

AGRICULTURAL PRODUCE COMMISSION AMENDMENT BILL 2021

Second Reading

Resumed from 27 May.

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [4.06 pm]: I rise to make a contribution on behalf of the opposition on the Agricultural Produce Commission Amendment Bill 2021. I indicate that I am the lead speaker for the opposition on the bill. As members will be aware, this bill had its genesis last year, but, more broadly, the Horticultural Produce Commission Act 1988 established the commission as a statutory authority, and then that act was amended in 2000 to become the Agricultural Produce Commission Act. That act's intention was to extend the availability of producers' committees more broadly than was originally intended under the Horticultural Produce Commission Act.

Back in 2000 when the Horticultural Produce Commission Bill was debated in this place, there was a lot of debate, as members can imagine, and I am sure there will be a number of contributions on this bill from members on this side of the chamber. A great deal of that debate focused on many aspects of the legislation and the changes being made, not the least of which were the changes to include broadacre and grazing industries under the act. After some negotiation, the minister's representative in this place at the time, Hon Murray Criddle, proposed some amendments to change the definition of who would be included under the act, and much debate ensued on that aspect of the bill.

The proposal at that time was to amend "industry" to include the words "a horticultural industry and such other agricultural industry as may be prescribed". However, in debate, members in this place did not accept that amendment and accepted instead an amendment that was moved, interestingly enough, by a former member for the Agricultural Region and someone for whom I have a great deal of respect, as I am sure do members on the other side, Hon Kim Chance. The amendments moved by Hon Kim Chance were debated at length and eventually supported by members from the then Greens and the Democrats, to change the proposed amendment to specifically exclude the words "broadacre cropping and grazing industries", as had been in the act, from that point on. The 2000 amendment bill incorporated an amendment in clause 3 that specifically defined "agricultural industry" as meaning "a horticultural industry and such other agricultural industry as may be prescribed but excluding broadacre cropping and grazing industries". It specifically excluded those industries from coming under the Horticultural Produce Commission Act at the time.

Subsequent to the implementation of that act in 2000, a legislative review of the act was conducted in 2006. The review reported in August 2006. The report made a number of recommendations. A number of those recommendations are around the continuation of the act and the different aspects of the act. Following that review, the government at the time tried to amend the act but was unsuccessful. I will go through the recommendations, because it is important to have those recommendations noted. It would also be appropriate if the minister in her response could provide a bit of a summary—which I have not seen yet—of which particular amendments have been adopted out of that 2006 review, and we will then be more aware of what is going and what the government will do in this term, and what it did in its previous term, in respect to that review. The review committee concluded —

1. The Act should be continued as it is providing industry with a mechanism to finance activities which otherwise would not be available.
2. The broadacre and grazing grower associations are polarised on whether the scope of the Act should be broadened to include their industries.

I do not think it is news to anyone that that polarity, as it were, is still there —

3. The mechanism to establish a producer committee, although protracted, does provide a high level of stakeholder consultation. The current process should remain unchanged.
4. Weighted voting on production is meritorious but too difficult to implement.
5. The mechanism used to raise the charge has the hallmarks of a duty of excise. The Review Committee decided amending the Act in line with similar legislation in other States to reduce the risk of a Constitutional challenge is not warranted.
6. The functions of producers' committees should include a wide range of educational and policy development activities.
7. Three minor amendments to the Act will correct omissions and duplications.
8. Appointment of Commissioners should be less proscriptive but the terms of their tenure should remain unchanged.
9. Compliance powers of the Commission need strengthening to include appointment of inspectors with the necessary powers.

10. The Commission's administration charges to a producers' committee should as far as practicable relate to the cost of services provided.
11. The preparation of management plans in partnership with industry stakeholders will improve consultation between the Commission and grower stakeholders.
12. As long as strict guidelines are enforced the introduction of compensation schemes are feasible.
13. The Commission and its producers' committees should consult with relevant peak industry bodies and other stakeholders but they should not have a statutory involvement.

It is useful to consider those recommendations. These go back some time. I am sure that when the minister provides an outline of what the bill will do in implementing those recommendations, a number of those recommendations will be well understood. Indeed, in the engagement that I had last year, which I will talk about in a little bit, about the first iteration of this bill, the existing producer committees were broadly supportive of many of the provisions that were proposed to be implemented.

It is interesting to note the second point on page 4 of the review —

Given the polarisation of views of the two broadacre grower organisations, the Review Committee was unable to make a consensus recommendation on increasing the scope of the Act to include the broadacre industries. Including an opt out provision and changing the voting system would increase the support for expanding the scope of the Act. However, the inclusion of both of these conditions may not result in full support for increasing the scope of the Act to include the broadacre industries.

I will come back to that at a later point. It is worth remembering that although those things would potentially increase support for the bill from some of the organisations out there, they may not change the views of all the organisations in terms of this legislation.

Members who were in this place 2019 will be familiar with the Agricultural Produce Commission Amendment Bill 2019. That bill was introduced into this place in order to implement many of those recommendations in the 2006 review. However, one of the key differences in the bill at that time was that it included an amendment to change the definition of "agricultural industry" by deleting the words "as may be prescribed but excluding broadacre cropping and grazing industries" and insert the words "prescribed for the purposes of this definition". The bill sought to define an "agricultural industry" as an industry that may be prescribed for the purposes of those definitions, so that any industry, essentially, could be covered.

Obviously, subsequent to the introduction of this bill, there was a great deal of discussion among agricultural communities and representative groups about what this legislation would mean. It is fair to say that there is not a good understanding in broadacre agriculture of what the Agricultural Produce Commission does. There is a lot better understanding in the horticultural industry because it is a lot closer to the produce commission and it is used quite widely by people such as avocado growers, wine producers, beekeepers and egg producers. The understanding by those industries of what producer committees do and what the Agricultural Produce Commission does is much higher, but in the broadacre context the understanding is not quite there.

Hon Alannah MacTiernan: Member, can I just ask a question?

Hon COLIN de GRUSSA: Yes, minister.

Hon Alannah MacTiernan: I am sure that was the case originally with horticulture and viticulture et cetera, and probably one of the reasons why it is not known in broadacre is because it is not a facility that is available to them. I think it is a chicken-and-egg situation there.

Hon COLIN de GRUSSA: Potentially, minister, but the issue becomes what is the need for it in broadacre agriculture, and if that understanding is not there, the natural reaction from people is, "Why another levy?" I think it has been well demonstrated that that reaction has been pretty strong. As a result of this bill coming in, there was quite a bit of debate in broadacre land and in pastoral land about what the bill would mean for those industries. As a consequence of that, the Minister for Agriculture and Food moved to refer the bill to the Standing Committee on Legislation for inquiry. I was a member of the Standing Committee on Legislation and was involved in that inquiry, as was my colleague, the Leader of the Opposition, Dr Steve Thomas, who was seconded onto the committee for that inquiry. The end result of that inquiry was the forty-fifth report of the Standing Committee on Legislation, *Agricultural Produce Commission Amendment Bill 2019*. It makes a number of observations and recommendations. To date, I have not seen a government response. I note that this report was, of course, handed down very late in the last Parliament, so that is fair enough, but it would be good to get some clarity on the government's views or responses to the findings and recommendations of the Standing Committee on Legislation's forty-fifth report, *Agricultural Produce Commission Amendment Bill 2019*, so that the house can understand the government's response to the various issues raised and addressed in this report.

That inquiry was interesting. I encourage members to read the report. It is not a long report by any means compared with some of the other reports we get in here at only 60 pages including the appendices, but it makes some good observations and explains the purpose of the legislation, as well as discussing to some extent the views of the various organisations out there that represent agriculture. There are quite a few organisations in that space. The report explains what a producer committee does and refers to the establishment of producer committees. That is pretty important because these committees have the power to charge a service fee to any grower of that produce. Obviously, that may concern some people. It is reasonably essential that when a committee is established, as many producers as possible are voting to establish the committee, and the establishment of the committee requires majority support, but that is a little bit up in the air. However, in general, I think the commission does a pretty good job of ensuring that it brings as many growers as it can on that journey of the process of establishing a committee, and therefore the end result is a committee that, in the case of the horticultural industries, tends to have the support of a fair number or a majority of the participants within that committee.

The horticultural industries have been able to do various different things with those committees such as research and development, industry promotion and marketing—those sorts of things. As an example, the Carnarvon banana growers have developed a scheme that provides for almost a compensation or insurance for when crops are damaged or lost due to cyclones, for example, so that they have enough money to pay out those growers and producers. That is quite a good use of these committees and enables an industry to support itself in that respect. It has been used well by other industries for marketing and other various things. I think those are examples of good use of these producer committees by the horticultural industries, and I think the producer committees are certainly supported by those industries.

I talked earlier about consultation on the 2019 bill. At that time, I spent a considerable amount of time talking to the various committees and organisations involved in agriculture and horticulture. At that time, those existing committees were all very supportive of the bill. The correspondence I received from those committees was that they were supportive of this legislation. They were supportive of the fact that they were going to see some of the changes from the 2006 review implemented. However, when it came to the aspect of including broadacre cropping and grazing, they were ambivalent, because it did not affect them. They were concerned that their producer committees needed some of the changes in this legislation as was proposed in 2019, but they were not concerned about the inclusion of broadacre cropping and grazing because it did not affect their industries. I think it is a fair point to remember that although the members of those committees are definitely very supportive guys and girls, that was in the context of supporting the legislation from the point of view of their own particular industries.

Consultation was widely held over the period of the 2019 bill being introduced and then before it was referred to committee. Of course, once it was referred to committee, further consultation occurred within the committee inquiry. At that time, there were mixed views; certainly, many people from the broadacre sector were very fearful of the Agricultural Produce Commission and the inclusion of broadacre. Indeed, people were concerned or perhaps a little sceptical that it would actually provide any benefit to them. But, as I said, those members of the existing producer committees were very supportive in general of the proposed amendments to the legislation, and so I guess it was an interesting consultation period to understand what those guys were thinking.

There are a variety of views across the broadacre industry. That is not unusual; it is agriculture. Farmers in general are a very independent and free-thinking lot who will have a variety of views on any one subject. I do not think that is unusual. However, it was most noticeable from my perspective that two pretty strong views were put on either side of the fence to an extent from both the major farm organisations. The Pastoralists and Graziers Association of WA was very much opposed to the inclusion of broadacre and grazing industries in the Agricultural Produce Commission Act. WAFarmers was supportive to an extent, except that in recent conversations it has said that it still wants to see opt-out provisions in the legislation. I think it is important that that is considered as well. Certainly, the views were dichotomous to some extent, although the opt-out provision is pretty important as well from WAFarmers' perspective.

In terms of the feeling out there among the farmers themselves, from those farmers I have spoken to—I did speak to many of them over that period, and I had a great deal of unsolicited correspondence from farmers at the time—to a tee, there was not a single piece of correspondence from anyone that was supportive of the inclusion of broadacre in the Agricultural Produce Commission Act. A couple of organisations and grower groups expressed some interest in the potential inclusion of broadacre agriculture in the act, but the overwhelming majority—if not all—of the correspondence I had from farmers was very much against these proposed amendments to include broadacre. For the rest of the act, it was almost the reverse of what the producer committees said. The producer committees were happy to see most of the amendments but could not care less about the inclusion of broadacre cropping or grazing. The farmers out there were pretty much the opposite; they did not want to see broadacre grazing and cropping included but were not too worried about the other amendments because they did not affect them. Subsequently, quite a number of views have been expressed. It is important that we understand the thinking of the various industries out there and ensure that we take into account their views when we consider this legislation.

The 2019 bill differs from the 2021 bill, and I am sure the minister will explain the differences. As far as I can see, the difference is clause 4, which will amend section 3. The 2019 definition of “agricultural industry” in section 3 will be amended by the 2021 bill, which will insert —

is prescribed for the purposes of this definition, other than an industry that concerns livestock enterprises conducted on land under a pastoral lease;

I think that is the minister responding to concerns from the pastoral industry about its inclusion in the act should this bill be passed. I am a little concerned that that may capture pastoral industries that operate not only on pastoral lease land—for example, operations that also have freehold property where animals are transferred in order to be grown out before they are sold. I am interested in the minister’s feedback on whether that is a potential risk of that amendment. It seems that it will include only livestock enterprises conducted on land under a pastoral lease, regardless of whether that business operates on both pastoral lease and freehold land. I asked this question in a briefing.

Debate interrupted, pursuant to standing orders.

[Continued on page 1767.]