

REPORT on MEETING with THE
SCOTTISH OFFICE AGRICULTURE &
FISHERIES DEPARTMENT regarding
"Small Ware" held at Pentland
House, EDINBURGH, at 2.00 p.m.
on MONDAY, 23rd OCTOBER, 1995.

PRESENT: THE SCOTTISH OFFICE: Messrs. Gordon Brown, Andy
Robertson and Mrs. Barnes.

M.A.F.F: Messrs. Brian Ellam (Plant Health) and John ?
(Plant Breeders Rights).

NORTHERN IRELAND MINISTRY: Mr. Jimmy Smith.

N.A.S.P.M: Mr. Pat Smith.

S.P.T.A: Messrs. A. Pullar and R.D.Hunter.

SMALL WARE Mr. Brown opened the meeting by explaining that they had received a useful response to their consultation exercise particularly from S.P.T.A. and N.A.S.P.M. He added that all of the responses had been considered and investigated. Mr. Brown added that The Scottish Office had already had a meeting with the British Society of Plant Breeders and were to meet on the following day with the Farmers' Unions.

Mr. Pullar spoke to the response from S.P.T.A. and Mr. Pat Smith spoke to the response from N.A.S.P.M. There then followed general discussion in which it was noted that the main problem is with Protected Varieties and the main incentive is price. Mr. Robertson confirmed that the resources of The Scottish Office were limited but he assured the meeting that if The Scottish Office were given the necessary information they would devote sufficient resources to following up alleged infringements as they did in the Petrie case. After the general discussion was completed the meeting moved on to considering the proposals put forward by S.P.T.A. and the N.A.S.P.M., namely:-

- (1) "The alteration of the Regulations to make it compulsory throughout the whole of G.B. to plant only Certified Seed for all potato growing". The Scottish Office explained that they did not believe that the regulating authorities would agree to such a change in the legislation. They also believed that the English Farmers' Union would oppose such a change in the legislation. The Scottish Office, however, agreed to investigate this proposal further.
- (2) "An alteration in legislation to make it illegal to buy as well as sell Small Ware". The Scottish Office believed that such a change in the legislation would not be acceptable to the regulating authorities on the basis that such legislation is only introduced in respect of dangerous substances, etc., such as drugs and firearms. Gordon Brown added that The Scottish Office were not really in favour of such a change in legislation for the reason that, in the

main, the most useful evidence available in a prosecution is that of the purchaser of the Small Ware.

- (3) "An alteration in legislation to permit the Authorities to stop and check lorries in transit and to examine the premises of Hauliers with the purpose of intercepting Small Ware in transit." Mr. Roberson explained that The Scottish Office in conjunction with the Police Authorities already had such powers but they could only exercise these powers if they were provided in advance with detailed accurate information regarding the transit of Small Ware.
- (4) "An alteration in legislation to permit the Departments to release information to third parties to assist with Civil Court Proceedings". Mr. Brown stated that The Scottish Office are obliged to release information to third parties if they are instructed to do so by a Court Order.
- (5) "The increasing of the existing financial penalties and the introduction of other penalties for breaches of the Regulations (e.g. a period of ban from the commercial growing of potatoes)". Gordon Brown felt that this was a good suggestion but pointed out that the main problem with the present imposition of financial penalties was not the permitted maximum but rather the amount awarded by the Sheriffs/Magistrates. He explained that The Scottish Office were speaking to the Crown Office with a view to encouraging the imposition of higher penalties. He added that B.S.P.B. were making similar approaches to the Crown Office. With regard to introducing additional penalties, Mr. Brown explained that the advice which he was receiving was that the legislation would not permit the alternative of financial penalties and/or imposition of a ban. It would require to be one or the other and if such a choice had to be made the general support would be for financial penalties.
- (6) "The charging of Royalties on all potato production, including ware production". The Scottish Office believed that this would not be acceptable for the reasons that it would have the effect of increasing production costs and would be strongly opposed by the English Farmers' Union.
- (7) "The encouraging of a more open debate between Controllers and Growers with the objective of arriving at a more amicable and loyal relationship between the two sides". Gordon Brown stated that it was clear from the consultation process that there was a chasm between the Controllers and their Growers and that they had raised this matter with the British Society of Plant Breeders. Mr. Hunter stated that for the reason that there was no one Body which represented the interests of all of the Controllers and that the interests of individual Controllers varied widely, it very difficult to encourage an open debate.
- (8) "The improvement of the pricing structure for Controlled Varieties". See (7) above.

- (9) "The elimination of the existing practice of contract multiplication of seed potatoes specifically for the production of Small Ware". There was a full discussion on this matter from which it became clear that it was very difficult for the Authorities outwith the Controlled Region to take any steps to prevent this practice.
- (10) "The opening up of a line of communication to encourage the reporting of offenders to the Authorities". It was agreed that in theory this was most desirable but that in practice individuals in the Trade were reluctant to be seen as "informers". It was agreed that this was a matter for the Trade Associations to consider and come up with specific proposals.
- (11) "Change the definition of "Seed Potatoes" and "Marketing"". Mrs. Barnes stated that the definition of Seed Potatoes was not a problem in practice. The problem was to obtain sufficient evidence to satisfactorily prosecute a dealer in Small Ware. She stated that again the definition of "Marketing" was not in practice a problem. She pointed out that the definition of "Marketing" was any "movement" of potatoes.
- (12) "Require the Seed Producer to retain all Classified labels from the mother crop". Mrs. Barnes explained that so far as Scotland was concerned The Scottish Office had already adequate arrangements to identify stocks of Seed Potatoes.
- (13) "Address the problem of the six month time limit regarding prosecution of offenders". Mr. Brown stated that a change in the legislation in this respect would be implemented extending the period to twelve months. This would be implemented by an amendment to the Seed Potato Regulations and would be in effect some time next year.

It was agreed that The Scottish Office would produce an "Upbeat" Paper which would be issued, within the next three to four weeks, to the various interested Bodies who would be invited to indicate their support of the proposals contained in the Paper.

This terminated the business of the meeting.

