

TRUTH IN LABELLING (FREE-RANGE EGGS) BILL 2011

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Second Reading

Mr JAMIE PARKER (Balmain) [10.07 a.m.]: I move:

That this bill be now read a second time.

Mr David Elliott: I hear you have some big issues in your electorate, mate.

Mr JAMIE PARKER: We have indeed. Protecting consumers is a big issue. This bill originated in the Legislative Council where it was supported and now has been forwarded to this House for debate. I thank the Leader of the House for his assistance in the process to enable this bill to be introduced in this House. Consumers are being exploited and genuine free-range egg farmers are being pushed out of the market because there is no legal definition of what constitutes "free range". Increasing numbers of New South Wales households are rejecting the horrific treatment of animals in factory farms and looking for foods produced under more humane conditions. Free-range eggs offer this alternative to many consumers, who are comforted by the fact that the animals at least have access to the outdoors and enough space in which to live decently. This option must not be hijacked by industrial producers, who see the increase in ethical consumerism as an opportunity to use deceptive marketing and misleading words to charge a premium without delivering higher welfare outcomes.

As legislators, it is our responsibility to ensure this important consumer right is protected. Consumers already are making this choice with their wallets. We must now ensure that they get what they pay for. Despite receiving the bill and the Legislative Council's report on 8 November 2011, the Government has made it clear it will not support this Truth in Labelling (Free-range Eggs) Bill in this House. I urge the Government to reconsider this position. Instead of giving big industrial producers the green light to exploit consumers, I call on all members of this Parliament to support their constituents who want to pay extra for eggs that have been produced under humane conditions. We have heard from these constituents. Thousands of petitions have been lodged in this House and elsewhere expressing disappointment that simple and transparent food labelling will potentially not be supported by this House. Rural and regional members, who have egg production in their electorates, should be protecting genuine free-range farmers. Small farmers trying to build a market will be comprehensively sold out without legislation such as this to protect consumer rights by making clear what the value of their food products are.

The bill protects the rights of consumers who choose to pay more for higher welfare eggs by introducing a definition of "free-range" and penalties for producers who misuse that term on their labels. The bill seeks to define and regulate the labelling of eggs in New South Wales in line with existing industry standards outlined in the Model Code of Practice for the Welfare of Animals: Domestic Poultry, fourth edition. Clause 4 of the bill, requirements for free range eggs, states that a person must not advertise, package or label eggs as "free-range" or "barn" unless the laying fowls are kept in accordance with the standards outlined in regulations. This will enable producers who seek to hijack the term "free range" in order to increase their profits without investing in better animal welfare standards to be penalised. Clause 10 of the bill states that the Minister may

introduce regulations that relate to the keeping of laying fowl only if they are consistent with the current industry standards outlined in the Model Code of Practice for Welfare of Animals: Domestic Poultry, fourth edition, or any document that replaces that code. This will ensure that all free-range farms stock no more than 1,500 birds per hectare to allow laying hens to live decent lives.

Clause 6 introduces penalties for the mislabelling of cage eggs and requires the words "cage eggs" to be printed clearly on the label. Clause 7 creates provisions for the Minister to establish an accreditation scheme for the production of free-range eggs and the ability for the premises to be inspected to ensure compliance with the scheme. This will protect genuine free-range egg farmers from unfair competition. This legislation is important because the free-range label is under attack. The Egg Corporation, whose board is dominated by representatives of the larger industrial producers—Pace, Sunny Queen, Farm Pride—are pushing for a new free-range standard that increases the stocking density to 20,000 birds per hectare. According to the industrial producers, that is free-range! That represents an increase of 1,233 per cent over the industry accepted model code maximum of 1,500 birds per hectare.

The Egg Corporation's new standard, which in our view will deceive consumers, has sparked outrage from thousands of consumers and genuine free-range farmers. The issue has been discussed on online forums and members of this House have received many letters and other forms of correspondence. By inflating the stocking density to 20,000 per hectare, the standards fail to meet the most basic animal welfare standards. To brand eggs produced under those conditions as "free-range" is anticompetitive to legitimate free-range farmers and is misleading to consumers who pay more to ensure increased animal welfare. Small and medium farmers who have stocking densities as low as 750 birds per hectare—there is an argument that that is optimal—employ high standards of animal welfare. They are competing in a marketplace with no way to meaningfully differentiate their products. This bill is necessary for that reason. Consumers will not be able to tell the difference when making a choice at the supermarket if eggs produced by 20,000 birds per hectare are labelled as free-range and so are eggs produced by 1,500 birds per hectare. The big supermarkets are also pushing to intensify free-range standards—it as an easy way to charge consumers more while keeping costs down.

The NSW Farmers Association has also backed this move, despite the standard seeing a massive 6.7-fold increase in this industry accepted standard of 1,500 birds per hectare. These high stocking density rates would certainly result in many birds being de-beaked. This is the painful procedure where day-old chicks have their beaks cut off to stop injuries caused from pecking as a result of overcrowding. Older birds often need a repeat mutilation. We have heard loud and clear from community members across New South Wales that if a bird's beak needs to be routinely chopped off to avoid pecking the other birds in the flock to death, then something is seriously wrong with these supposed free-range standards of 20,000 birds per hectare. Neither the Egg Corporation nor the NSW Farmers Association standards deserve the label "free-range". Consumers, farmers and animals in New South Wales deserve better.

No-one has to believe my arguments or those from animal welfare legislations. In November last year, the Australian Consumer and Competition Commission [ACCC] slammed the Egg Corporation's application for a trademark to market its sham free-range standard, which would see 20,000 birds

crammed into a single hectare and labelled "free-range". I encourage members to look at the Australian Consumer and Competition Commission report. It states:

The ACCC considers that the proposed Rules do not ensure an environment for birds that is consistent with consumers' perception of a higher level of animal welfare associated with free range egg production.

When the Egg Corporation applied for a trademark the Australian Consumer and Competition Commission said it was clearly deceptive and misleading, yet the Government will not act to ensure that the definition of "free-range" is not the 20,000 birds per hectare the Egg Corporation is pushing. I continue the quote:

The ACCC considers that the proposed maximum outdoor stocking density of 20,000 birds per hectare is inconsistent with consumer expectations of farm practices adopted in free range egg production.

And further:

The ACCC is therefore concerned that the AECL Standards governing free range egg production ... are inconsistent with consumer expectations and understanding of free range egg production. The ACCC is concerned that the use of the CTM in the circumstances of such inconsistency has the potential to mislead or deceive consumers.

What more evidence do we need to show that the industrial producers controlling the Egg Corporation are seeking to mislead consumers and destroy legitimate free-range farm businesses? Action is required. In February this year, following the finding, the Australian Consumer and Competition Commission announced that it would be ramping up its investigations into the misuse of the term "free-range" eggs. With no legal definition of what constitutes "free-range", the Australian Consumer and Competition Commission will struggle to stop the Egg Corporation turning free-range into nothing more than a marketing term. The objective is for the term "free-range" to be marketing spin rather than a process that recognises the improved animal welfare and, therefore, marginally increased cost.

While the industry body group was blocked from getting a trademark—and congratulations to the Australian Consumer and Competition Commission for protecting consumers—in the absence of any law that would stop them, it is still free to implement this shonky new standard. If the Egg Corporation gets its way, consumers will see eggs labelled as free-range on the shelves despite the ruling of the Australian Consumer and Competition Commission because there is no law in this State to prohibit them from doing so. Without a legislative definition of free range, the Australian Consumer and Competition Commission has one hand behind its back. The consumer watchdog can protect the public from misleading claims only if it is given the tools to do so. The O'Farrell Government should pass this bill through the Legislative Assembly to give the industry standard some teeth.

I turn now to speak about Choice, the main advocate for consumers in our community. As a strong supporter of consumer protection, the themes of this bill are strongly supported by Choice. This leading independent consumer advocacy body is campaigning for the implementation of a standard

definition and transparent labelling for free-range eggs to meet consumer expectations. Choice has stated:

Without an official standard for free range products, consumers are at real risk of being misled of businesses wanting to cash in on the premium that a free range product attracts.

Choice opposes the Egg Corporation's new standard and says increasing the stocking density from 1,500 to 20,000 per hectare fails to meet consumers' basic expectations of free-range eggs. As members well know, this legislation was debated in the Legislative Council. Over the past 12 months, consumers and welfare advocates and genuine free-range farmers have been successful in sending a loud and clear message to the Egg Corporation that their proposed 20,000 birds per hectare free-range standard is not acceptable. The push for truth in labelling has continued to spread across the country, with South Australia, Western Australia and Tasmania launching campaigns to protect free-range standards. As I mentioned, organisations such as Choice, the Humane Society International and Animals Australia have been working hard to get the message out that we need legislation to stop the exploitation of consumers.

I turn now to this issue of the exploitation of consumers and some of the problems that have already been identified. Some say it is not the Parliament's responsibility to prescribe bird density. They argue that the industry is competent, self-regulating and adapting to consumer preferences so we should let the industry do it. Let us have a look at the history of self-regulation in this sector. In 2006-07 the NSW Food Authority admitted that a situation existed in the egg industry where eggs from caged hens were being sold to consumers as free-range. Is that what we expect when we go to our supermarkets? No. In September 2009 the Sydney Morning Herald ran a story about the substitution of free-range eggs for cage eggs, entitled "Free range egg claims don't add up." It reported that there were not enough free-range chickens in Australia to produce the number of eggs being labelled as free range. Now the Australian Egg Corporation, the national egg industry body, is moving to change the definition of free-range production environments from a bird density of 1,500 birds per hectare to 20,000 birds per hectare.

In June 2000 the Federal Department of Agriculture, Fisheries and Forestry released a synopsis report on the review of layer hen housing and labelling of eggs in Australia. The report made it clear that if implementation of industry standards was not considered satisfactory then a move must be made to legislate label requirements. Recently a full-page advertisement for McLean's Run free-range eggs in the Sydney Morning Herald Good Weekend boasted: "It is the top of the range; in fact it is open range." The advertisement stated that the farm had a maximum bird density of 1,500 birds per hectare. Why can we not call that free range instead of open range? There is no clear definition of what is free range, open range or barn laid and the Government should take steps to address this issue

As policymakers we are on notice that any moves to degrade the free-range label to a marketing term will face opposition from those who want the right to transparent and ethical labelling protected. The appalling treatment of animals on factory farms is now firmly in the spotlight thanks to the hard work of many organisations such as Animals Australia, Animal Liberation, Voiceless and Humane Choice. More and more consumers are refusing to buy into this cruelty. Free-range products provide a more humane alternative. If people want a higher animal welfare outcome, and they are happy to pay for it, then that is something we should support. It is our role as legislators to

ensure that definition is protected, transparent and more than just a marketing term. This option must not be hijacked by industrial producers keen to cash-in on the higher prices these labels attract. The bill is not revolutionary; it has identified a deficiency in consumer law and simply seeks to rectify it.

Enforcement of the current industry standards for free-range egg production would stop the emergence of intensive egg producers who falsely claim to be free-range egg producers pushing genuine free-range egg producers out of the market. I have spoken to several free-range egg producers. They are very concerned that the bird density standard of 20,000 hens per hectare for labelling eggs as free range—which the Australian Egg Corporation sought a trademark for—will destroy their business. Free-range egg producers engage in business in an ethical and humane way. They charge more for their eggs because they have higher standards but if the term "free range" simply becomes a marketing term then their businesses will be destroyed. The exploitation of consumers and genuine free-range farmers by big industrial producers is not confined to the egg industry. We know there are similar problems in the chicken, pig and duck production industries. They too are facing problems with industrial producers using misleading and deceptive labelling as a marketing tool rather than a strong measure to indicate animal welfare treatment. The proper regulation of free-range eggs is a litmus test for policymakers and we need to get it right. I will now respond to some other concerns that have been raised so that the basis of this argument is fully understood.

Will the introduction of this bill disadvantage New South Wales egg producers compared with those in other States? That is a legitimate question to ask. We do not want to see New South Wales disadvantaged compared to other States but it is also up to us to protect consumers so we should take this first step. It is also important to recognise that the move towards regulated standards for the labelling free-range egg production in Australia has begun in other States and Territories. The Australian Capital Territory and Tasmania have both introduced legislation with the intention of regulating the sale and labelling of eggs. It is also interesting to note that the European Union has had mandatory labelling of egg production systems in place since 2004. The issue is not that New South Wales will be disadvantaged by regulating the labelling of free-range eggs, but if we do not introduce egg-labelling requirements we may well be left behind. Other States have recognised that consumers want to know about the conditions of the animals that produce their food and certainty that if the label says free range then the product actually is free range. Even if there were some level of disadvantage, is it not important that we take that step to protect free-range egg farmers and consumers?

The issue of consultation has been raised. As far back as 21 September 2009 Dr John Kaye and others met with the Australian Egg Corporation's Communications Manager Jacqueline Baptista and Jane Weatherley to discuss this matter. The first draft of the 2010 bill was sent to the Australian Egg Cooperation on 27 May 2010. On 8 August 2011 Dr John Kaye met with Mr Jeff Sorrel, Campaign Manager Government Relations, NSW Farmers Association, to discuss the bill. So there has been consultation and engagement. But there has not necessarily been agreement because the three big caged-egg producers they represent are not happy that consumers want transparency and consistency of labelling. I also note that the amendments to the original bill in the upper House were supported. In fact, those amendments, put forward by the Labor Party, have made it even easier for

the Government to support this bill. Those amendments made changes that in the view of the upper House at least would be supported by the majority of people in our community.

Interestingly, some people have claimed that free-range egg production systems are not better for the animal or the environment. Cannibalism is an issue in highly-stocked farming environments. Indeed, cannibalism has been explicitly linked to highly-stocked density of laying hens. This has traditionally been the case in intensive farm production systems. Hens naturally peck at their environment. This behaviour can manifest itself in commercial laying flocks as hen bullying, injury and death. There is some approach to mutilate the layers when they are chicks by de-beaking them, but strong evidence exists that in the lower-density environments this behaviour is less obvious. In 2009 Compassion in World Farming explicitly linked feather-pecking behaviour and cannibalism with hen stress and environmental deprivation. Its report states that feather pecking is redirected ground pecking and foraging behaviour that the birds are displaying because they do not have the ability to move around their environment. It advised that the provision of space and better facilities encouraged natural behaviours and discouraged abnormal pecking that may injure other hens. So how do we manage feather pecking? The solution is simple. You improve the environment and that reduces feather pecking. I have spoken to farmers who produce free-range eggs and seen their farms. If you provide a free-range area with plenty of space, shelter and vegetation to peck at—as specified by our definition of free range—then the feather pecking becomes a non-issue.

Ms Katrina Hodgkinson: I really think you need to go and visit one of these farms.

Mr JAMIE PARKER: The Minister says that she thinks I should visit one of these farms. I hear the Minister advocating de-beaking.

Ms Katrina Hodgkinson: It is not de-beaking; they just laser off the hook at the end of the beak.

Mr JAMIE PARKER: I understand that the Minister is an advocate of de-beaking. We are simply saying that the way to avoid feather pecking is to have a lower density of birds. That issue can be avoided with reduced stocking densities and those reduced densities can be reflected in a label that identifies to people that animal welfare is improved. Importantly, we can improve the welfare of animals by having reduced stocking rates; we can ensure that consumers are protected by a standard which actually means something; and we can also ensure that those who are running legitimate and genuine free-range egg production enterprises are well supported.

Before I conclude I will define what the free-range market is. Some people say that it is such a tiny portion of the market that it does not matter, and they question why the Government would get involved. They concede that the big industrial producers are throwing their weight around but wonder whether we need legislation to protect consumers and small farms. According to the 2010 annual report released by the Egg Corporation, in the 2010 financial year free-range eggs represented 26.6 per cent of the market in volume and 37.3 per cent of the market in value. It is a significant category. Free-range eggs are a significantly higher value product and represent almost 40 per cent of the value of the market. Australia-wide this represents 91.77 million dozen eggs produced annually with a combined value of \$174 million a year. Free-range eggs are not a niche or elite market; they are a mainstream market in Australia.

In 2009 the retail giant Woolworths announced that it would reduce its number of caged egg products sold from 20 to 11 and increase its free-range egg stock in acknowledgement of growing consumer demand. That was a significant achievement. Coles recently made the announcement that it would be phasing out its own brand of caged eggs by 2013 and reducing the price of its free-range eggs by 18 per cent in response to consumers' desire to purchase ethically produced eggs. There is a consumer movement around the ethical treatment of animals. That movement is also made apparent by the decision of Coles to sell products labelled as sow stall free. There are issues with the definition of "sow stall free", but it demonstrates that the ethical treatment of animals is a growing issue.

However, as the market grows so do the false claims on free-range eggs. I encourage members to look at the claims on the products sold in their local supermarkets. They variously claim to be barn laid, open laid or free range. Some of the products specify that the eggs come from farms that house no more than 1,500 hens per hectare; others provide no definition of what "free-range" on the packaging means. That is why we are here today. This bill protects the definition of free range and the farmers who should be benefitting from the considerable growth in ethical consumerism. This is an important matter for not only consumers but also producers. I have met with the Minister on this issue. We had a positive discussion, but it is clear that the Government does not feel comfortable supporting this bill. However, I encourage members to examine this issue. The bill is the beginning of a campaign which is about ensuring the protection of consumers and the protection of free-range farmers. The proper regulation of free-range eggs is a litmus test for policymakers. We need to get it right to protect the future of free-range egg farmers and their animals and the consumers who rely on their product. I urge the House to support the Truth in Labelling (Free-range Eggs) Bill. I commend the bill to the House.