special conditions or circumstances that in the opinion of the Governor-General warrant the fixing of different prices. 20

(3) The prices fixed under this section in respect of all dairy-produce to which this Part of this Act applies that is exported from New Zealand on or before the thirty-first day of July, nineteen hundred and thirty-seven, shall be fixed after taking into consideration the prices received in New Zealand in respect of dairy-produce of the same or approximately the same kind, grade, and quality exported from New Zealand during a period of from eight to ten years immediately prior to the thirty-first day of July, nineteen hundred and thirty-five. 25 30

(4) In fixing prices under this section in respect of dairy-produce exported after the thirty-first day of July, nineteen hundred and thirty-seven, regard shall be had to the prices fixed under this section in respect of dairy-produce exported before that date, and to the following additional considerations, namely:— 35 40

(a) The necessity in the public interest of maintaining the stability and efficiency of the dairy industry:

- (b) The costs involved in the efficient production of dairy-produce:
- (c) The general standard of living of persons engaged in the dairy industry in comparison with the general standard of living throughout New Zealand:
- (d) The estimated cost to the Department of marketing the dairy-produce concerned, and also the cost of the general administration of this Act:
- (e) Any other matters deemed to be relevant.

(5) Due regard having been paid to the several matters mentioned in subsection *four* hereof, 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.

21. (1) With respect to dairy-produce to which this Part of this Act applies and which is intended for sale for consumption in New Zealand the following provisions shall apply:—

- (a) The Minister may determine with respect to any such dairy-produce that the ownership thereof shall pass to the Crown, in respect of the Government of New Zealand, as and when the Minister, by notice published in the *Gazette*, may specify; or
- (b) The Minister may determine that the Department shall control the marketing of any such dairy-produce, but that the ownership thereof shall not pass to the Crown.

(2) Every determination made by the Minister under this section shall have effect according to its tenor.

22. (1) At any time after the fixation in accordance with the foregoing provisions of this Part of this Act of prices in respect of dairy-produce exported or intended to be exported from New Zealand, the Governor-General may by Order in Council fix prices in respect of dairy-produce to which this Part of this Act applies and which is intended for consumption in New Zealand.

Provisions with respect to dairy-produce intended for consumption in New Zealand.

Fixing prices in respect of dairy-produce intended for consumption within New Zealand.

(2) Prices may be fixed in respect of any such dairy-produce, whether it has been or is intended to be acquired by the Crown, or is sold or is intended for sale otherwise than to the Crown.

(3) In fixing under this section the prices to be paid to any dairy company in respect of any dairy-produce manufactured by it (whether such price is to be paid by the Crown or by any private purchaser), the general purpose shall be to assure to the producer a net return from his produce equivalent to the return that he would have received if such dairy-produce had been acquired by the Crown for export in accordance with the foregoing provisions of this Part of this Act.

(4) In fixing other prices of dairy-produce under this section, the general purpose shall be to ensure that the consumer will be able to obtain the same at a reasonable price and that the retailer and other persons engaged in the distribution of dairy-produce will receive a fair and reasonable remuneration for efficient services.

(5) Subject to the general conditions imposed by subsections *three* and *four* hereof, the Governor-General may fix such prices under this section as he thinks fit.

Validity of Order in Council fixing prices not to be questioned.

**23.** The validity of any Order in Council fixing the prices of any dairy-produce under section *twenty* or section *twenty-two* of this Act shall not be questioned on the ground that due consideration has not been given to any matter that is required to be taken into consideration in fixing such prices, or on any other ground whatsoever.

Restriction on sale of dairy-produce that does not conform with requirements of Department.

**24.** (1) If, after prices have been fixed in accordance with the foregoing provisions of this Part of this Act, any dairy-produce to which this Part of this Act applies is manufactured of a kind, or grade, or quality for which prices have not been so fixed, or which does not conform in all material particulars with the requirements of the Department, such dairy-produce may be sold or otherwise disposed of in accordance with the directions of the Minister, and not otherwise.

(2) Every person who, whether as principal or agent, and whether by himself or his agent, sells or disposes of any dairy-produce to which this section applies otherwise than in accordance with the directions of the Minister, as aforesaid, commits an offence against this Act.

25. (1) Every person who, whether as principal or agent, and whether by himself or his agent, sells or agrees or offers to sell any dairy-produce to which this Part of this Act applies at a price other than the  
5 appropriate price fixed in respect thereof commits an offence against this Act.

Offence to sell dairy-produce except at fixed prices.

(2) Every person who, whether as principal or agent, and whether by himself or his agent, sells any dairy-produce to which this Part of this Act applies and  
10 thereafter demands or accepts for such dairy-produce a price in excess of or less than the appropriate fixed price commits an offence against this Act.

(3) Every person who, whether as principal or agent, and whether by himself or his agent, gives or offers or  
15 agrees to give to any person in respect of any dairy-produce to which this Part of this Act applies, any unauthorized rebate, refund, discount, allowance, premium, or other valuable consideration, or who, as purchaser or seller or otherwise howsoever, is knowingly  
20 a party to any device, plan, or scheme whereby the purchaser obtains or is enabled to obtain any dairy-produce except at the fixed price, commits an offence against this Act.

(4) Every person who aids, abets, counsels, or  
25 procures, or is in any way knowingly concerned in the commission of an offence against this Act shall be deemed to have committed that offence.

(5) The liability of an employer or principal to any penalty under this Act in respect of offences committed  
30 by a servant or agent in the course of his employment shall be determined by the same principles as those which determine his liability for civil injuries done by that servant or agent, and such offences shall be deemed to have been committed by the employer or principal  
35 accordingly.

26. (1) Every person who commits or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit or conspires with any other person to  
40 commit any offence against this Act, or against any regulations made for the purposes of this Act, shall be liable on summary conviction to a fine of *two hundred* pounds, in the case of an individual, and in the case of a company or other corporation, to a fine of *one thousand*  
45 pounds.

Penalties for offences against Act.

(2) Any prosecution for an offence against this Act, or against any regulations as aforesaid, may be instituted at any time within three years after the commission of the offence.

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## PART III.

## THE NEW ZEALAND DAIRY BOARD.

Commencement  
of this Part.

27. This Part of this Act shall come into force on the first day of August, nineteen hundred and thirty-six. 10

Reconstitution  
of New  
Zealand Dairy  
Board.

1934, No. 34

28. (1) On the commencement of this Part of this Act the members of the New Zealand Dairy Board appointed by the Governor-General in Council under paragraph (a) of subsection one of section thirteen of the Agriculture (Emergency Powers) Act, 1934, shall be 15 deemed to have vacated their offices.

(2) Thereafter the Board shall consist of five members of whom one shall be appointed from time to time by the Governor-General in Council, for a term of three years, and the others shall be elected or appointed 20 as provided in paragraphs (b) and (c) respectively of subsection one of section thirteen of the Agriculture (Emergency Powers) Act, 1934.

(3) Any one of the members vacating office in accordance with the provisions of subsection one of this 25 section or any other person may be appointed by the Governor-General in Council under the *last preceding* subsection.

Consequential  
repeal.

(4) Section fourteen of the Agriculture (Emergency Powers) Act, 1934, is hereby consequentially repealed. 30

Quorum of  
Board.

(5) Section twenty-one of the Agriculture (Emergency Powers) Act, 1934, is hereby amended by omitting from subsection four thereof the word "four", and substituting the word "three".

Restricting  
functions of  
New Zealand  
Dairy Board.

29. (1) The following enactments relating to the 35 powers of the New Zealand Dairy Board are hereby repealed, namely:—

(a) Sections eleven, twelve, thirteen, fourteen, and sixteen of the Dairy-produce Act, 1923:

(b) Section ten of the Dairy-produce Amendment Act, 1926:

(c) Section twelve of the Agriculture (Emergency Powers) Act, 1934.

(2) The Board shall not, at any time after commencement of this Part of this Act, exercise any of its powers, functions, or discretions except with the approval of the Minister. Such approval may be general or special, and  
5 may be absolute or subject to such conditions as the Minister may impose. Any such approval may be at any time withdrawn by the Minister by notice in writing given to the Board.

(3) The functions of the Board with respect to any  
10 dairy-produce to which Part II of this Act does not apply (whether such dairy-produce has been exported before the passing of this Act and has not been finally disposed of or is exported after the passing of this Act) may  
15 at any time after the commencement of this Part of this Act be exercised by the Minister as if Part II of this Act applied to such dairy-produce, or may be exercised by the Board with the approval of the Minister given under the *last preceding* subsection.

(4) All contracts entered into by the Board before  
20 the commencement of this Part of this Act and then subsisting shall become the contracts of the Crown in so far as they relate to the storage, insurance, or freight of any dairy-produce to which Part II of this Act applies.

(5) The property of the Board in the National Fern  
25 Leaf design registered in the United Kingdom is hereby transferred to the Crown in respect of the Government of New Zealand.