

MINUTES of a JOINT MEETING of the VARIETIES and the CONDITIONS sub-COMMITTEES of the SCOTTISH POTATO TRADE ASSOCIATION in 25 South Methven Street, PERTH at 2 p.m. on Thursday, 5th APRIL, 1990.

PRESENT:

Messrs. A.C. Galbraith (Convenor), J.R. McArthur (ex officio), J.O. Robertson and D.Y Stewart Jnr., with R.D. Hunter (Secretary) and D. Blackmore (Assistant) in attendance.

Mr. Galbraith took the Chair.

APOLOGIES:

The Secretary intimated apologies for absence on behalf of Messrs. R. Doig (ex officio), I. Melrose and J.M. Swinton.

Before proceeding with the business of the meeting, Mr. Hunter explained that Minutes of today's first joint meeting will be prepared and submitted to its next meeting for formal approval. The Chairman also took the opportunity to report the circumstances of a telephone call he had received from an outside organisation regarding remarks he had allegedly made during Council's last meeting. Following a short discussion covering confidentiality, etc. it was agreed this matter be placed on the Agenda for Council's next meeting.

GENERAL
STRATEGY re
CONTROLLED
VARIETIES:

Mr. Hunter reported a telephone call from a Member reporting availability of Cara seed in Scotland. He had re-directed this call to the Chairman who, in turn, reported the Member had offered to attend if required. The Committee endorsed the Chairman's view that this would have been inappropriate at today's first exploratory, non-specific, meeting.

The Chairman summarised grievances he has received from Ware growers regarding the restrictive effects on their operations of the business activities of the Controllers of Protected Varieties. Although not in priority order he listed these as:-

- (a) preclusion from purchase of higher grades of seed of protected varieties;
- (b) loss of right to purchase from supplier and/or source of choice;
- (c) dictated to re when, riddle sizes, grades and from whom to buy;
- (d) prices charged to ware growers are discriminatingly too high.

Expressing his full understanding of and a degree of sympathy with these grievances, Mr. McArthur added that the recent introduction of the prohibition of planting of any varieties of unclassified seed throughout the High Grade Seed Region has forced all Scottish Ware Growers into renewal of seed at least every second year. With most of the varieties' Controllers first supplying English growers in preference to Scottish ware growers, the latter will thus be doubly and seriously disadvantaged. At the same time, however, he pointed out that in implement of international obligations, British Law provided Plant Breeders' Rights holders with monopoly power to licence or not to licence to whomever they choose and at whatever price they decided.

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The Chairman wondered whether the close similarity of conditions and prices structures operated by different controllers were indicative of cartelisation (which Mr. Hunter confirmed is illegal) but, in any event the high cost of seed is not in the long term interests of the Scottish potato industry. Mr. Stewart felt that the force of competition between controllers, rather than cartelisation, explained similarities of Controllers' conditions and prices. Mr. McArthur also felt that higher seed prices will effectively pull the whole industry image upwards, to the benefit of growers, controllers and the Trade alike.

Further prolonged discussion covered the reasons for and the effects of "small ware" activities, the increasing concentration of controlled varieties into fewer hands, most of which were outwith Scotland, the increasing share of growing acreage taken up by controlled varieties; the legitimate protective efforts of Controllers arising from their past experience and the ultimate fear that the Controllers of varieties could remove production of those varieties from Scotland altogether. Mr. Galbraith urged that a formula must be devised first to persuade Controllers that not all Ware Growers are "bad boys" and second, to persuade Controllers to release seed to bona fide ware growing within whatever signed undertakings each Controller may require. It was not felt that any "boycott" approach at the outset would be helpful and it was accepted that if any Controller flatly refuses to supply Ware Growers, litigation to secure a compulsory licence (even if this is appropriate) would be a prolonged process with but modest hope of success at the end of the day.

From his own involvement in Controlled varieties, Mr. McArthur explained DAFS' view was that it had a statutory duty to inspect any crop submitted for classification as seed, irrespective of whether the applicant is licensed or not by the variety Controller concerned. After discussion it was agreed Mr. McArthur would make an early approach to DAFS to reconsider its view. Following this first step, consideration should be given to the kind of undertakings and guarantees that a Controller could reasonably require from bona fide ware growers which would also be acceptable to those ware growers, to enable them to buy whatever correctly labelled grade and size of seed they required. It was unanimously agreed to be important that such purchases should be permitted at any time during the trading year. Thereafter, investigatory approaches to Controllers should be arranged.

ORDER OF
PRIORITY:

The meeting agreed that discussions should be with one Controller at a time and at which the whole Varieties sub-Committee should be present. It was decided the largest controller should be approached first and the smallest last, each being asked "Are you prepared to release your controlled varieties (or variety) to bona fide ware growers in Scotland?" If no, then "why not?" If yes, then "under what conditions?"

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In brief discussion (and without any size-ranking at this stage), it was felt approaches would be made to Nickersons/Dalgety, the Alliance (including Cullen Allen Scotland and Scott & Newman), the Cara Group, Gordon & Innes (including Beeson Group and Hetteema), PBI-Fenton, S.E. Growers (Chairman John Allingham) and Caithness. It was also suggested that if a higher price has to be charged for seed for ware growing, this should be charged to English growers rather than Scots, because English growers do not have to buy classified seed at least every second year.

CONDITIONS
OF PURCHASE
FOR WARE:

In Mr. Swinton's absence and under pressure of time this Item was deferred until the next meeting.

DATE OF
NEXT
MEETING:

No date was fixed for the Committees' next meeting until Mr. McArthur's "Protocol" discussion with DAFS has taken place. The Chairman stated it may be preferable for the next meeting to be in the evening to take account of field work pressures.

The meeting was then concluded.



MATTER
ARISING:

Mr. McArthur reported having approached DAFS subsequent to the foregoing meeting. Following further discussion, DAFS was not prepared to change its view. In implement of its responsibility for administration of the Seed Potato Regulations 1984 as amended, DAFS has a statutory duty and cannot refuse an application or to inspect a crop, or to classify a qualifying crop of potatoes as seed. DAFS has no duty under those Regulations in respect of Plant Breeders Rights legislation, any breaches of which must be dealt with by the Rights holders themselves.