Legislative Assembly

17/09/2002

Agricultural Industry Services Amendment (Interstate Arrangements) Bill Hansard Extract

Second Reading

Mr AMERY (Mount Druitt-Minister for Agriculture, and Minister for Corrective Services) [8.15 p.m.]: I move:

That this bill be now read a second time.

This bill is a proposal that came together as a result of consultations between the governments of New South Wales and Victoria and the Murray Valley citrus industry over the last four years. In its initial application, the bill will enable the implementation of agreed outcomes of the National Competition Policy review of the New South Wales and Victorian Murray Valley Citrus Marketing Acts. However, the potential applications of the key provisions of the bill are not limited to the Murray Valley or the citrus industry. The concept of truly singular interstate arrangements has existed and been discussed for a long time.

This legislation has some generic provisions that can be used by other agricultural industry services committees. However, as this bill has its origins and initial application in the citrus industry of the Murray Valley, I would like to briefly outline the significance of this industry. The Murray Valley is one of the three main citrus growing areas that collectively produce about 90 per cent of the Australian citrus crop. The other two areas are the Riverland of South Australia and the Murrumbidgee Irrigation Area in New South Wales. There are nearly 600 citrus growers in the Murray Valley and their numbers are fairly evenly divided between the two States, with the current split between Victoria and New South Wales being around 55 per cent:45 per cent.

Over the last decade the annual production in this area has varied between 110,000 tonnes and nearly 200,000 tonnes of citrus. The citrus growers of the Murray Valley are serviced by the organisations established under the Murray Valley Citrus Marketing Acts of New South Wales and Victoria. Certain provisions of these Acts, like the appointment of the same board members by each State, have given the boards a public appearance of being a singular entity. Overcoming the problems associated with this conflict between public appearance and legality was a further contributing factor to this bill. Over recent years these boards have provided various services to growers that have been funded through a compulsory charge. However, the Acts under which the boards are established provide them with the power to engage in various marketing and processing activities as well as other powers of market intervention.

I turn now to the National Competition Policy review and how it led to this bill. In 1998 the New South Wales and Victorian governments jointly commissioned a review of their Murray Valley Citrus Marketing Acts. The immediate outcomes of this review supported the continuation of the boards as a provider of services funded through a compulsory charge, provided the use of that charge was restricted to the provision of services consistent with established National Competition Policy guidelines. There was support for the removal of the boards' powers of market intervention and the improvement of their accountability to growers. In addition, it was agreed that growers who contribute most to the boards' revenue should have a proportionate influence on board operations. On their own, the immediate outcomes of the review tell only part of the story. In the process of consultation an opportunity was seen to reconstitute the boards under the New South Wales Agricultural Industry Services Act 1998 and the Victorian Agricultural Industry Development Act 1990. Each Act provides for the creation of statutory bodies that have a service provision function funded through a compulsory charge.

The opportunity was embraced by industry but its support for the action was subject to three conditions being able to be met. First, the boards had to be able to be established as truly singular entities so that the resulting boards could realise the benefits of reduced administrative and compliance costs through having to be directly accountable to only one government. Second, the resulting legislation should be capable of enabling amalgamation of the Murray Valley Board with either or both of the other State-based statutory authorities serving the citrus industry in other areas. Third, the legislation should be capable of being applied to other industries. Many of the Murray Valley citrus growers also grow wine grapes. The wine grape industry in the Murray Valley is similar to the citrus industry in that it has two State-based statutory bodies that are trying to operate as one. Needless to say, the move to reconstitute the Murray Valley Citrus Marketing Boards under the generic agricultural industry services legislation of the two States also had its advantages for government, not the least being that the Murray Valley Citrus Marketing Acts of the two States could be repealed and replaced with generic legislation.

While the provisions of this bill have been drafted with immediate regard to the Murray Valley citrus industry, they are generic and will be available to other agricultural industry services committees with similar needs. I am pleased to say that this bill is a credit to all the parties involved in its development, the result of which is a proposal based on commonsense and co-operation that yields significant benefits to both industry and government. The bill

provides generally for the establishment of arrangements that may be constituted in one State and operate in another. It provides specifically for the reconstitution of the Murray Valley Citrus Marketing Boards and provides for the repeal of the Murray Valley Citrus Marketing Act 1989. The general provisions for the establishment of a committee with extra-territorial or interstate power allow for the creation of a body that can operate in two or more States. The bill provides for a reciprocal relationship between these partner States, and for any New South Wales agricultural industry services committee to have extra-territorial operation with respect to the primary producers and products for which the committee is established.

In addition, the bill will likewise enable New South Wales to recognise a legislative instrument of another State or Territory to establish an interstate committee designed to operate in New South Wales. An agricultural industry that wants to establish a committee with extra-territorial operation must apply to the Minister in the State in which they propose that the committee be constituted. That Minister must then consult with the counterpart Minister in the proposed participating State or Territory to establish concurrence for the proposal at government level. Even if each State government agrees, the New South Wales industry must be polled and more than half of the relevant New South Wales producers must vote at the poll and more than half of those producers must cast their votes in favour of the establishment of the committee. This is just one of the many safeguards specifically designed to protect New South Wales constituents where an extra-territorial committee is proposed.

If the poll supports the proposal and the proposed committee is established, the industry will be subject to the constituting State's laws. For example, if an interstate committee is established in New South Wales with the agreement of its Victorian industry partners for example, the New South Wales arrangements would apply to the Victorians. In this sense the bill provides for arrangements similar to other extra-territorial arrangements. Also, if the result of the poll does not support the proposal for an interstate committee but there is strong support for the continuation of a committee within New South Wales, in accordance with section 5 of the Agricultural Industry Services Act 1998 the Minister may establish such a committee arrangement without conducting a further poll.

Four key principles can be seen to underpin the establishment of a committee with extra-territorial power. The first is that an extra-territorial arrangement cannot be established without the support of the governments concerned. The second is that the arrangement cannot be established without the support of proposed constituents who are to be polled on a State basis with a requirement that the proposal is supported in every proposed State. The third is that the choice of State in which to constitute an arrangement with extra-territorial power will rest with the proponents and potential constituents of the arrangement. The fourth is that once an interstate committee is established it will operate fully under the legislation of the State in which it is constituted. It will only operate in another participating jurisdiction if that jurisdiction recognises the arrangement at law.

Having outlined the provisions as they will generally apply, I pick up where I began, with the specific case of the Murray Valley citrus industry. With regard to the general provisions for the establishment of an extra-territorial arrangement the situation of the Murray Valley citrus industry has three key points of context. First, through its awareness of the legislation being proposed, the industry has indicated its preference for the reconstitution and amalgamation of the existing Murray Valley citrus marketing boards to occur under the Victorian Agricultural Industry Development Act. Second, in the course of enacting this legislation and a counterpart Victorian bill, the governments of New South Wales and Victoria will be equipped with a mechanism whereby they may recognise in their legislation each other's agricultural industry services legislation for the purposes of these amendments. Third, as there are authorities already in existence, some transitional provisions are to be expected.

In this context, the immediate action will be a poll of the citrus producers of Victoria and New South Wales on their support for the establishment of an extra-territorial committee. The outcome of this poll will determine whether an extra-territorial committee is established. If the result of the poll supports the proposal, then a single committee with extra-territorial operation within the Murray Valley will be established. In order for this to happen, however, New South Wales must recognise the proposed Victorian order under which the committee will be established in order for the relevant Victorian laws to apply in the area of operations within New South Wales. If the result of the poll does not support the establishment of an extra-territorial committee, I will immediately take necessary action to ensure the continuation of the New South Wales Murray Valley Citrus Marketing Board under the Agricultural Industry Services Act 1998. The administration and operation of this committee would be the responsibility of the New South Wales Murray Valley citrus industry.

Another two provisions of this bill relate to the continuation of the role of approved receivers in the collection of charges and the selection of committee members. Firstly, under the New South Wales Agricultural Industry Services Act 1998 committees are empowered to charge growers, who are the beneficiaries of the services they provide, for those services. This provision does not deny the possibility of funds being collected another way but it does require any such system to properly account for the charges payable and paid by each grower. Under the New South Wales and Victorian Murray Valley Citrus Marketing Acts the boards' revenue is collected by approved receivers. Because there are deficiencies in the system of "funds accountability", the bill provides for a continuation of the approved receiver system for a transitional period of four years to allow for the development of an alternative system during that time. Secondly, the New South Wales Agricultural Industry Services Act 1998 currently provides that a majority of members of any committee must be elected from and by constituents.

The majority of members of the current Murray Valley citrus marketing boards are chosen by a selection committee rather than through an election process. Representatives of the industry have indicated a strong desire to retain the selection committee approach. The amendment proposed in item [1] of schedule 1 to the bill will enable the retention of the selection committee process because it provides for the use of methods of choosing committee members other than by election without compromising the requirement that a majority of members of a committee must be constituents of the committee. Regardless of whether the existing Murray Valley citrus marketing boards are

reconstituted as a single entity with extra-territorial power or as continuing intrastate entities under agricultural industry services legislation, the recommendations of the National Competition Policy review that led to this bill will be implemented.

The agricultural industry services legislation of both States does not permit the kinds of market intervention that were to be removed from the Murray Valley Citrus Marketing Acts. On the other hand, the agricultural industry services legislation embraces the kinds of modern accountabilities that needed to be introduced to the Murray Valley Citrus Marketing Acts if they were to continue. This is the first such cross-border proposal of its nature in New South Wales. The corresponding Victorian version of the New South Wales bill was read into the Victorian Parliament on 5 June 2002. This action and my action today reflect the level of support for the proposed legislation by both governments and industry. There has been an enormous amount of goodwill and good work put into not only the development of this bill but also the equivalent bill, which is already before the Victorian Parliament. This goodwill and good work involves everyone from the citrus growers of the Murray Valley to the Parliamentary Counsels of New South Wales and Victoria, and everyone deserves recognition for the role he or she has played in the progress of this exemplary piece of legislation. I commend the bill to the House.