AGRICULTURAL PRODUCE COMMISSION AMENDMENT BILL 2021

Second Reading

Resumed from an earlier stage of the sitting.

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [5.10 pm]: Before question time, I was looking at a comparison between the Agricultural Produce Commission Amendment Bill 2019 and the Agricultural Produce Commission Amendment Bill 2021 and, as far as I can identify, the differences are in clause 4(1), which seeks to insert into section 3(1) of the act a definition of "pastoral lease" as having the meaning given in section 3(1) of the Land Administration Act 1997, and in clause 4(2), which seeks to change the wording to "is prescribed for the purposes of this definition, other than an industry that concerns livestock enterprises conducted on land under a pastoral lease". When we had a briefing on this bill last week, the briefers were unable to answer a question asked by Hon Steve Martin about whether that definition could potentially capture those who operated on both a pastoral lease and freehold land. That is certainly something we seek some clarity on from the minister in her reply.

Going back a little to the process of consultation that I talked about earlier, I reached out to a number of the existing committees and also to the broadacre industry and others to get feedback on the 2019 bill. Indeed, the majority of those producers' committees responded, although a couple did not, so I would like to acknowledge the contribution that they made in discussing this bill with me and enlightening me on what they do under the Agricultural Produce Commission and how it has helped their horticultural industries. I would like to thank those representatives of the citrus, egg, strawberry, pome, potato, veggie, wine and avocado industries, as well as, of course, the Kimberley Pilbara Cattlemen's Association, WAFarmers and the Pastoralists and Graziers Association, all of whom I spoke with at various lengths in the process of consulting on the 2019 legislation. As I said, a variety of views were expressed.

A number of submissions to the Standing Committee on Legislation identified some issues, and most of those focused largely on clause 4, which will amend section 3 of the act to include broadacre agriculture within the definition. One of the things the committee identified, and it is discussed at some length in its forty-fifth report on the Agricultural Produce Commission Amendment Bill 2019, is what exactly is broadacre cropping and grazing. It appeared to committee members at the time, and certainly to me, that there was no clear definition of a broadacre industry. In fact, there could be some industries that were considered broadacre that were of a smaller scale and industries that were not considered broadacre, and that did not seem to make a lot of sense. The committee went to some length to try to resolve what exactly is broadacre farming, but the issue is that during the inquiry and the committee's deliberations, it became quite clear that understanding what broadacre means is quite important.

As outlined in paragraph 3.32 of the report, the Department of Primary Industries and Regional Development agreed that the phrase "broadacre cropping and grazing industries" probably lacked clarity and that if it were to remain in the APC act, it would need to be better defined. I would argue that a definition should be included anyway. Perhaps the minister can enlighten us on why that is not included or outline that in her response to this report. Should clause 4 be adopted and the definition in the act change, "broadacre" will still need to be prescribed potentially for industries that are considered to be broadacre. In that instance, it would probably be useful to have a definition to provide clarity for producers who may come under the act.

One of the other key concerns raised by many groups in both presentations to the committee and in conversations that I had had around the traps was that under the Agricultural Produce Commission Act, a new levy would be imposed on their industry. In fact, those involved in broadacre agriculture already pay a significant levy. It is important to address that concern, because the reality is that this is different in some respects from a levy in that it is a fee for service. In return for the payment of a prescribed fee, a producers' committee is entitled to charge a fee for the service that it provides to whatever industry it represents. It could be for any number of things, and I have talked about marketing; research and development; insurance, such as in the Carnarvon banana example; and many other different examples. That is the service provided for the fee charged. It is a little different from a levy that is imposed regardless, which the industry has to pay, with very little understanding of what it actually gets for that levy.

It is also important to understand—I think the committee went on to refer to this in the report, but I do not have the page in front of me—that a number of horticultural industry members also pay significant federal levies, so they pay an Agricultural Produce Commission fee for service in addition to those levies. But they still find benefit for their particular industry in paying that fee for service. It is fair to say that the broadacre industry —

Hon Alannah MacTiernan: What do you mean by broadacre, member?

Hon COLIN de GRUSSA: That is right, minister. Perhaps we should define it.

Hon Alannah MacTiernan: If you don't know what it means, how can you talk about it?

Hon COLIN de GRUSSA: Why has the minister not put it in the bill?

Hon Alannah MacTiernan: We're not talking about it in the bill anymore.

Hon COLIN de GRUSSA: Are we not?

Hon Alannah MacTiernan: No.

Hon COLIN de GRUSSA: So what is a broadacre industry, then?

Hon Alannah MacTiernan: You're not understanding.

Hon COLIN de GRUSSA: The minister is removing the exemption, but what is she exempting?

Hon Alannah MacTiernan: We're actually removing reference to broadacre, so the fact that you don't understand it does not mean anything. You're being helped by the legislation because we're not referencing it anymore.

The DEPUTY PRESIDENT: Order! Members, I think these types of exchanges will be most useful in the Committee of the Whole stage.

Hon COLIN de GRUSSA: I think it is actually important to understand what broadacre industries are referred to in the act, and therefore what broadacre industries would potentially be covered should the bill succeed. There was a fair deal of concern in agricultural land by producers of wheat, barley and canola, and sheep as well, that a new fee would be imposed upon them, with very little understanding of what that would deliver for them. That concern was raised by a number of groups. To some extent, I can certainly understand that. Farmers pay significant levies for the production of their product, and perhaps there is some question about the benefit of those levies. There are certainly plenty of different views about what is the best value for producers from the fees they pay at the federal level. There are certainly those who would support the continuation of some of those federal levies. However, the potential for this extra imposition obviously concerns people, and they are worried about it, because it is a potential additional cost to their business, with, as I said, little understanding of what benefit that would offer them.

In addressing some of the changes proposed in the bill, as the Minister for Agriculture and Food outlined in her second reading speech, another proposed amendment to the Agricultural Produce Commission Act 1988 is to remove the word "broadacre" at clause 4. That proposed amendment is relatively minor in comparison with many of the other changes that are proposed as a result of the 2006 review and other identified issues. A lot of those changes are very much welcomed by the existing producers' committees. They include extra provisions with regard to compliance and enforcement. That is quite important. The committees that I spoke to certainly did identify that those were important changes for them, to make sure that people are complying with their obligations under the act, and that, conversely, the funds that are being collected are being used by those committees as intended to support the industry.

Clause 11 of the bill provides for non-producers to be appointed to producers' committees. That may be a good option to provide particular expertise on a committee. It will not be a bad option for many committees to have that expertise. However, producer members would still have only voting rights, which I think is a good thing. The bill also provides a more defined process for the functions of producers' committees to include responsibility for additional produce. That will be useful as well. As I said, many of those committees are very supportive of these proposed changes. The bill will also provide the commission with the power to have weighted voting at a poll. That is an interesting one. There are many examples in the agricultural industry of a relatively small number of producers who produce a lot of a particular product by virtue of their scale. Weighted voting would perhaps provide an opportunity for the vote of those producers to be more reflective in the establishment of a committee. The vote of those producers who are producing the bulk of a particular commodity, for example, would have a greater impact on the establishment of that committee and effectively have more value. I do not think that is a bad thing. In fact, most of the committees that I spoke to certainly saw that proposed amendment as a good opportunity.

Another important amendment is the capacity for regulations to provide for a circumstance in which a charge for the services provided by a committee could be waived, refunded or reduced. This is being called an opt-out clause. The industry, in particular WAFarmers, dare I say from a broadacre industry context—or perhaps a currently excluded broadacre industry context—is supportive of an opt-out provision. However, from the conversations that I have had with it, it still wants to see that opt-out provision in the legislation. It is concerned that having it in regulation is not transparent. I have been advised that WAFarmers' support for this bill is conditional upon that opt-out provision being provided for in the legislation. Keen-eyed members will note the existence of issue 1 of supplementary notice paper 18, which has an amendment in my name to introduce an opt-out provision into the legislation. We will get to that when we go into the committee stage of the bill. That is my attempt to satisfy the requirement of WAFarmers that the opt-out provision be included in the legislation.

Of course the Pastoralists and Graziers Association of WA is not supportive of any attempt to bring either pastoralists or the currently excluded industries, such as wheat, barley, canola and others, under the provisions of the act. It would

prefer that those industries were exempt under the act, as they have been to this point. Even though the minister has made an attempt in the latest iteration of this bill to improve that definition somewhat to exclude enterprises conducted on land under a pastoral lease, it is my understanding that the PGA is opposed to the Agricultural Produce Commission now including industries such as grazing, as well as wheat, barley, canola and others. When we get to that clause, no doubt there will be some debate on the merits of the changes proposed by the minister. At this stage, I can indicate that that is the view of the industries that I have spoken to. It is fair to say that since the Horticultural Produce Commission Act 1988 was amended in 2000 to become the Agricultural Produce Commission Act, those views really have not changed. In reading the *Hansard* of the debate in 1999 and 2000, both the Pastoralists and Graziers Association and the Western Australian Farmers Federation as it was at the time, now WAFarmers, were still very much concerned that their industries did not want to be included under that act at the time, and, indeed, if they were to be included, they wanted to have an opt-out provision, and an amendment was made to exclude those industries from being covered by the act. That amendment was clunky, because the definition of "broadacre" was very poor and potentially would have been open to challenge if anyone had wanted to do that at the time, but no-one did. However, nothing has really changed in the view of those industry groups from that time, with the exception to some extent of WAFarmers, which is very much supportive of many of the provisions and sees some opportunity for the currently excluded industries to be included. However, it would want an opt-out provision in the legislation, as I said, hence my attempt on the supplementary notice paper to try to get that in.

I will not go on for too much longer; I know that other members want to make a contribution to the debate on this legislation. It is important to acknowledge those groups that I have consulted with, and I know that the minister has also had consultation and certainly has had views expressed by many individuals and groups, as I have, on this whole process. I think it is fair to say that the review that took place in 2006 identified a number of things within the act that need changing. It always surprises me—maybe it should not, but it does—that it can take so long to get some of those things implemented. A number of amendments need to be made.

Hon Alannah MacTiernan interjected.

Hon COLIN de GRUSSA: I am not blaming anyone, minister. I am not taking interjections at this point. I am just making an observation that the wheels of bureaucracy turn slowly, whichever side of the chamber one is sitting on. A number of key recommendations came out of that review for those existing committees and I look forward to those changes being implemented. As we go through the bill in more detail during the committee stage, of course, we will have some time to flesh out what each of the particular clauses will do and how they will impact on the various committees, as well as, no doubt, some quite lengthy discussion on the merits of changing that definition in clause 4 to include the broadacre industry.

I can indicate at this point in time that the opposition is supportive of many measures within this legislation. However, our support for the legislation is contingent on an opt-out provision being included in the legislation. It is also incumbent upon us having a discussion on that definition in clause 4 and the attempt to exclude pastoralists. We will see where we land on that one.

For now, members, I will leave it there and pass on to others who may want to contribute.

HON STEVE MARTIN (Agricultural) [5.31 pm]: I rise to make a contribution to the second reading debate on the Agricultural Produce Commission Amendment Bill 2021. This is my first contribution to a second reading debate. I am glad it is on an issue that is close to home. I represent the Agricultural Region. This bill will have a significant impact in a very small way on a large section of that region. As Hon Colin de Grussa has said, most of the proposed amendments are administrative, and we support the modernisation of the bill, as do the existing agricultural producers' committees. That is a good thing. The minister is being cute about calling it "broadacre" or not; the sector knows what it is. The debate is about the inclusion or otherwise of grain and livestock and other cereal production into this process, and I will get to that. I will also follow up on some of Hon Colin de Grussa's comments on the forty-fifth report of the Standing Committee on Legislation. I will be referring to that and to the minister's second reading speech.

This has been quite a lengthy process. It has been brought to my attention since 2006, I believe, when there was a review of the act. I know that government moves slowly, but that was 15 years ago, and we are still getting to this. A number of ministers have had a go at this and we are still getting there.

Just for background, the APC was established over 30 years ago under the Horticultural Produce Commission Act 1988. Its primary function was to support the horticultural industry. It established producer committees to market their products. It was expanded in 1999 to include other small agricultural industries. Basically, it was never designed to deal with the complexities of broadacre agriculture. Now we are trying to shoehorn a large sector into an act that was originally set up for those smaller niche industries, as important as they are, and, as I said, the amendments to this process will be useful for them.

I refer to some items in the minister's second reading speech. As the minister said, most of the proposed amendments are of an administrative and operational nature; that is fine. There are compliance and enforcement provisions that will be useful. Clause 11 will allow non-producers to be appointed to committees, and that will be a useful outcome for the existing committees.

The bill includes power for the commission to have weighted voting. I have some questions and comments on that. As Hon Colin de Grussa said, at our briefing with the department, which was very informative, there was not great clarity on how that weighted voting might be arranged. There seem to be regulations that need to be sorted before we have a clear picture of what that will look like, and I guess that is a little bit of a concern, because, again, we just do not know what that will look like.

Reading from the minister's second reading speech, she said that weighted voting —

> … would be utilised only if there were sufficient industry data available to the commission for it to make the determination in the best interests of the relevant agricultural industry.

To me, that reads as though it is for the commission to decide rather than industry. I have some concerns about that. We talked about the exclusion of broadacre cropping. In the second reading speech, the minister said —

> … the bill now provides an exclusion for an industry that concerns livestock enterprises conducted on pastoral land.

Thinking about that, it was brought to my attention that, for example, a cattle station in the Kimberley might own and operate a feedlot in the Midlands. It might ship the cattle to the feedlot in the Midlands and then sell it to Harvey Beef. If the point of sale was in the non-pastoral part of the state, would that sale then incur a levy or fee for service, or whatever we call it, if there were one for the cattle beef industry? I think there needs to be some clarity about what pastoral land means and how far it can reach. A trade in reverse could be fodder or hay produced in, say, the great southern and then shipped up to and sold on a pastoral property. The bill refers to livestock, but I think we need some clarity on that pastoral land distinction.

The minister talked about an opt-out clause. She said —

> This, in effect, is an opt-out clause, providing the ability for regulations to be made on the process for producers to opt out or have their charges refunded or reduced.

I know that there is certainly an issue between the various farmer lobby groups, as we have heard. The Pastoralists and Graziers Association has very strong views on this. I am getting mixed messages from WAFarmers about its view on the opt-out clause, so I do not think it has a clear position. There are levels of support for an opt-in clause, and there are certainly strong levels of support for that clause to be in the bill, not the regulations, so I do not think it is correct to suggest that industry is completely onboard with one way of operating this.

I will move on to the forty-fifth report of the Standing Committee on Legislation. I understand there has not been a government response to this because of the timing of the tabling of the report.

Hon Alannah MacTiernan: No; it's just that's not how it works.

Hon STEVE MARTIN: That is fine; it was tabled in September 2020. I understand. There are a couple of issues. Right at the start of the report, finding 3 states —

> Charges imposed under the *Agricultural Produce Commission Act 1988* are unlikely to duplicate other levies and charges.

I found that extraordinary, but I will come back to that.

I am sure that the minister will refer to some of the recommendations at some stage in this debate. Recommendation 1 is important. It states —

> The Minister for Agriculture and Food explain why it is necessary for clause 4(2) of the Agricultural Produce Commission Amendment Bill 2019 to insert the words 'prescribed for the purposes of this definition' into the definition of 'agricultural industry' in section 3(1) of the *Agricultural Produce Commission Act 1988*.

That is the committee's response, and it refers to prescribed persons.

Hon Alannah MacTiernan: Could you clarify that again?

Hon STEVE MARTIN: I am talking about some of the recommendations in the report. Could we please have a response to recommendations 1 and 2. Part 3 refers to the process for establishing producers' committees. Paragraph 3.7 states —

> Once the Commission has published the notice of an intention to form a producers' committee, it then undertakes the informal phase of gauging the level of industry support for a producers' committee and educating that industry about the APC Act.

Once the commission has published something about forming intent, it then undertakes to find out whether there is any interest from the industry. I am not sure whether that is the right process. I would have thought that if industry were knocking the commission's door down, it might then start the process. As the report says, it can be a long process. I think the wine producers' committee took 10 years to establish. For the commission to somehow discover, mysteriously, that there is a need out there and then talk to industry about it seems to be the wrong way around.

Further on, the report refers to functions of and services provided by producers' committees. It states —

> Section 12 of the APC Act sets out 14 functions and services that may potentially be performed or provided by producers' committees. These include:
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> - advertising and promoting the agricultural produce
> - controlling or developing the means of controlling pests and diseases
> - conducting research
> - conducting educational or instructional programmes

I refer again to finding 3, which states —

> Charges imposed under the *Agricultural Produce Commission Act 1988* are unlikely to duplicate other levies and charges.

We flick through a few pages and it tells us what a producers' committee could do. Let us go through them. The first dot point is "advertising and promoting the agricultural produce". I am wearing a woollen suit. Somewhere on it will be a Woolmark logo. It is a very well known brand across the world. Wool producers, as I was until recently —

Hon Stephen Dawson interjected.

Hon STEVE MARTIN: There it is, Hon Stephen Dawson. Exactly; I hope everyone has one. It is Australian wool. It is a wonderful brand. It is an expensive brand for wool producers to fund. We do it willingly, but we already fund it through our Australian Wool Innovation levy. That is covered. That is just one example of how those broadacre sectors fund "advertising and promoting the agricultural produce".

The second dot point is "controlling or developing the means of controlling pests and diseases". The Biosecurity and Agriculture Management Act immediately springs to mind. I will give members an example. The BAM act controls wild dogs in parts of the wheatbelt and great southern. I know a few producers around Lake Grace who make a contribution. It is worked out around shire boundaries. If someone is in the shire boundary and the BAM act applies to them, they pay the levy. One of the producers whom I know of in that area, for example, pays his wild dog levy through the BAM act. I believe there are matching funds, minister.

Hon Alannah MacTiernan: Yes. It's called "recognised biosecurity groups".

Hon STEVE MARTIN: Indeed. This producer does not run livestock. Wild dogs, in effect, chase kangaroos out of his crops. He does not mind the odd wild dog running around but he is being included in this prescribed area and he will pay a levy through the BAM act. The second dot point, "controlling or developing the means of controlling pests and diseases", is already covered by the BAM act.

The third dot point is "conducting research". Grain growers all across Western Australia pay tens of millions dollars in Grains Research and Development Corporation levies for that purpose. I am sure that the minister will join me in arguing that we do not get the best value for money from that levy spend or that enough dollars come back to Western Australia. It is collected federally and heads east and then we are sent back some occasionally. We have areas of research that are not being met by the GRDC, but to suggest we are not funding it properly is false. We certainly conduct research. They are just some of the issues I have with the duplication of functions in the existing levy structures and this new proposal.

Page 23 refers the skeleton weed levy. For the non-grain farmers, this will be new to them. We have paid the skeleton weed levy for a long, long time. It is a very rare and very nasty plant that appeared in the eastern wheatbelt decades ago. Every summer, farmers would volunteer their time and their money through this levy and hunt for skeleton weed. We would sit on the back of a ute and drive over endless acres of land at East Hyden looking for this one little yellow flower. Only very rarely would we find one, but we paid the skeleton weed levy. As it became apparent that this superweed was not going to take over the wheatbelt—in fact it was very, very rare—the fight to get out of paying that levy began. It has been an awkward process.

I will quote the submission by the GRDC to the committee, as quoted in the report —

> The Skeleton Weed Levy is an example of the difficulty to opt out of a particular levy and the penalty to be able to access service when you opt back in. Under the current opt out of Skeleton Weed the levy is still paid and can take twelve months to get back by which time the next years levy is paid. All the while being on the overdraft incurring interest.

I cannot comment on the opt-out process in the APC bill because we do not know what it will be. It will be in the regulations somehow. I would hate to think it is anything near what the skeleton weed levy process was like. So members are reassured, the skeleton weed pandemic is under control.

Page 31 refers to weighted voting. I talked about that briefly before. I have some real concerns about weighted voting and the briefing we received did not allay any of those concerns because the advisers simply did not know what it would look like. I will quote again —

> (1) The Commission may in compiling a list of producers of agricultural produce [under section 16], determine in writing the number of votes each producer is to have in a poll of the producers of the agricultural produce.
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> (2) In determining the number of votes each producer is to have in the poll, the Commission is to ensure that each producer —
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> (a) has at least 1 vote;

That makes sense. But it appears to be in the commission's powers to determine that system. I have some issues with that.

Finally, at the back of the forty-fifth report is a number of appendices, including "Potential producers' committees". This appendix outlines what the department believes some of the uses of these committees could be. It refers to crop insurance schemes. I would have thought that would be private business between individual producers and their insurers. I am not sure why that sort of scheme would be useful there. It also refers to allowing local or regional livestock groups to address specific parasite, nutritional, fertility and meat quality issues. I am keen to know, if we are talking about the cattle industry or the sheep industry, how would we define "local"? Could a number of shires band together on behalf of the sheep industry? Would it be a region? I need specifics on how we would have local or regional sheep, for example, or wheat or some of those broad categories. How would we then pull that back to a small area?

The final appendix, appendix 8 refers to a WA farmers wish list, if you like. It includes —

> Grain growers on the Tier 3 Line wanting to examine the costs and benefits of sub leasing the Tier 3 lines.

I will just let members know where that might go wrong. For example, in the tier 3 area that I live in—but my railway line has been closed—CBH now has competition from Bunge as a storage and handler. That grain goes via road to Bunbury. Several of my neighbours actually sell exclusively to Bunge; they store the grain on-farm in big, long sausage bags, and over the season they ship it out. I am not sure they would be all that thrilled to be caught up in a local Agricultural Produce Commission that talks about railway lines going to a storage and handling provider that they do not use any more. These are just a couple of things in the forty-fifth report that I wanted to highlight.

I thought it might be useful to let honourable members know some of the levies the broadacre sector currently pays. I am concentrating on the broadacre inclusion, or otherwise, in this legislation; I do not apologise for that, referring back to my original comment that this system was never designed to deal with the complexities of broadacre agriculture. It is quite a long list. We already pay these levies: wheat, barley, canola and lupins pay 1.02 per cent of the sale value; wool, 1.5 per cent of the sale value; fodder, 50¢ per tonne; cattle export, 0.9523¢ per kilogram; lamb and sheep export, 0.6¢ per head; cattle processing, 60¢ per kilogram; lamb processing, 16¢ per head; sheep processing, 15¢ per head; cattle transaction, $5 per head; and lamb and sheep transaction, 20¢ per head. For the state ones, cattle, 20¢ on all carcasses; sheep and goats, 15¢ on all carcasses; grains, seeds and hay, 25¢ per tonne on the first sale of grains, 12.5¢ per tonne on the first sale of hay produced in the south west. As members can see, there is a significant list of levies that broadacre producers already pay.

I want to enlighten honourable members on what that actually means at a local farming level. Those figures covered cents per head and cents per tonne; it might not sound like much, but RSM Australia did a study some years ago in which it worked out that that can be as much as 12 to 15 per cent of the producer's profit. Hon Darren West is away on urgent parliamentary business. If he has a good year this year on his vast holdings in the Avon Valley, he will be paying tens of thousands of dollars in levies for that production. That is good; let us hope he has a good year and pays lots of levies.

Let us talk about another hypothetical example: a Lake Grace farmer's season is off to a flying start. He has wonderful crops and he is fertilising them heavily. He has spent every dollar he can on getting them to a lovely stage, but then, after he has spent every dollar on those crops, 15 September rolls around and it is minus three degrees. There is

massive frost, Lake Grace is smashed to bits and he is virtually wiped out. He will produce some grain—we always do in a frost—and take it to the bin. Let us say that instead of 3 000 tonnes he will produce 350 tonnes. That is not an outrageous story in a bad frost. He will pay the levies on every single tonne he delivers, and the levies come off his gross. He could lose $1.5 million farming at Lake Grace this year, and still pay levies.

Hon Alannah MacTiernan: Is this under the GRDC thing you are talking about?

Hon STEVE MARTIN: All sorts of levies. People can lose 60 per cent of their lambing flock in a bad summer storm and get the rest to market, but they will still pay a levy on them. They will probably lose money on their livestock operation that year, but they will still pay the levy. They pay it on the gross. I think we need to be very careful about imposing any more burdens on producers in the broadacre sector.

I would like to briefly mention the level of support for amendments to the Agricultural Produce Commission Amendment Bill 2021. Until very recently I was a broadacre farmer, and I have to say that this was not front of mind for fellow producers. I do not think most broadacre farmers actually understand the APC system; they would be surprised that we are considering introducing further levies. We have heard about support from the Western Australian Farmers Federation and the Pastoralists and Graziers Association. The president of WAFarmers is a friend of mine, John Hassell. John has been actively seeking feedback from producers, but it would not hurt to remind members that there are approximately 7 000 broadacre cropping, grazing and pastoral enterprises in this state, and WAFarmers represents probably fewer than 1 500 of them. I have been to a few WAFarmers meetings, and the level of attendance is not high, so I would be reluctant to say that there is widespread industry support because WAFarmers says so. The PGA, on the other hand, is opposed to this scheme.

I do not see a need to include the broadacre sector in this bill. Like Hon Colin de Grussa, I understand the need to modernise the legislation, and I support the amendments to it. I think we need to be careful about extending it into areas that are already well covered by other levies and taxes.

Hon Alannah MacTiernan: Are you a PGA or a WAFF person?

Hon STEVE MARTIN: I am neither. I go to enough meetings; I was a shire president for 10 years. I am meeting-ed up, so I have never joined either of them! I support both; I think strong voices in the ag sector are useful, and they are both that.

Getting back to my point about the level of support, I think we need to be careful about gauging that. I support some of the amendments. I will also support the amendment that Hon Colin de Grussa has flagged about the opt-out clause. I think that needs to be in the bill. I am nervous about regulations that are nowhere near being drafted, and I have no idea what we are signing up to with regard to some of that.

I thank honourable members for allowing me to make a contribution. I look forward to discussing this further in the committee process.

HON NEIL THOMSON (Mining and Pastoral) [5.56 pm]: I will not take long. I would just like to raise a couple of issues that are particularly relevant to my region. Before I do, I want to make it clear that I think the Department of Agriculture and Food's role in ag research and the intervention of the state in support of industry has always been exemplary over the years. I am sure some members of the sector might not agree entirely with that, but we have seen some great programs in my part of the world, such as Northern Beef Futures and other programs that are operating. The early part of my career was spent in the Department of Agriculture and Food in the days when I think there were more consolidated funds put into ag research. I think there were some very good reasons for that because of the smaller and atomised nature of some of the farmers back in earlier days. I think that picks up on points raised earlier about the genesis of the Agricultural Produce Commission, focusing on that niche industry, the Horticultural Produce Commission, when it was first established. We know that there was a desire in the industry then to leverage the funds it could collectively gather and utilise to get a better outcome for its marketing and research. That is something that has been very important to the genesis and growth of that industry.

I note that the pastoral industry takes some exception to this legislation, particularly the PGA. I have been trying to contact the Kimberley Pilbara Cattlemen's Association to find out its position. I will be interested to hear from the minister whether there has been any consultation with that body and with some of our Aboriginal producers who are becoming more active in the industry as we move along. I will be interested to see what their positions are on this legislation, particularly clause 4. As shadow Minister for Lands, I am very interested in that clause and why we have focused on a land tenure approach to dealing with what seems to be a challenge. There was a bit of argy-bargy across the floor about what defines broadacre agriculture, and we could obviously also have some argy-bargy about what defines grazing.

It seems to me that the good lawyers who have advised on this legislation have said, "We've got this really neat solution for dealing with this problem. We can stop the argy-bargy around the definitions of grazing and broadacre simply by bringing in this issue under part 7 of the Land Administration Act, which defines pastoral activity." I want

to have a discussion on that, because I think it is really important. In my region, the Mining and Pastoral Region, part 7 of the Land Administration Act represents only about 30-odd per cent of the landmass. Members opposite might say, "Well, a lot of that's desert land. There's no production there." But I know that there is a lot of grazing activity on land that is not subject to that part of the act. I will point out a few for discussion, because I think there is a bit of a risk here if, for example, the grazing industry has an APC committee that is applying levies. We heard from Hon Colin de Grussa about freehold land, but what about grazing activities that are occurring on Aboriginal Lands Trust reserves? On a couple of those that I know of—Yandeyarra is one of them—there is commercial grazing activity. The Department of Planning, Lands and Heritage has recently put out an expression of interest for someone to come and operate that station. We know that that particular activity has had a chequered history recently due to some issues on other matters that we do not need to go into here, but something that we really encourage is the development of Aboriginal land, including pastoral lands, reserves and unallocated crown land for grazing activity.

Sitting suspended from 6.00 to 7.30 pm

Hon NEIL THOMSON: To pick up from where I ended at six o'clock this evening, I was talking about excluding pastoral leases under clause 4(2) of the Agricultural Produce Commission Amendment Bill 2021 and the issues around other land tenures on which grazing activity occurs. The point I was making was that I am seeking to use the provision of part 7 of the Land Administration Act to deal with this challenge. I suspect that the legal team that has put this bill together probably had some discussions about the challenge around identifying what is grazing activity and also about responding to the Pastoralists and Graziers Association of WA. For the record, I want to say that I support what the PGA has put forward, which is for the proposal to be exempt. That is what the industry is saying. I reflect on the conversations that I have had with people in the industry, even though I would like to hear some feedback on that from the Kimberley Pilbara Cattlemen's Association and others in more detail when we get into the committee stage. I also reflect on the position of a lot of pastoralists, which is that they would not necessarily want to avail themselves of this provision.

Hon Alannah MacTiernan: Sorry, do you think we should or should not exclude them?

Hon NEIL THOMSON: I would support the exclusion. That is what the industry is saying. In thinking about this, I am not sure why we picked on that particular provision in the Land Administration Act because, as I said, there are other pastoral-like activities, even if they occur not on pastoral leases but in the rangelands more broadly. For example, we might say that everything east of the rabbit-proof fence is excluded, although I do not know how we would do that because we have horticultural activity. Clearly, the horticulturalists in Carnarvon probably think it is a great idea to have these provisions to enable them to raise funds for their particular needs. For the benefit of the house and for the record, the Violet Valley reserve in my part of the world in the Kimberley is an Aboriginal Lands Trust reserve that is connected to Bow River station. I believe that quite a bit of grazing activity occurs there. I am not sure how we would deal with that under this provision. I do not know the latest situation, but to the south of Walagunya station in the Pilbara is an area of unallocated crown land, which I believe is utilised. As we know, in reality, cattle are wandering all over the Kimberley and throughout the Pilbara. Often, rightly or wrongly, people utilise those activities. I am not sure whether we will say that someone will be suddenly subjected to the provisions of this levy if they raise a calf on some unallocated crown land or on native title land in the state that was established for grazing and did not include pastoral activity.

Another property in the Pilbara is the former Meentheena station. That station was bought out by the state for the establishment of a conservation estate. I believe there is an agistment arrangement, at least, on that land at the moment. The traditional owners have entered into an agistment arrangement with a neighbouring station to raise a few cattle. It is not a big operation. A lot of these types of operations are very small and very marginal operations. The point is where we are going as an industry in the rangelands. I like to use the word "rangelands" rather than the term "pastoral industry" because the rangelands is the environment we are in. This is about where we are heading under section 83 of the Land Administration Act. I championed that provision in my previous life as a consultant working with Aboriginal groups. I think we underutilise that provision. We could use it a lot more readily to develop economic outcomes for Aboriginal people.

Hon Alannah MacTiernan: What does section 83 do?

Hon NEIL THOMSON: It is an excellent section because it is very broadly defined and is for Aboriginal economic development, use and purpose. I would be more than happy to have a conversation with either the Minister for Lands or the Minister for Regional Development about the use of that provision for unallocated crown lands where Aboriginal groups want to develop economic outcomes such as running cattle or maybe more intensive forms of agriculture. Section 83 could even be used to trade out of an Aboriginal pastoral lease because they might say that that type of lease is not suited to their requirements. There is a real opportunity that the government might want to avail itself of under that provision. I am happy to sit down and get some good outcomes. I am not here to argue; I want to see good outcomes for the people in my region. All I am saying is let us not cut ourselves off at the pass.

Section 79 of the Land Administration Act, of course, is the wonderful provision that allows the Minister for Lands to lease land to be converted to freehold land if certain provisions are put in place. Not far from where I live in Broome is the former Waterbank station. It was a pastoral lease but is now no longer a pastoral lease. An expression of interest for that land was put out a year or more ago, from memory. Currently, the department is negotiating with proponents and working with the native title holders to get an outcome. Some of the proponents in that part of the world are looking at a range of activities that include intensive activities, but also grazing. If the purpose of the exclusion, if that is the right term, under clause 4(2) is to take out those rangeland grazing activities, it would be better to put more emphasis on the definition of rangeland grazing activities, rather than grabbing for the simple tool under part 7 of the Land Administration Act 1997; namely, the partial lease provision. It is very neat and simple, but the problem is that these exceptions will fall out of it. The one that worries me the most is the exceptions for the future, particularly those Aboriginal corporations that want to step up.

While I am on that point, I raise one more potential example. It might be a disincentive for an organisation to step away from its pastoral lease. This is probably a little hypothetical but I know these conversations have been had. I will not go into the specifics of the pastoral lease, but it is a large Aboriginal pastoral lease not far from Broome. Members can work that out. There has at least been the idea that maybe the tenure has changed, so suddenly it goes from not being included to being included. That creates a few little gremlins in the system from here. I am trying to make it clear that if the intent of clause 4(2) is to exclude grazing activities on rangelands, including pastoral leases, we should spend some time defining what that grazing activity is so we can exempt it.

That comes down to the question of whom have we talked to about this; with whom have we consulted? I have not been privy to those discussions, but I would like to think that there has been some consultation with the likes of the Kimberley Land Council and some of the major traditional owners. Groups such as Miriuwung–Gajerrong have been very progressive in their thinking about native title lands and what they can do, including the unallocated crown lands and some of those reserves. Another that comes to mind is the water reserve at the south of the lake, which used to be part of the old station in the really good heavy soil country. Suddenly they get caught up, whereas their neighbour —

Hon Alannah MacTiernan: The whole point is that they do not get caught up.

Hon NEIL THOMSON: Well they would because it is not a pastoral lease.

Hon Alannah MacTiernan: I know; that is exactly right. You are not thinking the logic through. Precisely the way we have described it does not catch them, and I will explain it to you.

Hon NEIL THOMSON: I am really looking for that explanation. I am happy to be corrected. This is why we ask questions. If, for example, a bunch of graziers said they wanted one of those committees and they all got together and said the only place it did not happen was on a pastoral lease, hypothetically they might get caught up. I am very much looking forward to that explanation.

Those were really my points. I wanted to focus on the land issue. I am sure I will get plenty more opportunities to discuss this. The development of land for the purpose of our regions is an area that I think more broadly has a huge opportunity. My region needs development and does not need the imposition of red tape and extra cost. I will let my learned friends talk about broadacre land in the agriculture region. I think it would be good to make sure that we are free from those things, and we see the intent of clause 4(2) delivered in the broadest context.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [7.44 pm]: It was put to me at dinner time that I do not think the Minister for Regional Development has heard enough from me today, so I would not like to skimp by not making a contribution.

Hon Alannah MacTiernan: I thought you had already spoken.

Hon Dr STEVE THOMAS: It is like voting—vote early and vote often. The same applies to contributions to bills. In this particular circumstance I am pleased to make a contribution to the Agricultural Produce Commission Amendment Bill 2021 because I was on the committee that reviewed this process as late as last year. I was seconded onto the committee—I nearly said "succumbed"; I succumbed to being seconded—and it was a useful process. Let me start with the second reading speech following the introduction of this bill. It states that 31 years ago the Horticultural Produce Commission Act 1988 was established. It eventually became the Agricultural Produce Commission Act in 2000, but it commenced its life for its first 12 years as the Horticultural Produce Commission Act. If members were looking for the greatest success story of this process, they would have to look at the horticultural industries in the south west. That is where, in my view, this act, the commission and its activities has had the vast majority of its success. It has been limited because up until debate around this bill, it has not been able to be applied to the broad agricultural sections in the wheatbelt and the north west. However, for those members who might consider that it has no relevance or function, I want to talk about my experience with this bill, because it has been useful in the south west. That is not to say that it has always been perfect and that it could not be improved. It is

in the south west where the APC has probably done its best work. It began in the horticultural areas. The process has been somewhat difficult on occasions but I think relatively successful. We can tell that that is the area in which it has the greatest level of success.

If we go to the very good Standing Committee on Legislation review of this bill last year for the definitions of what currently exists in relation to the APC, page 3 of the report at 2.6 states that currently 11 producers' committees are operating: avocado producers; Carnarvon banana producers; beekeepers producers; egg producers; pome, citrus and stone fruit producers; pork producers; potato producers; strawberry producers; table grape producers; vegetable producers; and wine producers. Members can see it is very much focused on the horticultural size. There is an important reason for that. Many of those horticulturalists, particularly in Western Australia, are not enormous producers. Some have got to a reasonable size but it is difficult to compare a horticultural producer with a fruit producer who might have five to 10 hectares of fruit on average, because that is about an average family farm size. Some are significantly bigger. The corporates are significantly bigger and avocado producers are the latest to take on that very strong corporate model. It has been a way for those smaller producers particularly to not only contribute to the development of their industry and gain some benefit in return, but also profit from that investment. This is where the APC is at its best; where it gives those producers the capacity to invest, even at a low level if they are a small producer, and retain some benefit.

It was not always the case that everybody benefited from these schemes. I can tell members that the collection of levies in some areas, particularly for apple producers very early on and, in some cases, for stone fruit producers, made it very easy for producers to hide their production and not to pay significantly. It was always the larger producers in the Donnybrook region, where I come from, who complained but who seemed to minimise their payments through the APC model and who often were the first to gain a benefit. When a research project, often based around the Department of Agriculture and Food, wanted to deliver a new product into the marketplace, there was not necessarily any reward for that effort. It was not the case that it always worked perfectly. It was not the case that those who contributed proportionally highly—not necessarily just at an absolute dollar level, but those who proportionately paid their share—necessary got the benefit. I have to say that sometimes the largest producers were very good at hiding their production, particularly in the early days and probably before many people in here became aware of the industry. If a producer had the capacity to transport fruit over east, that was often a good way for them to avoid paying their fair share of the levy. But when the ag department came knocking on the door looking for a good place to trial new versions of fruit, for example, major producers were often the first place they went to.

In every system there is always an ability to shift things. No system is ever perfect; no system is incorruptible. But, as far as I can tell, it did result in successes in research, and there have been a number of them. Again, they have not always been perfectly done, and even the research done by the ag department resulted in errors. I am sure that members are aware that when the Pink Lady apple was developed in Western Australia, which was a major success story for this country, as the Acting President (Hon Dr Sally Talbot) would well be aware, Pink Lady producers in the south west made very good money when they first got in and had a monopoly on production. They were exporting container loads of Pink Lady apples particularly into Europe, but mostly England, where there was a great marketplace. Apple producers made an enormous amount of money from the Pink Lady. Unfortunately, be it due to the ag department or attached areas, trademarking of Pink Lady genetics did not happen on an international basis.

Hon Alannah MacTiernan: Although Madam Acting President possibly shares that view, and there are books that are being written, the apple breeders in the ag department contest this version of events. What I would love one day is for someone to not write this up in a partisan way, but actually have this researched, because that view, which has taken hold, courtesy of a couple of people from the old department of ag, is not necessarily shared.

Hon Dr STEVE THOMAS: That is interesting.

Hon Alannah MacTiernan: I do not know whether at the end of the day that is true, but I can tell you with Bravo and all the other sensational apples that we are doing now, we have got them protected.

Hon Dr STEVE THOMAS: That is exactly right. It is certainly the industry's view that the protection and trademarking of the Pink Lady was not sufficient to prevent a massive increase of plantings, particularly in southern Africa and South America. The market for Pink Lady apples traditionally filled by Western Australian producers was overtaken by other countries, and they did so without paying a royalty fee to Western Australia. Whether it was thought, probably on the side of producers and members of the ag department, that there were adequate trademark protections in place, the reality is that if we had trademarked the apple adequately, an explosion in production would not have happened elsewhere. Maybe that is not entirely true, but that is the position of producers.

I agree that for future developments—in the case of more recent developments, Bravo, for example—we need to be much better at trademarking.

Hon Alannah MacTiernan: You need to licence counter-cyclical growers. It does not make sense not to licence people in the northern hemisphere.

Hon Dr STEVE THOMAS: I absolutely agree with that. In my view it has not been perfect, but it has not been terrible. I think we missed an opportunity to potentially extend our sphere of influence with the Pink Lady apple. An example of a good outcome is when industry invests in its own future. I have always been a big believer in industry needing to invest in its own future. I think that that is absolutely mandatory. The Agricultural Produce Commission, as opposed to the Horticultural Produce Commission, and the intention that producers invest in the future of their industry is a very good concept. Like I say, perhaps it is imperfectly delivered at times, but the concept itself is sound.

There have been some good outcomes. Obviously, some industries are very disjointed, for which this bill will be very important. I think that this will work for small dispersed suppliers—beekeepers, for example—who are part of the process. These things are particularly important for small dispersed producers. Avocado producers have got very big in the meantime. I know that some in the avocado industry, particularly the bigger players in the industry, are very happy not to be paying APC levies, but to be managing their own research and development, and promotion. I suspect that that has always been the case in the bigger parts of the industry. Some in the fruit industry might think the same thing, but for some smaller participants in the industry who are not growing, I suspect that these commissions will be value for money.

I approached the review of the bill by the committee with some degree of bias in that I have seen the producers' committees work reasonably well. The question for me is not whether there is value in the APC producers' committees, because I think that there is—the south west demonstrates that—but is about the way in which producers' committees will be applied and whether they will be of particular value to those industries in which they might be expanded and whether there might be a better way of doing this. A number of members tonight have acknowledged the extension into broadacre cropping. When we originally looked at this bill, there was potential for it to be extended into the pastoral industry. Given the forthright opposition by members of the pastoral industry, the minister withdrew that component from this bill. There has been some adamant opposition amongst some organisations that I think members have already raised. But that did raise a number of questions. The first is whether those in certain industries will pay significant money to their own industries through other levies—in particular federal levies. I note that the committee report tends to dismiss that as an issue, as it did some of the other issues.

I am sure that the Acting President will be well aware that when the committee looked into this, I was concerned about where the committee was heading. I have been sitting on a document that I wrote. I thought it would be considered to be minority report, but it was not accepted by the majority of committee members so it did not make it into the final report. However, the committee allowed me to make it a public document. I still have, by motion of the committee, permission to make it a public document. In the time since September 2020 to now, which is not quite a year, I have not seen a need to make this a public document and to raise my concerns. But I intend to read a fair degree of this document to the chamber tonight because I think it is appropriate to raise the concerns that I raised in this document. I may then talk in more detail about some of those components.

These are my comments that I put together at the time and were supported by the other Liberal member on the committee but not necessarily accepted by the entire committee. The document states —

> The Committee report on the Agricultural Produce Commission Amendment Bill 2019 looks in detail at the operations of the Agricultural Produce Commission (APC) and the potential extension of its role as proposed by the legislation before the Parliament.
>
> There is no doubt that the APC process of charging agricultural producers for services that a producers' committee has recommended has served several parts of the WA agricultural sector well. This has been most obvious in the fruit and vegetable sectors in the South West, where there is widespread although not unanimous support for the system. It would be unrealistic to expect every producer to support a process of charging an industry a fee for service.
>
> **User pays V Government investment**
>
> The investigation of the Committee was limited to the functions proposed in the Bill, and therefore there was limited scope to examine the principle of Government charges being put onto industries for the supposed benefit of those industries, including an inability to conduct an examination of whether the role of Departments of Agriculture both state and federal has changed over time, or whether there has been a cost shifting from Government expenditure back onto industry itself.
>
> There are however obvious examples of Government shifting the onus of responsibility away from Government departments to a user pays system; no more so than in the area of biosecurity. In this example the work of controlling weeds and invasive species was previously done by Government, originally by the Agriculture Protection Board … However successive governments downgraded and eventually got rid of the APB, and today those wanting to control pests must form their own "Recognised Biosecurity Group" and charge all landowners in a region a legislated "biosecurity levy", which is matched by the state.

Hon Alannah MacTiernan: Sorry, is this about the APC or the RBG?

Hon Dr STEVE THOMAS: This is entirely about the APC, minister—utterly about the APC.

Hon Alannah MacTiernan: Well, it sounds like it's about the RBG.

Hon Dr STEVE THOMAS: It is an example of cost shifting. Fair enough, the next sentence states —

> This is an example of cost shifting from Government to land owners, and whilst it is supported by some using a user pays argument there remains a concern that the State is abrogating its responsibilities.
>
> The Legislative Council should consider whether extending role of the APC is a genuine enhancement of services to additional agricultural industries to ensure it is not a Government cost shifting exercise.

I think that is relevant, minister. It continues —

> **Should producers pay charges for the development of their industry?**
>
> Many industries receive government investment into research, technology, marketing and operations. The Australian car manufacturing industry received billions in subsidies over decades, as has the renewable energy industry. The agricultural sector across Australia has also been the recipient of government support in many ways, like drought support.
>
> The difference between agriculture and most other industries however is that few other businesses pay government instigated charges for industry development, including both state and federal charges. It must … be noted that the charges are not voluntary at all in relation to federal charges, and in relation to state charges not voluntary once a vote has been taken and passed by producers.
>
> The Bill would continue to make contribution to state APC schemes mandatory.
>
> The existing producer committees that presented to the Legislation Committee were highly supportive of the APC Act and their various scheme. Of course, as the representatives of and advocates for the existing system, it would have astounding if they did not.
>
> **Cost V Reward**
>
> The critical question that is not part of the Bill but underpins the need for it is whether industry as a collective should be able to apply a charge to all of its constituent parts, and what the motive is for doing so.
>
> Should the driving force for the institution of such a scheme and the associated charge be to develop additional administration or an expanded lobby group, in my view the proposal should be vehemently opposed.
>
> It is vital therefore that any schemes and charges developed under the APC Act deliver defined and measurable benefits to the industry to which they apply. If they do not, they are simply another tax on production.

Hon Alannah MacTiernan: Oh, you get the Tony Seabrook elephant stamp for this bill!

Hon Dr STEVE THOMAS: Aha! It continues —

> The Legislative Council should consider the use to which APC levies might be put during debate on the Bill.
>
> **State and Federal charges**
>
> During its investigations the Committee was made aware that many industries paid both federal levies under the Primary Industries Research and Development Act and state charges under the APC Act. Indeed, the fruit and vegetable industries have been doing so for decades.
>
> It was put to the Committee that extending the APC Act to broadacre agriculture would simply apply another "tax" to broadacre producers, and in the purest sense this is true. However, the dual system exists in other existing agricultural industries, and some of those industries gave evidence that having a concurrent state scheme produced synergistic benefits by being able to leverage funds from the federal scheme.
>
> There is obviously the potential that a poorly managed APC Act scheme in broadacre farming areas might be an unlinked additional burden on producers, but the potential also exists for additional synergistic benefits.
>
> The Legislative Council should consider how concurrent state and federal funding schemes would interact to ensure that there is not simply a doubling up of fees and charges.
>
> **The potential income of including broadacre agriculture is enormous**
>
> Evidence presented to the committee indicated that although there was not set charge for service under the APC Act, and that the APC could set a charge generally on the advice of Producer Committees, there was a general trend that state and federal charges under their respective acts were often similar in size and value. The level of fee was frequently around 1% to 1.5% of production.

In smaller niche industries, which have been historically well served by the APC Act, the total revenue generated was moderate. The total APC revenue across all agricultural industries for 2019–20 according to their submission was $3.66 million, with the fruit industry ($967,000) and vegetable producers ($744,000) contributing the greatest amount.

The Department of Primary Industries and Regional Development … gave evidence that federal levies on grains is 1% and raises over $150 million annually across Australia. They also stated that the federal levy on grains raises somewhere between $40 million and $60 million annually in Western Australia alone.

Should the trend of equivalency of charges be maintained, this would mean an additional charge on grain producers raising over $40 million and perhaps as much as $60 million annually.

There is of course no predestined outcome, and any such charge would have to be passed by a vote by producers.

The Legislative Council should note that the extension of the APC scheme to broadacre farmers could deliver a massive potential increase in income to the APC, and should consider whether limits to the amount raised should be considered.

The Legislative Council should also consider accountability and openness mechanisms, including adequate audit functions, to ensure that significant additional income is well considered, well spent and well accounted for.

Does the Bill automatically impose a charge?

The committee found that the passing of the Bill does not automatically generate a producers' committee and impose a charge. This is correct. It must be noted however that a large section of producers opposing a charge can be outvoted by the majority, and that issues of the accuracy of a vote were raised with the committee.

This was highlighted by the responses to the proposal in the Bill to include "broadacre cropping and grazing" producers in the APC Act, and in particular the reluctance of all parties, including the Department of Primary Industries and Regional Development … the APC, WA Farmers Federation … and the Pastoralists and Graziers Association … to "test the proposal" by surveying producers prior to the passing of the Bill.

We thought it was of particular interest that parties on both sides, that is for and against the extension of the scheme, were opposed to testing the industry's position. All parties seemed to be concerned that a concerted campaign by their opponents could sway the vote in the opposite direction.

This lack of confidence in the discernment and decision making capacity of industry is of concern. We would have thought that the broadacre agricultural industries were developed and mature, and would be capable of expressing an informed opinion. To suggest that they don't know what is best for themselves and their industry, or that they are too easily swayed by a campaign, is in our view dismissive and paternalistic.

We remain of the view that broadacre producers should be polled by DPIRD or the APC to determine the level of support for the changing of definitions in the Act prior to the Bill being agreed to in Parliament.

Opt in or Opt out

The issue of opt in or opt out schemes was raised with the Committee, and there was much confusion about the definitions of each. Many submitters were confused about the concept.

In an opt in model, producers would be assumed not to be contributors to an APC scheme and would notify the APC that they wanted to be included. They would then pay the charge and be a recipient of the services to be provided.

In an opt out model, producers would be assumed to be contributors and levied the charge, and would have to seek the permission of the APC to be excluded. This would not be a simple choice of the producer not to pay, and those not granted an exclusion by the APC would face legal action to enforce payment of the charge.

Existing APC Committees were not supportive of either opt in or opt out models of delivery.

The full report of the Legislation Committee points out accurately that the proposed new part 14(5) of the Act, found in clause 16(2) of the Bill, which proposes that the APC would be able to waive, refund or reduce the charge, is neither an opt in nor an opt out clause. Under proposed section 15(5) a producer or group of producers could apply for a variation, however all the power to make a decision would reside with the APC.

Indeed, it seems obvious that the current and proposed systems are not designed with either opt in or opt out as a priority, as evidenced by the Bill proposing greater compliance actions to access information on documents. Clause 26 if enacted would require a "relevant person" to provide the APC with a relevant

> record, including payments and production records. Such powers are unlikely to be needed if producers were able to either opt in or opt out of the system.
>
> The Legislative Council should note that both the existing and proposed APC systems under the Bill are neither an opt in nor an opt out system.

I have taken a few minutes to read that particular report in, because I think it explains very much some concerns that exist out there in the wider industry about this legislation. I think it demonstrates genuine commitment —

Hon Alannah MacTiernan: Member, when you say it's a report, what sort of report is it?

Hon Dr STEVE THOMAS: This was my attempt at a minority report.

Hon Alannah MacTiernan: And it couldn't be a minority report because —

Hon Dr STEVE THOMAS: The committee decided it could not be a minority report, but gave permission for it to be a public document.

Hon Alannah MacTiernan: Why did it decide it couldn't be a minority report?

Hon Colin de Grussa interjected.

Hon Dr STEVE THOMAS: Good point. I have to be cautious about what I say about —

Hon Alannah MacTiernan: Because it actually wasn't a minority report within the definition of the standing orders that said you can only have a minority report when there is dissent, and there was no dissent.

Hon Dr STEVE THOMAS: There was dissent, minister, on what needed to be discussed and debated on this particular bill. There was dissent. It did not necessarily meet the standing orders of the day, but there was dissent about precisely what needed to be looked at and discussed. I would have thought that these were both fairly obvious and simple observations, and the mere fact that the minister is making a fuss about them I would suggest means perhaps she is a little sensitive about it.

Hon Alannah MacTiernan: I don't want you to mislead Parliament and pretend that that was a minority report.

Hon Dr STEVE THOMAS: I have not done that in the slightest. I did not represent it as a minority report. I said that it was my attempt to write one and it was not accepted by the committee. That the minister is leaping up down and complaining about it to me would suggest that she might be a little sensitive about it and that there might not be absolute acceptance of the government's agenda across the board in agricultural sectors in Western Australia. I think it might make the minister a little sensitive to have pointed out that perhaps it is not a perfect system, that it could be made better and there are things that this house should consider as part of the debate around the bill. Personally, I would have thought that that was what a minority report or in fact the report of the committee should have been doing. But the fact was that the committee did not want to look into some of these issues and did not want to look into, for example, the cost-shifting exercise. There was some discussion around state and federal charges with, effectively, very limited conclusions. It did not talk in great detail about this massive potential contribution of the grains industry. I think that in particular is worth a reference. I would be interested for the minister to, and I am sure it will come up in the clause 1 debate, while we still have them —

Several members interjected.

Hon Dr STEVE THOMAS: You never know! By the end of tomorrow anything could happen.

Hon Sue Ellery: I actually read the report; it doesn't say anything about clause 1.

Hon Dr STEVE THOMAS: It says a couple of things. That is a debate for tomorrow, Leader of the House. I do not want to distract us from the debate tonight. I have been distracted too much already by the Minister for Regional Development.

I would have thought that this needed to be considered as part of the debate. Evidence from the Department of Primary Industries and Regional Development gave an indication of how much we could expect to raise a level of fee. The level of fee was frequently around one to 1.5 per cent of production. It generally matched federal fees. DPIRD itself gave evidence of federal levies on grain at just one per cent and it could be expected to raise $40 million to $60 million in Western Australia. Is it now the government's intention to potentially put in an Agricultural Produce Commission Act that would allow the raising of $40 million to $60 million? That is not to say that it is automatically a bad thing. If industry thinks raising a levy that will contribute up to $60 million is well invested in research into the future, it is possibly a good thing. But I think we should be cognisant of the sort of money we are talking about. Remember that I started this conversation by saying that this was a particularly good use of resources in the horticulture sector, which is of a relatively limited size in Western Australia. In fact, APC revenues across all agricultural industries in 2019–20, remember members, was $3.66 million—generally, at one to 1.5 per cent of production. The biggest contributors are the fruit industry with just under $1 million and the vegetable producers

with $750 000. We are looking at modest but significant amounts of money being reinvested in industry. That was the intent of this act when it was first introduced in the 1980s, and I think it remains a good thing.

It behoves us to be aware, however, that when we apply this to the bigger agricultural industries in Western Australia, particularly the grains industry, which is the iron ore industry of agriculture in Western Australia, it has the potential to raise a massive amount of money. This becomes important. This then leads itself into the argument about whether the amount of money that is being raised federally through an existing process is adequate for the research and development and marketing needs of grain producers in Western Australia. Again, bearing in mind, as evidenced by the report, that if the federal grains levies in Western Australia raise between $40 million and $60 million, the expectation is that the state levies might raise something similar. We would move from a potentially combined levy process that might go anywhere between $80 million and $120 million a year. At least with the Western Australian APC levy, we can presume that that would be entirely focused on local research and marketing in Western Australia, although, I note that there are some fairly close relationships with APC groups and their national body. As I said, in the fruit industry, that situation exists whereby it pays national and state levies. Currently, with some disgruntlement, most industries survive and can live with that. It is an impost when the price of fruit is lower, I have to say, but they survive that. But they are not raising anything like the amount of money that would be raised by the grains industry in Western Australia, which is a massive amount of money. Being aware that that is the case is important. We are not debating here another extension of $3.66 million a year. We are not talking about increasing it and doubling that to $7.5 million in APC levies; we are talking about a levy potentially raising tens of millions of dollars in one industry alone. I think that is a critical thing to remember with this bill.

One of the other critical issues that I raised that is also important is the question of opting in, opting out and whether the bill will automatically impose a charge. Effectively, a group of producers might decide that they want to apply a levy. They might go to the minister through DPIRD and say, "We would like to apply a levy." My understanding is that it can be applied to almost any group. We could have one industry with which we are operating. We could have part of an industry within a geographical restriction. For example, we might find that my good friend Hon Colin de Grussa's south east wheat producers might put in an application for their particular location, not necessarily an entire group. We might find that GM growers decide that there is an advantage. Basically, anybody who thinks there might be value in that has the capacity to put forward a nomination. If the minister accepts that this group, in their view, might get a benefit from this, it will then go to a poll of producers. I think the poll is interesting in itself. The Standing Committee on Legislation's report, particularly appendix 4 on page 50, gives an indication of the kind of response that industries have given, in both successful and unsuccessful polls. The table on page 50 shows that of the polls that were taken of producers in the 11 industries that I mentioned before, the percentage of the industry that voted was higher than 50 per cent in one example. For the Agricultural Produce Commission egg producers' committee, 60.2 per cent of producers voted. For every other poll, even in the successful models, under 50 per cent of producers voted. In trying to get an indication of industry approval, it would probably help to get more than half the number of people to give an indication of whether they like the idea. That has not happened.

Hon Alannah MacTiernan: Do you reckon we should introduce compulsory voting?

Hon Dr STEVE THOMAS: I am sure that the minister's department could make a greater effort to get responses. It is hard to say what the outcome would be. I suspect a lot of producers say, "I'm not really interested. I don't want to pay a levy. I don't want to fill out a form", so they throw the thing in the bin. Bear in mind that I support the APC system; I just want a realistic debate, not the gold-tinted, rose-coloured version that sometimes gets presented. I suspect a lot of the producers who do not vote just do not want to be involved in the system. In 2015 there was a successful vote of wine grape producers: 67.7 per cent voted yes and 32.3 per cent voted no, but only 31.5 per cent of wine grape growers voted. Less than a third of those involved voted in the poll. So when we do a calculation for 67 per cent of 31 per cent, nearly 20 per cent of people in the industry voted in favour. I know there are wine producers and people who know wine producers in the chamber. They might like to give us a bit of history, without naming members, because we do not want to put them on the spot necessarily.

Hon Jackie Jarvis: I'm more a drinker than a producer.

Hon Dan Caddy: There are plenty of consumers in the chamber.

Hon Dr STEVE THOMAS: Yes, but I am not sure that we take their votes in the same way that we take producers' votes. I suspect that if wine consumers voted, there might be a lot more numbers in there.

Before we assume that the industry is overwhelmingly in favour of these things, it needs to be remembered that most of the time, less than half the industry has voted. The chart shows that the best exception is the turf industry. There are not a lot of turf producers. They issued only 49 ballot papers but 94 per cent of the producers voted. In total, 51 per cent voted no and 49 per cent voted yes. That was a very close poll, but at least it gave a pretty accurate

representation of the industry, which was pretty evenly split. For most of the other industries, I would have to say that the vote was limited.

People talk to the APC producers' committees and the committees tell us that it works wonderfully well. In lots of cases it does work well. There are absolute success stories in my region. The pome producers, which include apple and stone fruit producers, all get a genuine benefit from this. However, I would be cautious about saying that everybody is happy with the system and that the system cannot be improved. I would be cautious about saying that it has overwhelming support. During the process of looking at this bill, I spent a lot of time suggesting that maybe it would be wise to gauge the view of industry before we extend the provisions of the bill to the Agricultural Region—the pastoral region is no longer included. It would be interesting to see whether we could gauge the view of farmers before we got there. I was intrigued about why it was basically universally opposed. Nobody was much interested in trying to work out what the broadacre, particularly cropping, sector thought in advance of debating the legislation. It is very hard to stand up and say, "Grain producers think X" because I know as many grain producers who like the idea as those who do not and I suspect that if they were eventually surveyed, the turnout would be moderate and it might give a pretty even result. It might look like some of the results in the table in appendix 4.

Nobody was much interested in testing the water. I suspect the reason was that everybody was frightened of the outcome. Everybody thought that if they gave their opponents an opportunity to put their case, their case might somehow be diminished. I found that the most amazing and astounding position that people took, was to think, "I am so certain of my position, but I'm so frightened that somebody else might convince all my neighbours that they should be opposed to me that I would rather live and die in a political battle and let it go through the process of committees in Parliament than genuinely gauge the thoughts of the farming community in Western Australia to which this bill does not already apply." I thought that was astounding. If we get to the point that we are legislating and we are too frightened to put forward our argument, what does that say about how we are going about our business and what we are trying to do?

I have always taken the position that it would be good to know in advance precisely what the agricultural sector thought of this. That is not just to get the views of two competing agricultural representative bodies that have traditionally taken diametrically opposed views, sometimes just on principle it would seem, but to genuinely find out what the agricultural industries in Western Australia in those broadacre areas think about this issue. I think we missed an opportunity. I suspect that at some point most of them will have to be tested anyway, because I am of the view that it is unlikely that many would escape the attempt by somebody to set up an APC committee that covers either their geographical or industry area. So I would say that the government is only putting off the inevitable. To me, it would have made sense to try to test the entirety of industry, because all these things will come forward once this bill passes, and it will pass because the government has the numbers. With the right prodding and a couple of amendments, the opposition would probably be prepared to accept the bill, but it will pass either way. I would have thought it would be extremely useful if we had some indication of whether industry accepted the legislation.

On the opt-in, opt-out provisions, I do not think anybody could argue that the current bill, or, in fact, the 2019 bill, would allow producers to either opt in or opt out, and the committee made that quite plain, and I think it did so very well.

Hon Kyle McGinn: Were some amendments submitted?

Hon Dr STEVE THOMAS: I do not know; we could come up with some very quickly if the member likes!

Hon Kyle McGinn: You were just talking about it, so I thought there were some amendments.

Hon Dr STEVE THOMAS: I think it needs to be changed. That is why we have the Committee of the Whole stage—to look at it at that point. This is neither an opt-in nor an opt-out provision, so, basically, once a committee is formed, producers do not have the capacity to opt in or opt out. Once the minister is convinced that their industry or geographical location, or a combination, should proceed down the path, a vote is taken. The vote is the only opt in, opt out component that they have. Their peers will inflict an outcome on them—perhaps "impose" is a better word, not to be pejorative—and they will either be all in or all out depending on the vote, which can potentially be as low as 30 per cent of the producers or members in the geographical patch. There is no option at this point; there is no alternative. If it is imposed and producers do not pay, they break the law. They cannot say, "I refuse to accept this which was imposed upon me." I have met with a few bush constitutionalists, who have told me that the government is unable to legally impose any tax or any law, but it is a bit hard to take that seriously. My view is that they will be forced to pay a legally imposed liability. No member of the community or a producer should think that they can go through a vote process and then decide whether to pay these bills. They cannot.

One of the good things about the bill is that, to some degree, it will probably cause a greater openness in production. As I said, there have always been questions around whether those who are happily paying their levy are getting a reward equal to some of those who had not paid their levy. There is enough evidence to say that that has not always been the case. The bill seeks greater accountability. It will empower the committees to seek further information.

If these fees are to be applied and used for industry, that level of openness is required. I do not think anybody in the debate so far tonight has suggested that we should not have greater accountability for those people who are trying to hide from their obligations once they have been imposed. In my view, that is a good component of the bill. Ultimately, there are some good components of the bill.

I will finish where I began. In the south west in particular, some components of this bill will be of benefit. The APC act is applied very much to the benefit of growers and producers in a range of horticultural industries. It is effective most of the time. Hopefully, when the time comes that it is not effective, we will learn from that and make it better. Across the south west, I have always been supportive of the APC act, its committees and its application. I am not opposed to its expansion into other industries. All I say to members of the house is that if it is done, it needs to be done carefully, cooperatively, with a high level of accountability and with an open mind. We should not just assume that everything that comes out of this act is always good. We should not assume that there are no pitfalls—we must make sure we do not fall down them along the way. Tonight I have tried to identify some of those pitfalls that need to be addressed. I would appreciate it if the government addressed them in some detail as we proceed with the bill.

HON DR BRIAN WALKER (East Metropolitan) [8.33 pm]: Having looked at the Agricultural Produce Commission Amendment Bill 2021, we are generally in broad agreement. I have a couple of questions. I confess that I was away on urgent parliamentary business and I missed a large part of the earlier debate. One of the first things we have to say is that with this general support, we also have general support from the producers, which is excellent, but there are exceptions. There is never one perfect solution for all the population. However, there seems to be a common theme; that is, support is given provided an opt out option is available. I heard this mentioned earlier. I am sure more learned colleagues have been speaking about this.

The point I wanted to mention just now is a little different. I am unaware whether anyone has addressed the Indigenous situation in the Agricultural Produce Commission. When we were looking for further information, we had an interesting email from Mr Whittington. Again, there was broad agreement. I am sure all members have seen it. I do not have any evidence of this, but there seem to be issues in the Kimberley. Apparently, there are pastoralists there who do not wish to be part of the Pastoralists and Graziers Association. I do not know whether that is true. There are 43 Indigenous pastoral stations, none of which are represented by the PGA and which have been excluded from the APC on an unfair basis because of vocal representation by the PGA. I do not know about this; I do not have the resources to check this. Once again, I ask that perhaps we be given more resources. If this is the case, we are not only being unfair to a subgroup of pastoralists, but also perhaps liable to being seen as unfairly targeting the Indigenous community. I am unaware of any of this. I would like some answers. Once again, I reiterate that we are broadly in favour of the legislation. I appreciate that I raised a negative point, but I would like some confirmation of this.

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [8.35 pm] — in reply: I thank members for their input to the debate on the Agricultural Produce Commission Amendment Bill 2021. This is a most interesting debate because it almost distils all the issues and problems that we have in agriculture in Western Australia, not the least of which is the blue on green war, which actually impedes any reasonable progress. I was astounded that members opposite were saying, "This review came down in 2006 and, golly gosh, why are we only now dealing with the recommendations of that review?" We should look to the other side of the house. During the eight and a half years that the now opposition was in government, from 2008 to early 2017, the people who purport to represent the farmers were not able to bring a piece of legislation forward on pastoral reform because its members could not agree. Right out there in the bush, this big fight goes on between the Pastoralists and Graziers Association and the Western Australian Farmers Federation. That big fight between the PGA and WAFF plays out time and again, as it has done here again today.

We came into government after eight and a half years of inaction. Actually, no progress was made during the period of the Liberal–National Party coalition. We saw zero progress. The Agricultural Produce Commission came to us and said that there were these 2006 reforms, and it would like to introduce this legislation. The Agricultural Produce Commission said that it had been a great success and many more people wanted to access it. It said that its members, the people who are part of it, wanted to modernise the legislation. The commission needed to look into a whole range of areas to make it more efficient. We said that sounded good and we would do it.

Members would have listened and heard the history. The commission started out in the 1980s as the Horticultural Produce Commission. In 2000, under the Liberal–National government, some reforms were introduced to expand it beyond horticulture. But again, the then government could do only a tiny little bit, because when it put it forward, all these blues came out and it ended up having to introduce an exemption. It was renamed the Agricultural Produce Commission, but it did not include livestock farming or broadacre cropping. The opposition is now complaining that it does not know what broadacre cropping is. The former government put it in the legislation in 2000; it made the exemption.

Several members interjected.

Hon ALANNAH MacTIERNAN: Members, please just let me explain how this works. All agricultural produce can be covered by this legislation, except that we have two exclusions in the bill. The exclusions are broadacre cropping and pastoral livestock activity. They are the exemptions that are there. We were going to proceed with just those issues that came out of the 2006 report and we then had representations from farmers like Mic Fels. Honestly, members opposite were quite right when they said that grains are the iron ore industry of agriculture. Grains are the big driver. They are worth $8 billion or $11 billion in production. Mic Fels is one of the most successful, innovative and creative grain farmers in Esperance, that area of great creativity; it is the gift that keeps on giving. The farmers there want to work together in a collective and they are forward thinking. They are telling us that they want to have the opportunity to be included. They did not want to be excluded.

Hon Colin de Grussa: Did Mic Fels want an opt-out clause?

Hon ALANNAH MacTIERNAN: Yes. Those farmers wanted an opt-out clause and they have an opt-out provision in the legislation. They were fully aware of our legislation and they said, "Please include us." Of course, David Slade, the president of the livestock division of Western Australian Farmers Federation, asked to not be excluded. This is an argument for people saying, "Please, don't exclude us. Please allow us the option to undertake and go into a levy arrangement." We do not have any intention of making farmers pay a levy. Remember, what is important about this is that it is the industry groups that determine whether or not a levy is granted. All we are doing by providing these exclusions is not giving them the option of making a decision on whether or not they will be included as an industry. We have said that we are prepared to listen to what they say because I think WAFF claims to represent 1 000 farmers in the agricultural sector. I presume that is correct. WAFF certainly has standing. That says to us that it is a pretty good reason for at least giving it the option.

Another thing members must understand is that the agricultural sector, even grain and beef, is undergoing radical change at the moment. CBH Grain will tell members that 20 per cent of what they produce is now segregated. We are moving away from the single commodity markets. Things are becoming more complex. Markets are becoming more complex. More opportunities are available for people who want to band together in a geographic region or a type of crop, whether it is a certain type of oat or hemp producer, or whatever it might be. They want to come together and they want to raise a levy. Members opposite are completely correct that all these growers pay levies as part of the federal system, but that is absolutely true for all the horticultural industry already. The opposition acknowledges that because the table grape and citrus growers pay a levy to Horticulture Innovation Australia it is not a reason to deny them an opportunity to be in the Agricultural Produce Commission, yet somehow or other the fact that grain growers are contributing to the Grains Research and Development Commission or the southern beef growers are contributing to the Meat and Livestock Association is the reason that they should not be allowed to choose to be part of this scheme. I just do not get that. That is logically inconsistent. Of course, nothing is perfect or without problem and complexity, but I am saying that growers who are part of the APC have come to us. I went to a combined meeting of the APC the other day. Those members are immensely enthusiastic about the structure. Whether they are pine fruit growers or beekeepers, they believe this will give them an enormous advantage. They were absolutely desperate for this legislation to go through, and so we are proceeding with it.

Hon Dr Brian Walker asked about a couple of the complexities, including the Trevor Whittington letter. This is pretty much a case in point. Trevor is the reason that things never progress, unfortunately. We moved to accommodate the Western Australian Farmers Federation in the last term of government when we did not have the numbers and were trying to negotiate the legislation through. I made a commitment at that point that I would exclude pastoral lands because we had to make some progress. Honestly, it has been 15 years since that report came down. I was not going to go back and start again. However, I felt, as a matter of integrity, that I could not reverse the announcement that I had made before the last election without extensive consultation. There was no way I was going to sacrifice moving forward on this legislation that growers have been waiting for 15 years for, just to go out and solve another problem. My view is that we should get on with it. I am completely open to, at some point next year, consulting all the pastoralists and asking them whether they want us to turn this around and to change this and move forward to allow the pastoral sector to come into play. If they do want that, I am more than happy to make that amendment, but I am not going to create more delays by doing that, which is the general modus operandi in this space.

Hon Neil Thomson raised some issues about leases and other land tenure in the body that is generally considered the rangelands that are not leases under this division of the Land Administration Act. That is true. There could be upward of 20 of them. But it is no great disadvantage to them that they are not excluded. Remember, the way this works is that they are just not excluded. Those particular tenure types, whether it is under the Aboriginal Lands Trust, a holding or an old water reserve—I remember granting some of those to various Aboriginal groups—are not excluded at this time. The likelihood of them getting together and seeking a levy at this point is probably pretty marginal, but I would love to see the rangelands have an opportunity. There are extraordinary things going on in the southern rangelands. I look at what is going on with those pastoralists in the southern rangelands that now number

over 80 who have carbon farming projects and I look at their commitment to regenerating those lands going beyond just the carbon farming and what they can do to move forward. People like Debbie Dowden have been incredible, inspirational leaders, taking these groups forward. They want to form groups, and we are helping them do that, because they can see that collective action will be the thing that drives this change. It is far more complex than the days of having the huge single commodities of wheat, beef and sheep, and that is what the APC legislation is about. The government does not have a secret agenda. We do not have any agenda for any group to do that, but we understand that it is important for us to empower people to do this.

One concern that was raised, which I understand, is the opt-out clause. What we are providing here is the head of power for an opt-out clause. There has been concern about what exactly that will look like. I am more than happy now to give an undertaking to this place that I will produce that in a draft form in the first instance. We will certainly make every endeavour to have that done fairly promptly and have that tabled before this house and circulated to industry before we finalise it. I understand that people want to see what it looks like. I propose to table, hopefully within the next three months, an exposure draft of what that clause might look like.

There is no secret agenda here. We want to be there, supporting growers who want to come together in groups to provide extra research or marketing. Members will know that I have worked extremely hard to try to rebuild the R&D capability of the department. This is certainly not cost shifting. We took on a demoralised department and have really tried to rebuild many of these areas. We have invested heavily in the trade and promotional side of this as well. We are not cost shifting. We recognise that industry groups want to come together and do different and interesting things and we are here to support them.

Members talked about getting locked into this. On two occasions the groups have voted for a levy and then in subsequent years decided that that was no longer necessary. There are currently no levies on either avocadoes or eggs because the industry decided that it does not want to continue with that levy. I urge members to support this legislation because it is about empowering growers to come together and establish schemes for their mutual benefit. It has been incredibly good for so many of these groups. The only reason we have not seen it in the grain sector or livestock sector is because they have been precluded by law from participating. All this does is give them the opportunity to participate should they so vote that way. I urge members after all this time, let us not have any further delays and let us get these reforms in place.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair; Hon Alannah MacTiernan (Minister for Agriculture and Food) in charge of the bill.

The DEPUTY CHAIR: Members, supplementary notice paper 18-1 contains an amendment that we will deal with, being new clause 24A.

Clause 1: Short title —

Hon COLIN de GRUSSA: I understand there are a few differences between the Agricultural Produce Commission Amendment Bill 2021 and the Agricultural Produce Commission Amendment Bill 2019. Is there a table or a document that provides an outline of the key changes between the bills?

Hon ALANNAH MacTIERNAN: I am advised that the only difference between the bills is that amendments have been made to sections 3 and 9. As we have debated, section 3 removes the exemption for broadacre cropping and grazing industries. This amendment has been changed to reinsert the exemption for pastoralists. The wording in section 3 has been amended to make it clear that this applies to livestock enterprises conducted on land on a pastoral lease. Pastoral leases are defined in the Land Administration Act. Section 9 changes have been made in renumbering the new clauses.

Hon COLIN de GRUSSA: I presume the minister is referring to section 3 of the act rather than the amending bill, which is clause 4. I presume the changes are in clauses 4 and 9 of the Agricultural Produce Commission Amendment Bill 2021. Could the minister clarify that; I think that is where we are going.

Hon ALANNAH MacTIERNAN: Yes, I was referring to the sections of the act; the clauses of the bill are clauses 4 and 7.

Hon COLIN de GRUSSA: The minister talked about some of the regulations in relation to the opt-out provisions in the bill. When does the minister expect regulations to be drafted and to come into effect once this bill passes? Is it possible to have some indication about what might be in those regulations? The minister indicated that a draft of the opt-out options might be circulated, but, of course, we are still debating the legislation. Is it possible to have some oversight during the course of this debate on what those opt-out provisions will look like?

Hon ALANNAH MacTIERNAN: I understand the idea is that the opt-out clauses will not be general. They will be negotiated with each industry. The pork industry might have different provisions than the grain industry. At the moment each APC sector is governed by a separate set of regulations and those regulations include the opt-out clauses that will be negotiated in that sector.

Hon COLIN de GRUSSA: In terms of other regulations in the bill, does the minister have an indication of when they might be ready once the bill passes—assuming the bill passes?

Hon ALANNAH MacTIERNAN: Part of the difficulty is that it will depend on whether a new industry group is formed. Let us presume that someone comes forward and wants to set up a quinoa association or committee—whether it is quinoa, hemp or some organic group, or even as Hon Dr Steve Thomas suggested, a GM group wanting to come together to promote their sector—the regulations will be dependent on those that come forward. At the moment, until such time as a group comes forward and adopts a provision for their industry, there will be no regulations because they are not at large; they will be bespoke for each sector.

Hon COLIN de GRUSSA: Will existing producer committee regulations need to be amended, presumably, to reflect changes in the act, and will that have to happen pretty quickly?

Hon ALANNAH MacTIERNAN: The way it works in this legislation is that it is a head of power. Each existing committee will be able to look at whether they want to introduce an opt-out provision under their act. This is a head of power. This will give them the capacity to look at precisely how that might happen and in a way that will work for their industry.

Hon Colin de Grussa: By interjection, I am not referring just to the opt-out provisions; I am referring to regulations in general for each of those committees.

Hon ALANNAH MacTIERNAN: I will take more advice on that.

I am advised that no other regulatory requirements will come into play; that weighted voting will not be the subject of regulation.

Hon STEVE MARTIN: On weighted voting, I want to clarify whether each committee will have its own set of regulations and will there be a separate form of voting for each committee?

Hon ALANNAH MacTIERNAN: My understanding is—hopefully this is correct—that weighted voting itself will not form part of the regulations. It will be an enabling provision for the committee. Weighted voting will happen before a committee is formed. There will be a voting procedure. If there is a majority vote, a committee will be formed. If a committee is formed, then a set of requirements about the levy will need to be enshrined in regulation, the way the levy is to be charged and what the opt-out provisions will be.

Hon STEVE MARTIN: That is quite a complicated process. A committee will be formed after a vote of members and that executive committee will come up with a formula for weighted voting. Will members who have signed up not know how the voting process happens until after the committee has been formed?

Hon ALANNAH MacTIERNAN: It is the opposite. A determination will be made by the APC about the relative weight of voting before the committee is formed.

Hon STEVE MARTIN: There could, in fact, be two different sorts of regs for different APCs. The soft wheat growers from Nomans Lake and the noodle wheat growers from Esperance could have two separate committees with two separate regs and, I assume, two separate levy rates.

Hon ALANNAH MacTIERNAN: There is no limit on how the thing might be defined. The regs for banana growers in Carnarvon do not apply to banana growers outside Carnarvon or to people growing mangos in Carnarvon. It will depend on what the group comes up with. There might be a particular type of grain. That grain might be a subsection of wheat. There is no limit around that. From time to time, groups that are looking at different farming styles might want to come together. Unfortunately, they will not be included in this, but they include groups like the Southern Rangelands Pastoral Alliance. This is open to any group to come forward and say, "This is what we are looking at", and a determination will then be made on whether the Agricultural Produce Commission believes it is a valid and administratively possible proposal. The commission will then have the task of identifying all the people who participate in that sector of the industry and giving them a vote on whether a committee is formed. Obviously, the commission is there to do some sort of sorting as to whether these proposals are possible and viable. Is this a proposition for which the participants in the industry can be quite readily identified, as it has been framed in the proposal, and will it be possible to make contact with them? Can we actually establish who the people are who are growing in this way?

Hon COLIN de GRUSSA: Going back to the opt-out provisions that the minister talked a little bit about before, the minister made the point that they would not be general in nature but would be specific to each APC committee that wanted them—they would not necessarily all have to have an opt-out provision; that would be up to each committee.

Am I to understand from that that the opt-out provisions that would be in those regulations would be visible only once a committee had been formed and that they would only then be negotiated with that industry? In other words, they would not be negotiated with the industry before it formed a committee?

Hon ALANNAH MacTIERNAN: I suspect that what will happen is that the opt-out provisions will be included in the voting regime, so that when a vote is put to the farmers, the opt-out provisions will be included so that farmers know what they are voting on.

This is very much an iterative process. A number of members recognise the fact that in the wine industry, it took some 10 years to negotiate. The sort of thing that will happen is that a sector of industry will initiate discussions with the commission. I think it is highly unlikely that the commission will go out and do this without there being some industry players coming to it and making the proposition that it had coverage. The commission will then start a dialogue with that sector. It will talk to the sector about the nature of this levy, how it would be imposed and what the quantum of the levy would be. All those things are negotiated; it is not like a decision is made and then there is a vote, because no-one will want to do this if it is not going to get majority support and if the growers do not want it. There is no secret agenda here; this is just a facilitation of the industry. We can pick a grain sector that might want to be included. Hon Dr Steve Thomas's GM canola people might want to get together. They would negotiate what this would look like. When the commission felt that it had arrived at a point that it pretty well understood what the industry wanted, the package would go out to the industry.

Hon COLIN de GRUSSA: Does the Agricultural Produce Commission Amendment Bill 2021 contemplate mandating that opt-out provisions must be provided when a vote is taken to establish a committee?

Hon ALANNAH MacTIERNAN: No. At this point, the bill states "may", and that is what we have negotiated. I understand that that is what has been recommended. If that is a live issue for new industries, obviously there will be an interest in inserting those provisions for that sector. It is an empowering provision; it is not compulsory. Bear in mind that this is a process by which the commission seeks to see where consensus lies and it can establish common ground before putting it to a vote. Clearly, this is going to be important for some of these new sectors to come in.

Hon Dr STEVE THOMAS: Just before I get into a couple of the issues that I am interested in, given that the original version of the Agricultural Produce Commission Amendment Bill 2019 was sent off to the Standing Committee on Legislation on 11 June 2020—over a year ago—and the debate around the opt-in and opt-out clauses has been around from that time at least, and potentially sometime before that, why did we not have a review of potential opt-in and opt-out clauses? If we had, they might have been put into the legislation as opposed to being held over to regulation. Why have we not arrived at that stage? Is there a reason that we did not seriously look at opt-in and opt-out clauses at that time? If it is the government's intent to have an opt-out clause, I do not understand why we are not debating it as a part of the bill, to be honest, when we have had that period of time to look into it.

Hon Alannah MacTiernan: To debate what?

Hon Dr STEVE THOMAS: To debate an opt-out clause. My understanding is that the minister said she would consider an opt-out option as a compromise mechanism, and that she would look to put it into regulation. Is that what the minister said?

Hon ALANNAH MacTIERNAN: The opt-out option is there as an enabling provision. There will now be a head of power; currently, there is no capacity to do this. Presumably, this is something that existing committees could take advantage of, because they could decide to discontinue or not have a levy and could utilise this head of power to have an opt-out clause. Personally, I think that in the framing, creation and bringing in of new committees, we are probably more likely to see the creation of an opt-out clause. It is a recommendation. I think it is appropriate because all these industries are very different and their structures are very different. I think leaving it up to the commission, in putting it to a vote in the first place and then the committees revising what they do, it is important to have that ability to tailor how it may work for each industry.

Hon Dr STEVE THOMAS: In the minister's reply to the second reading debate, did I hear her correctly when she said that her intent was that, in the future, she might survey pastoralists to see whether they wish to be included in the act? Is that what the minister said?

Hon ALANNAH MacTIERNAN: I do not think it makes sense to exclude them, but I had made that undertaking in an attempt to get the legislation through Parliament last time. Of course we were not necessarily expecting the huge landslide win, so when we went to the election I guess I would say that our position was that the pastoral industry would be excluded. I do not think the fact that we now have the numbers necessarily enables me to reverse that. I would like not to do it, but I would need to do consultation. Given that it has now been 16 years, I am not prepared to put this bill off for another year or two while we attempt to do that. Should I get an indication from a substantial section of the pastoral industry that they, too, want to be included, I would be more than happy to remove their exclusion from the bill because I think it can only be to their benefit. But of course that is not the way they

see it. The Pastoralists and Graziers Association—I agree with some of the comments made—probably represents 100 of the 500 pastoralists, but because I went to the election with the position that the pastoralists would be excluded, I cannot reverse that without engaging in extensive consultation. I am not prepared to do that and delay the introduction of this legislation. Should we get a sense that people want to do this, whether through formal or informal groups in the pastoral sector, I would be happy to do that. It may well be that the appropriate thing and how this might unfold is that people will see southern grain growers or southern livestock growers taking advantage of this provision and say, "Why not me too?" At that point it would be the appropriate time to change it. I was not prepared to delay this bill any further while I went about doing further consultation with the pastoral sector.

Hon Dr STEVE THOMAS: I will check *Hansard* at some point, because I was under the impression that the minister said she was prepared to survey the pastoral industry.

Hon Alannah MacTiernan: That could be and we could do it.

Hon Dr STEVE THOMAS: The minister may well and that is fine. That is a good idea. I am all in favour of surveying and finding out in advance, which is why I am suggesting that at some point during this very long debate—as the minister said, 16 years of this debate—someone might have thought to have surveyed the broadacre cropping industry to see what its opinion was. I was intrigued when the minister stood up in this process and said in her second reading reply that she would be happy to survey in advance if it was likely to bring people into the Agricultural Produce Commission's purview, but she was not interested in surveying the greater community, I guess, of the bigger numbers in the broadacre cropping section to see whether they want to be in it. I am intrigued by this double standard, which has been an issue for me the entire time during the process, because as I said during my second reading contribution, there was a general feel by everybody in the debate that if we allowed a general survey of people, our opponents, from whichever side they might find themselves, might hold sway and find the day. I think that is an interesting double standard that we have to acknowledge.

A number of times during the minister's second reading reply she referenced the fact that it was a previous conservative coalition government that introduced the exemption for broadacre cropping and pastoralists. Can the minister tell me what the Labor Party position was at the time?

Hon ALANNAH MacTIERNAN: At that point it quite possibly supported the exclusion but perhaps that was just in order to make progress. I have not gone through and read *Hansard* from the year 2000, but maybe it could see there was an impasse, bearing in mind that when Labor first introduced this bill it was a horticultural bill that was aimed at horticulture and then there was a desire, I think widely accepted, that it should be expanded to be an agricultural produce bill. There was negotiation that took out to make these exclusions. As I said, one of the things that has changed is that the probably the largest—I am not saying it represents everyone—peak body representing people in the agricultural sector, which is WAFarmers, has now made it clear that it wants the opportunity. I must say that I think it is sensible. I meet many farmers who certainly are not in the Western Australian Farmers Federation family and are working on new industry directions that are looking at new markets, new products and new ways of promoting and selling their products, and these APC committees are the ideal vehicle to enable them to progress that.

Hon Dr STEVE THOMAS: The minister will be pleased to know that I have the particular *Hansard* in question, from Wednesday, 24 May 2000, when an amendment was moved by Hon M.J. Criddle that states —

> … To delete all words after the word '**industry"**' and substitute the following words —
>
> > means a horticultural industry and such other agricultural industry as may be prescribed but excluding broadacre cropping and grazing industries.

That was followed by Hon Kim Chance, who said —

> I am happy to indicate that I and my colleagues will support the proposed amendment.

Hon Alannah MacTiernan: He was keen to get progress.

Hon Dr STEVE THOMAS: He was keen to get progress. I am glad to see him supporting it.

Hon Alannah MacTiernan: Let us hope we have the same spirit here.

Hon Dr STEVE THOMAS: We are very cooperative. I did mention in my second reading contribution the potential income that might be received, particularly in the broadacre cropping section. Can the minister give us an indication of an expectation of what sort of total amount might be raised? I know we have been calling it a levy, chair, and we really should be calling it a fee for service, I suppose. That is what industry that is engaged in it prefer to call it, but, let us say if, for example, the grains industry or even the wheat industry was to come under the auspices of the APC, what indications do we have of the potential fundraising capacity of this bill?

Hon ALANNAH MacTIERNAN: I certainly do not think that we would see a levy on something like all wheat growers. I think it is almost inconceivable that that would be the type of thing around which a committee was formed. I think it would be a much smaller subset than that, without knowing. This is just enabling legislation. The funds collected, just to give the member some examples, include $116 000 for the Carnarvon banana producers' committee, which is relatively small; around half a million dollars for the pome, citrus and stone fruit committee, and there were three different levies there, all in a little less than $1 million; a little over half a million dollars for potatoes; about half a million dollars for pork; and $744 000 for vegetables. They are quite small amounts, but it will entirely depend on the industry grouping. It might be a really small geographic area and it will of course depend on what service is provided. The member quite rightly reminded us that it is a fee for service, so it will depend on whether it is a research and development or marketing effort. At this point it really is impossible to predict it other than to say that all the existing committees appear to be raising sums of less than $1 million. When we go out to speak to these groups, the strong support for this and the sense that this has been instrumental in taking forward their industries is palpable.

Hon Dr STEVE THOMAS: I agree, minister. For the south west horticulture industry, that is exactly the case. I will be intrigued to see whether that remains to be the case for the broadacre cropping industry in particular. I do not think we really have an indicative figure for what might happen in that industry. Let us move on, as I am sort of coming to the end of my clause 1 component.

Regarding expenditure, can the minister give us an indication of whether a fee-for-service system or the levy that is coming will be able to be expended on agricultural advocacy? Could an agricultural group form an advocacy group or a lobbying group through the funding of an APC committee?

Hon ALANNAH MacTIERNAN: I understand that this is the concern of the Pastoralists and Graziers Association—that it is a play by the Western Australian Farmers Federation to somehow fund its advocacy. I appreciate that. Clause 13 of the bill, which amends section 12 of the act, sets out quite clearly what is allowed. It does not include advocacy.

Hon Dr STEVE THOMAS: Can the minister confirm, by interjection if she likes, that advocacy is precluded as an activity funded by an APC committee?

Hon ALANNAH MacTIERNAN: A very clear list is set out in clause 13. It states the services that producers are able to provide. The list is there for members to look at. There is a provision that other services that we have perhaps not thought of may be prescribed, but no-one is attempting to do this and we have absolutely zero interest in supporting the continuation of the agripolitics that have played out here over the last 100 years. This is very much about allowing industry to evolve and develop. The needs of industry change and the sorts of things that could be useful to farmers will change from time to time. For example, 100 years ago, or even 30 years ago when the act came in, digital property would not have been a thing in farming. It is now a very big thing. Industry changes and structures change, and the APC committees need to be able to respond to industry. As members can imagine, we are not in the business of taking sides in the massive dispute between these two agricultural political groups.

Hon COLIN de GRUSSA: Obviously, the minister is well aware of the forty-fifth report of the Standing Committee on Legislation, which inquired into the Agricultural Produce Commission Amendment Bill 2019 in the last Parliament. That committee made some 10 findings and five recommendations. Does the government have a document with responses to each of those recommendations? Most of them are essentially "please explain" about various aspects of the bill. Rather than having to ask a question at each clause about the response to those recommendations, I think it would be useful if a document could be made available with those responses prior to getting into the rest of the bill.

Hon ALANNAH MacTIERNAN: Member, there are detailed responses. Unfortunately, we do not have a copy of them here with us for some reason, but I am happy to table them as soon as they can be located.

Hon STEVE MARTIN: Without wanting to labour the point, I want to go back to the weighted voting story, please. In the minister's second reading speech, she mentioned —

> … including power for the commission to have weighted voting at a poll for the establishment of a committee. Weighted voting, determined according to the proportion of produce produced by a producer, would be utilised only if there were sufficient industry data available to the commission for it to make the determination in the best interests of the relevant agricultural industry.

Can the minister tell me what that sufficient industry data might look like, for example, in the grains sector?

Hon Alannah MacTiernan: This is the data in relation to what?

Hon STEVE MARTIN: It is the data that the commission would need to organise weighted voting.

Hon ALANNAH MacTIERNAN: In order to even consider weighted voting, the commission would need to know the average production of growers and the number of growers, and it would need that data over a period of five years.

Hon STEVE MARTIN: On the same topic, the minister stated in her second reading speech that the commission would "make the determination in the best interests of the relevant agricultural industry". Just humour me. I assume that the commission does not, at the moment, have anyone from the grains sector on that body and that, if the grains industry came rushing to the commission's door and said, "Please set up a weighted voting system", it would be done by a body that does not necessarily have anyone on it with any grains industry experience. In the minister's words, they would have to make that determination in the "best interests of the relevant agricultural industry". Can the minister please give me some explanation of that process?

Hon ALANNAH MacTIERNAN: As I said, member, these are legitimate questions, but bear in mind that this is very much an iterative process. The commission does not go out and unilaterally say, "This is what it's going to look like", and vote on it. There would be wide consultation. Over the years of experience with all 11 committees, the member can see that that is what happened. There are people with experience; for example, Bill Ryan, the long-term APC chair, has a strong grains background. We have Anita Ratcliffe, who is a banker in the agricultural space who would have a strong background in all sectors of the industry. Obviously, if we have these new committees coming on board, over time the complexion of the commission will change to reflect that. But the commission does not unilaterally make a determination. It has to engage in great depth with the industry, and it is to its peril if it does not, because if it does not engage, it will not get support. At the end of the day, the point for the commission is that it is just enabling. It does not dictate what goes on. It responds to industry demand.

Hon NEIL THOMSON: I have really a general question, so it is about clause 1, about the potential for cost-shifting through the raising of these levies and the issue of what is currently being delivered through the Department of Primary Industries and Regional Development. Going through the budget papers and looking at some of the things it is currently doing, I can see that there are some great initiatives. For example, there is the eConnected Grainbelt program and the budget estimate there is about $2 million a year over the forward estimates. It will help grain growers to better manage risk. I do not know whether that has consolidated funding, but I assume it is coming out of the consolidated fund. Could funding raised through the Agricultural Produce Commission related to the broadacre sector, the grain sector, obviate the need for any support from the consolidated fund to the current research program across the department?

Hon ALANNAH MacTIERNAN: That is certainly not our intention. As the member would be aware, we are trying to rebuild the agricultural capability of the department. After the great contraction, we are trying to build that back. This legislation goes right back to the 1980s, and there have been continual attempts to give it a broader remit.

I now have a copy of our response to each of those five recommendations and I table it.

[See paper 336.]

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 3 amended —

Hon COLIN de GRUSSA: The minister indicated earlier when we were asking about the differences between the 2021 bill and the 2019 bill that there were some differences in clause 4. Could the minister outline what those are?

Hon ALANNAH MacTIERNAN: I think the member is well aware of what they are, because I have explained it over and again and opposition members all commented on it in their second reading contributions. They are well aware that we are limiting exclusion, so the number of people kept out of the act is being reduced. Previously we were removing all the exemptions. For the reasons I have explained on several occasions, in order to help us get that legislation through, we made a commitment not to include pastoral leases in the bill. I have indicated that at a future time, should I be confident that there was demand for that, I would do so, but I have not had the opportunity to do that consultation since the election.

Progress reported and leave granted to sit again, pursuant to standing orders.