AGRICULTURE AND ENVIRONMENT COMMITTEE

Members present:

Ms JR Howard MP (Chair)
Mr SA Bennett MP
Mrs J Gilbert MP
Mr LP Power MP
Mr R Katter MP
Mr EJ Sorensen MP

Staff present:

Mr R Hansen (Research Director)
Mrs M Johns (Principal Research Officer)

PUBLIC BRIEFING—EXAMINATION OF SUGAR INDUSTRY (REAL CHOICE IN MARKETING) AMENDMENT BILL 2015

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 15 JULY 2015

Brisbane

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Committee met at 12.04 pm

KNUTH, Mr Shane, Member for Dalrymple

RYAN, Mr Stephen, General Manager, Australian Cane Farmers Association

CHAIR: Welcome everybody. I declare this meeting of the Agriculture and Environment Committee open. I would like to acknowledge the traditional custodians of the land that we are on today. I am Jennifer Howard. I am the member for Ipswich and the chair of the committee. The other members of the committee who are here today are the deputy chair, Stephen Bennett, the member for Burnett; Mrs Julieanne Gilbert, the member for Mackay; Robbie Katter, the member for Mount Isa; and Linus Power, the member for Logan. Ted Sorensen is not here. He is on his way. He is the member for Hervey Bay. I would also like to welcome Shane Knuth here today. We have granted leave for him to participate in today's briefing.

Please note that these proceedings are broadcast live via the parliament of Queensland's website. The purpose of the meeting is to assist the committee in its examination of the Sugar Industry (Real Choice in Marketing) Amendment Bill 2015, which was introduced by the member for Dalrymple, Shaun Knuth, in May this year. Mr Knuth will explain the background to this bill and what he believes it will achieve. The committee has given leave for Stephen Ryan, General Manager of the Australian Cane Farmers Association, to assist Mr Knuth with the briefing today.

After they have spoken to us about the bill, I will invite both of them to respond to questions from the committee. Does everybody have their phones turned off? Welcome, Shane, and Stephen. Would you like to make a start, Shane?

Mr KNUTH: Thank you. Please be advised that Mr Ryan appears to provide expert advice as relevant to the Queensland sugar industry. Let me be clear, he is here in an independent capacity.

In regard to why I introduced the Sugar Industry (Real Choice in Marketing) Amendment Bill, I have a number of sugar cane farms in the northern part of my electorate and the Atherton Tablelands. I was approached by the Atherton Tablelands cane farmers association—or you could probably say the Mareeba cane farmers—expressing concerns in regard to the millers moving themselves out of the present sugar marketing arrangements by the end of 2016. At this present moment, it is a transparent marketing arrangement. QSL is made up of millers and growers and, in conjunction with each other, work towards the grower's economic interest to market that sugar.

I will give an overview of the policy objectives of this bill and I am happy to take questions afterwards. The objects of the Sugar Industry (Real Choice in Marketing) Amendment Bill 2015 are twofold. I will read out these policy objectives. We provided information to the Mareeba cane farmers. The member for Mount Isa and I attended a meeting in the seat of Hinchinbrook in a place called Ingham, which was packed out by cane farmers who were very concerned about the millers removing themselves from the present marketing arrangements by the end of 2016. Likewise, there was a great concern in a meeting that we attended in Innisfail. There is concern stretching from Port Douglas right through to Bundaberg at this present moment in regard to the sugar industry and the concerns of the sugar industry and the removing of that present marketing arrangement. I have seen all of the towns in rural and regional Queensland—many of them just a domino factor—wiped out one after another; rural decline. So I have a great passion and concern about the sugar towns stretching from Port Douglas right through to, you could probably say, the Sunshine Coast. Putting this bill together was a lot of work and I am just very dedicated to ensuring that we get a good outcome here. The best outcome is to ensure that we have the protection of the farming industry and those sugarcane farming towns.

The policy objectives of the Sugar Industry (Real Choice in Marketing) Amendment Bill 2015 are twofold: to ensure that growers have real choice in deciding the marketing entity for sugar in which they have an economic interest and to achieve a fair and final resolution of any commercial dispute that arises between growers or mill owners, including by arbitration.

I refer committee members to the revised explanatory notes. The House has provided a revised version of the explanatory notes. I refer committee members to those notes as relevant to the reasons for the bill. The bill takes into account current and future arrangements for the marketing of sugar produced by the Queensland sugar industry. It is to ensure that all growers have a real choice in terms of nominating the marketing entity for sugar in which they have an economic interest.

It also prevents anticompetitive behaviour and promotes pro-competitive outcomes for the Queensland sugar industry. The bill allows the transition from almost exclusive marketing by Queensland Sugar Ltd but it allows mill owners, among others, to compete as a market entity in the Queensland sugar industry. This is consistent with deregulation and competition policy objectives. It also safeguards growers' choice because of the different marketing options becoming available to them.

That is saying that this is not about reregulation; this is about giving the growers a choice in who they would like to market their sugar. If they choose to market their sugar through the multinational millers, then this legislation framework provides for that. If they choose to market their sugar through QSL, then this bill provides that legislative framework. The act does not provide those pro-competition arrangements to ensure that you can choose who you are going to market your sugar through. It is not reregulation at all; it is consistent with the competition policy arrangements that are in place.

The bill makes a significant step forward as a pro-competitive initiative. It is consistent with deregulation of the Queensland sugar industry, which was partially introduced by the Queensland government in 2006. There is a long history of many important steps in the progress of the Queensland sugar industry. I table documents produced by the Australian Cane Farmers documenting the history of events of Queensland and the Queensland sugar industry. I have right here—

CHAIR: Sorry, I will just ask the member for Dalrymple if he would seek leave to table those documents

Mr KNUTH: Yes. I seek leave to table those documents. There are about five or six there for the committee to view them when they have the time to do that.

CHAIR: Is leave granted? Leave is granted. Thank you.

Mr KNUTH: This is important to the modern-day Queensland sugar industry. In 2000, the Sugar Industry Act 2000 established Queensland Sugar Ltd—QSL. QSL is a not-for-profit industry owned company limited by guarantee. It was set up so that it was owned 50 per cent by growers and 50 per cent by mill owners. QSL took over the industry marketing formerly undertaken by the Queensland sugar corporation—the successor to the sugar board.

At the time, raw sugar produced in Queensland was vested in QSL. In 2004, the Queensland Sugar Industry Act partially deregulated the industry and, among other things, permitted growers to enter into supply contracts with mill owners. In 2005, the Queensland government repealed the vesting powers of QSL, effective from 1 January 2006. This was deregulation of the marketing of Queensland raw sugar exports.

When the Queensland sugar industry was deregulated in 2006, the process and agreements made it clear that all stakeholders foresaw partnerships between growers and mill owners and marketing entities as applicable to the marketing of raw sugar. This involves growers entering into supply contracts with mill owners and mill owners entering into raw sugar supply agreements with QSL.

Under raw sugar supply agreements, the mill owners supply QSL with 100 per cent of the raw sugar produced and intended for bulk export. As a result of the arrangement, QSL became the marketing entity for more than 90 per cent of on-supply sugar exported from Australia. Significantly, around 95 per cent of Australian sugar production occurs in Queensland. The Queensland sugar industry makes a significant contribution to local economies and employment in sugar towns. It also makes a strong contribution to Queensland's gross state product. I table a document here. This was from the Parliamentary Library in regard to research showing QSP and other data. I seek leave to table those documents.

CHAIR: Is leave granted? Leave is granted.

Mr KNUTH: It is important to point out that unlike other stakeholders QSL—Queensland Sugar Ltd—is a not-for-profit company with no traditional ownership interests in mills. To say that again, it is important to point out that unlike every other stakeholder, you could say, Queensland Sugar Ltd is a not-for-profit company with no traditional ownership interests in mills. There is no reason they would

want to rip-off the canefarmers. Basically, when it comes to marketing everything is transparent because it is a not-for-profit entity. It is made up of mill owners and canegrowers.

This removes the risk of monopoly power in reverse. For example, a mill owner—a single buyer—also participating as a marketing entity and misusing their bargaining power to exploit growers—multiple sellers—in the process of negotiating supply contracts. The potential for this to occur arises because growers in a region are dependent on local mill owners to process their cane into raw sugar for export.

The risk of growers being exploited is heightened when an entity owns multiple mills of logistical importance to growers. This is a substantial risk for the Queensland sugar industry which can be illustrated by a review of mill owners and locations throughout the state. I seek leave to table a document produced by the Queensland Parliamentary Library research service listing the 21 mills in Queensland, the mill owners and the location of each mill.

CHAIR: Leave is granted.

Mr KNUTH: The bill takes into account the relationship between growers and mill owners in this context and safeguards growers in two ways. Firstly, it enables growers to properly negotiate a supply contract with a mill owner regardless of the grower's preferred marketing entity for sugar in which they have an economic interest. Secondly, it enables growers to nominate the marketing entity of their choice without fear of not getting a fair supply contract with a mill owner. Importantly, this is consistent with deregulation and competition policy objectives.

The bill supports a relationship between mill owners and growers and it contributes towards the long-term sustainability of the Queensland sugar industry. It recognises that both mill owners and growers must achieve mutually beneficial gains from trade, otherwise trade and exchange will break down.

In the event of commercial disputes between growers and mill owners, the bill ensures the fair and final resolution of such disputes, including by arbitration. The bill does not re-regulate the Queensland sugar, rather it is to safeguard growers' economic interests. It provides both growers and mill owners with the right to determine how their respective economic interest in export sugar is taken to the market. The bill is to prevent anticompetitive behaviour and promote pro-competitive outcomes.

If a grower chooses to market their sugar through QSL or chooses to market their sugar through the multinational millers both have to compete to ensure that they get the best price and best deal for the sugarcane farmer. If those millers believe that they are best placed to market a grower's sugar and over a number of years can show worthy sugar marketing arrangements people will go with them. However, if QSL can prove that they can market the sugarcane growers' sugar better, then they have to go with Queensland Sugar Ltd. The crux of this bill is to give growers a choice.

The bill is designed to prevent anticompetitive behaviour and promote pro-competitive outcomes. Overall, the bill is designed to ensure economic viability for both growers and mill owners as well as all others in the Queensland sugar industry. The bill is consistent with the objectives of the Sugar Industry Act 1999, the Commercial Arbitration Act 2013 and the Competition and Consumer Act 2010. The bill is specific to the Queensland sugar industry. It is also consistent with current laws enacted by the Queensland and Commonwealth governments.

I will go through some of the amendments contained in key clauses of the bill. Clause 4 amends section 29. Clause 4 makes an amendment to section 29 of the Sugar Industry Act 1999 with regard to the definition of supply contracts. It still ensures that the supply of cane by growers to a mill and the payment to growers in return is governed by the supply contract. Clause 6 inserts two new subsections—subsections 33A and 33B—in the Sugar Industry Act 1999. It inserts subsections 33A to address disputes about supply contracts including by arbitration. It creates a process, including time frames, to refer disputed terms of an intended supply contract to arbitration.

It confirms that the Commercial Arbitration Act 2013 applies to the arbitration. In addition, it sets out what is taken to be an arbitration agreement, despite section 7 of the Commercial Arbitration Act 2013. It confirms that the arbitration tribunal may decide each disputed term of an intended supply contract. It upholds that any terms agreed between the grower and the mill owner, along with any decisions made by the arbitration tribunal about disputed terms, are to be taken as a supply contract made by the grower and mill owner.

The bill also inserts new subsection 33B, specifying terms to be included in a supply contract between a grower and mill owner, except if the grower is a related body corporate of the mill owner. The mandatory terms are concisely as follows: the payment to a grower, which is to be worked out in a stated way, for the supply of cane; the proportion of sugar for which the mill owner must bear the

sale price exposure; the proportion, if any, of sugar for which the grower must bear the sale price exposure—also known as grower economic interest, GEI, sugar; the requirements for a mill owner to have an agreement with a GEI sugar marketing entity to sell the quantity of raw sugar in which a grower has an economic interest; and if the grower and mill owner cannot agree about the marketing entity, the grower must nominate a marketing entity and the mill owner must accept the nomination.

New subsection 33B also sets out that certain terms do not apply if the supply contract states that the mill owner will sell the on-supply sugar. In particular, the term about the mill owner having an agreement with a marketing entity does not apply. This refers to subsection 33B(2)(d). The term about the grower having to nominate a marketing entity does not apply—this refers to subsection 33B(2)(e).

Clause 7 amends section 34, parties must use the dispute resolution process stated in the supply contract. Clause 7 sets out that the supply contract must state a process for dispute resolution, including by arbitration. It also inserts new subsection 34(3) to uphold that the Commercial Arbitration Act 2013 applies to such arbitration.

Clause 8 inserts new section 238 in the Sugar Industry Act 1999 to authorise specific things under new subsection 33B for competition legislation. In particular, it authorises: the making of supply contracts between a grower and mill owner in accordance with the prescribed terms of new subsection 33B(2)(d) or (e); the mill owner and GEI sugar marketing entity making an agreement to sell on-supply sugar in which the grower has an economic interest; and the GEI sugar marketing entity selling on-supply sugar under such an agreement.

Clause 9 inserts new chapter 10 and section 298 in the Sugar Industry Act 1999 to set out transitional provisions. These apply to continuing supply contracts and/or arbitration initiated before any later commencement of the Sugar Industry (Real Choice in Marketing) Amendment Act 2015. Clause 10 amends the schedule—dictionary—to omit the definition of supply contract and insert new definitions for GEI sugar marketing entity, on-supply sugar, sell and supply contracts. I am happy to take questions from committee members.

Mr BENNETT: There was a lot of talk about arbitration in your statement. Who is proposed to be the arbitrator?

Mr KNUTH: With regard to arbitration, what I was spelling out before is that if they enter into arbitration it then comes under the Commercial Arbitration Act.

Mr BENNETT: So we are going to send the millers and the growers off to arbitration under that act?

Mr KNUTH: The Commercial Arbitration Act 2013 applies to the arbitration. There will be an arbitrator through the Commercial Arbitration Act 2013. It will go to arbitration. If there are terms that they cannot agree on then it goes to arbitration. Then it comes under the Commercial Arbitration Act.

Mr BENNETT: I understand all that. I was just wondering who we thought the arbitrator might have been. I suppose the next question is who pays the costs of arbitration?

Mr KNUTH: It is exactly how it is under any arbitration.

Mr BENNETT: Currently they can do that under their service arrangements. They can go to arbitration now, can they not?

Mr KNUTH: If that is a question on notice, I am happy to provide you with more detail.

Mr BENNETT: I am not trying to be difficult. I understood that you can do your service arrangements with your miller and if you do not agree you can go to arbitration. Is that not the case?

Mr Ryan: We are talking about two different kinds of arbitration. We currently have under the Sugar Industry Act a requirement for a cane supply contract to have a provision for mediation and arbitration—dispute resolution, essentially. That is dispute resolution on the contract.

What we are talking about here is mediation and arbitration to arrive at a fair and workable contract. The current act requires that there has to be a cane supply contract for a grower to supply cane to a miller or a processor of that cane, but it does stipulate that that contract has to be anything else other than that it has to exist and it need not be fair and it need not have any other provisions other than a provision for dispute resolution.

Mr BENNETT: But under 33B, even after we have gone to arbitration if we cannot agree the grower nominates where it is going to go anyway.

Mr Ryan: That is with respect to marketing sugar not to negotiating a contract. That is with respect to a grower being able to say that their economic interest sugar will be marketed through the entity of their direction.

Mr BENNETT: We talk in 33A and 33B about arbitration and trying to get an outcome for both parties. Obviously, that is the desired outcome. I note the last part of 33B says that if grower and miller cannot agree about the economic interest of the sugar marketing the grower must nominate where it is going to be marketed anyway. It basically counteracts the arbitration process, does it not—33B? I made that observation. I think we need to have a look at that one.

We talk about QSL. You know I have QSL in Bundaberg port so I know a lot of about this. Where is QSL's current balance sheet in terms of their effectiveness or long-term sustainability? We are saying that they are a not-for-profit. I understand all that. I know most of the guys who work down there. Have we ever done an effectiveness model or due diligence on QSL as the preferred supplier? I am thinking exactly what Shane is here about—protecting my sugar seat. Where is the effectiveness or the margins or the business case on QSL's success?

Mr Ryan: Is that for me?

Mr BENNETT: I am happy for whoever to take the question.

Mr Ryan: The situation with QSL is that it does have remaining mills that are committed to it and so it does have a core viability. Of course the mills that have withdrawn from QSL, if their growers were able to elect their economic interest sugar, then there would be a lot more sugar that would be able to be committed to QSL. We must remember that the growers did not pull out of QSL; it was millers that pulled out of QSL and that the growers are commercially divorced from QSL and that they have no commercial relationship directly with QSL since the deregulation of the sugar marketing component of the act in 2005-06.

Mr BENNETT: Are you aware now that, with the current proposal by the federal government and their code of conduct, we are going to somehow interfere in that space? I think you might have touched on that, Shane, that you thought this could run parallel to the mandatory code of conduct in this issue. I think you comment that it has been widely discussed up and down the coast of Queensland, and I appreciate you have been to a lot of those meetings. Have we had a look at the code of conduct and how it may run parallel or contrary to this?

Mr Knuth: It is consistent with the federal government's mandatory code of conduct. Probably the difference between this is—well, I would not say difference. One is that we are uncertain whether that is going to be adopted by the federal government, and likewise this is a bill before the House at this present moment that will be going through the committee system. The thing is that my bill is basically consistent with the recommendations by the federal committee that is investigating sugar marketing in Queensland.

Mr BENNETT: Do we have any other examples in the agricultural sector where growers maintain an economic interest in the marketing of a product after they have actually sold it at the farm gate?

Mr Ryan: The example that comes to mind is the flexibility around cotton growers. It is a slightly different situation. Every situation is different, but they have the option of selling to a cotton ginning processing business, or they have the option of maintaining ownership of that product and paying for the ginning of that product. That is not exactly what we are talking about here, but it is a fairly close example of flexibility that they have. We do not have that same flexibility.

Mr BENNETT: Shane, I am just struggling to find where you made reference to it. The economic interest that we are talking about now is only for profit in this bill as opposed to where there may be a marketing disaster, as happened in 2009 or 2010 when the industry was asked to pay $2 million back to the millers, I think, from memory?

Mr Knuth: It was one hundred and five and a half million, I think.

Mr BENNETT: And 20 for our area I think was part of that interest. This changes that; is that my understanding? I think you read it out before. You are happy to share in the profit of the marketing with growers' economic interests, but the millers take full responsibility—

Mr Knuth: That has to be determined. It is whether the multinational millers are going to share in those losses and likewise QSL as well, so the risk is both ways.

Mr POWER: Is one of the concerns with the millers having a vertically integrated model that the nature of profits and losses were not as transparent as QSL?

Mr Ryan: I do not want to confuse the issue here with what happened in 2010, but just to use that as a case in point. The issue in 2010 was where there were large losses from corrections in futures positions due to the nature of the weather. What happened is that the raw sugar supply agreement between mills and QSL was interpreted in a certain way that growers' economic interests

were recognised, and they were recognised under a deregulated environment in order to put a cost as a loss back on to the growers under their economic interest. Of course if you recognise their economic interest as a loss—if you want to socialise the losses, then you have to also recognise the economic interest when there is a gain. That is the argument.

Mr BENNETT: Point two of 33A says, '... the proportion of on-supply sugar for which the mill owner must bear the sale price exposure'. I suppose that is what I was alluding to. Is that the change that we are looking for from the growers that they will not have to share in the debt? It clearly says the mill has to take the on-sale exposure, and I am just questioning: is that a subtle change, or was that intended for the protection of the grower as opposed to what happened in 2010? Am I on the right track there? Because it clearly states that we are putting it all onto the miller to bear the cost.

Mr Ryan: Each party would bear their own risk for their own price exposure. It goes along the lines of economic interest. The mills would bear their price exposure, and the growers would bear their price exposure. The crux of how gains and losses are handled really comes back to the cane supply agreement itself.

Mrs GILBERT: Can I just ask a question about the ownership of the sugar? The farmers still actually own the sugar after it is milled and then it goes off to QSL, so at what point does it change hands and who actually owns it?

Mr Ryan: I will try to explain it in relatively simple terms. As I mentioned before, the act says that there must be a contract, but it does not really say what must be in that contract. The only reason that a contract may say, as most of them do, that title of the cane transfers to the mill and therefore the sugar that is made from that cane is because the growers do not have the market power to negotiate anything other than that. They simply do not have the market power.

Under the current raw sugar supply agreement between mills and Queensland Sugar, once that sugar is delivered to Queensland Sugar at the bulk terminal then the title transfers to Queensland Sugar, and the mills currently have the opportunity to buy back, at a neutral cost, their proportion of the sugar to market that. But those that have withdrawn from Queensland Sugar are proposing to take control of all of that sugar, and that title would be retained with them. That is their proposal by resigning from our Queensland system.

Mrs GILBERT: I was just a bit confused about that ownership.

Mr KATTER: I have a two-part question for Stephen. I think we have all got a basic understanding, but can you walk us through how that price gets back to the grower in the end through that system? What seems to be coming out here as an issue is transparency. How does that come into play in that price getting back to the grower? That seems to be a critical part of what you are saying.

Mr Ryan: I will try and keep it in simple terms again and put upfront that I am not a futures expert or sugar marketer, so I will just talk in general industry terms. The sugar that gets delivered at the moment under the RSSA—I will talk about that sugar that stays with Queensland Sugar—then Queensland Sugar markets that sugar around the world, mostly in the Asian hemisphere, and it manages the foreign exchange, the currency, and also the futures positions for that sugar. It hedges and also manages freight and hedges freight. It tries to obtain the best returns to the industry through hedging to give some sort of transparency and surety each year out as to where our price and income is going.

Because of their size and because they have the title in the sugar, they are able to borrow money at very low rates and finance the advance payments to the industry—to growers and to millers, of course—who choose to participate in this system. It is that financing and those payments through the sales of sugar that go back to the miller. So the chain of contract is: grower, to miller, to QSL, to the market. The returns currently go from QSL back to the mills, and the mills, according to the contract that the act requires between a grower and a miller and the consideration that that contract requires, then the growers are paid.

Traditionally we have a formula that was developed from the early days of the industry which has the dual incentives of incentivising a mill to obtain and extract more sugar from the cane and to be more efficient and for growers to produce cane with a higher sugar content. The formula can appear very confusing, but that is the long-term arrangement that we have used in the industry.

Mr KATTER: There was a comment made earlier on about QSL's viability, and I was just trying to pick up on what you were saying. Is it right to say that they would critically rely on some volume and that a lot of it hinges on that volume, which sort of seems to be a big part of what this bill is about as well, is getting some of that critical mass.

Mr Ryan: Yes, that is correct. There is a critical mass, and the economics of QSL's operation improves with a larger volume of sugar. That is the nature of the commodity business.

Mr KATTER: But that seems to me to be a critical part of this bill. It gives them that opportunity to still have that volume, whereas—

Mr Ryan: That is right; that is one limb. That is one branch of the virtue of this particular bill and this argument. The other is that it is pro-competitive and provides a choice to a grower, whereas under the previous system of single desk it was a statutory monopoly. But now since it was deregulated, market power has simply accumulated local regional private monopolies. It has not allowed a free market in any sense. We have gone from a statutory monopoly to localised private monopolies, and that choice is not present.

Mr SORENSEN: How many mills have dropped out and what percentage of sugar overall has dropped out of QSL?

Mr Ryan: Everyone that has been in QSL is still in until the end of 2016, so this is an issue that has a very tight lead time. I am not quite sure of the actual percentages, but we are looking at quite a significant majority of the sugar that would be leaving QSL and would be leaving QSL with probably under 700,000 tonnes of sugar once these mills pull out.

Mr SORENSEN: How would that affect the viability of QSL?

Mr Ryan: It would affect QSL. I am really not qualified to comment on QSL's viability, but certainly we think it would be cutting down to a critical mass for QSL and it would not want to get much lower than that. But again it would be much more efficient and suitable if it had a larger mass of sugar.

Mr POWER: The practice of this bill once enacted would see millers having a choice over the marketer of their sugar, and the practical effect is it is your belief that many of them would choose to stay with the QSL marketing arrangement. Would that be the practical effect?

Mr Ryan: From consultations that we have had throughout the industry and our colleagues in other industry organisations associated with us, we believe that some growers would put some sugar with their miller, a small amount perhaps, but they want the choice. Whether or not they put most with one or most with the other, we believe that they will put most of it with QSL. It has absolutely been indicated that some growers will put some through their miller but most through QSL. But the thing is they have the choice, whereas now they do not have that choice.

Mr POWER: You would not envisage any growers choosing to market their sugar through a third party, not through the millers' marketing or their own individual miller's marketing or the marketing of QSL?

Mr Ryan: Well, it is quite possible that a third party could come on the scene, but it is probably unlikely that a viable third party—and we are talking here probably the trade—would come in unless they could secure a significant tonnage, and again critical mass would be an issue for the trade.

Mr POWER: I think there would be the possibility that millers from one mill might market with the marketing operation of a separate mill if they had that control over their raw sugar.

Mr Ryan: It is a possibility that that could happen. It would be a matter for the growers in a particular area. It is quite possible under the current act as well because we have the provision for collective bargaining. It is quite possible under the existing provisions for contracts to be negotiated where growers commit to QSL. There is not necessarily a risk that there will be perhaps a predatory process that goes on from one miller into another miller's area. It potentially could happen, but we have existing provisions to prevent that happening by negotiation through our collective agreements.

Mr POWER: Earlier Stephen talked about other industries and whether they had similar marketing operations. Is sugar relatively unique in that it is a high-volume, high-weight, high-tonnage crop that is perishable and that limits the ability of the sugar grower? For instance, with cotton, you can take a bale of cotton and presumably it is not as perishable as sugar?

Mr Ryan: That is right.

Mr POWER: It gives more choice to the grower in terms of what they wish to do with it?

Mr Ryan: That is right. Without thinking up the best analogy, probably dairy is a good one. Sugar cane is perishable. Depending on the temperature environment, it needs to get to the mill within 18 hours and be crushed. Once sugar is made, it is a commodity. Sugar cane is not a commodity; it is a perishable product, and those growers, again, are bound by natural monopolies. There is a reason why the cost of inbound freight is expensive. The issue of supplying a local mill is a historic thing, but

the issue of combining that with pricing and marketing services for a commodity which is an international commodity is a different proposition all together. Sugar cane and sugar are two very different products.

Mrs GILBERT: I have a question about the mills. The mills would have an opinion on all of this as well. Is there any possibility that you may lose mills out of the system if they do not get what they want? Are they in this for the long term as well?

Mr Ryan: I will make a comment, but I cannot really speculate on the strategies of different mills. However, what I would like to say is that this is a business that has been built for over 100 years on partnership, on being in business together, on growing the pie together and dividing the pie, but certain parties have chosen to change that system. That system is the whole reason the industry has been built. The whole industry has been built on the premise of growing that business in partnership and dealing in partnership. So I do not see any reason why any miller who has invested in our industry would want to do that.

We must also realise that mills that have invested in our industry did so under a system that was publicly agreed to and was a voluntary marketing system where everybody would stay in it. It may not have been legally binding, but the whole premise at the time of the deregulation was a voluntary agreement between millers, the milling council and growers that it would occur via mutual continuing participation.

Mr KATTER: I have a question for the member for Dalrymple. Can you briefly give us an indication of the genesis of this bill? What sort of support on the ground does it have? If there were any meetings or forums on the bill, was opinion divided or was there consensus?

Mr KNUTH: The growers see that it is transparent, but at the meetings that we attended and which union representatives also attended they expressed concerns that this new marketing arrangement would force growers out of the industry, it would not be transparent and it would cost jobs within the sugar industry. My experience of the passion that was shown was that we had not only Canegrowers and the Cane Farmers Association but also union representatives who were concerned about the changes to these arrangements. As Steve was saying before, what has been in place has been working for over 100 years, but at the present moment a number of mills want to pull out of those arrangements. As I mentioned before, at the meeting that I attended in Ingham there were a lot of growers. The place was packed out, and they were more or less pleading for us to do something. The way I see it is that if any party does the same thing here I would support it because this is so important to rural and regional Queensland and those regional communities, especially the farming communities. We are really doing it tough.

In Western Queensland, as you probably know, we are in recession. I can see that if this new arrangement is put in place there will not be that transparency. With QSL at the present moment at least growers see the benefit in having a transparent marketing arrangement. They see the benefit in having QSL market their sugar for them. Going back to that, we are not really asking too much in this bill. We are basically just asking for a choice. That is also what sugarcane farmers are asking for. They just really want a choice. The millers are not losing out. They are already milling the sugar cane. They are getting profits out of that, but they want to go further and grab more and more. If they go further and grab more and more, the concern of the growers is that it is going to be at the expense of the growers.

DEPUTY CHAIR: I have a question for both of you. Are you aware of any possible advice about the legal ramifications or legal challenges that may flow from the introduction of this bill? There are rumours out there. I am just wondering if there is anything more tangible.

Mr Ryan: The Senate inquiry touched on some advice around free trade agreements and those sorts of things. Along with other canegrowers and other industry parties, we have sought advice on these matters. That advice says that there is no threat to any current free trade agreement or those being currently negotiated. That was specifically to a code of conduct, but we believe by extension to a pro-competitive amendment to the Sugar Industry Act. We have also had confirmed by his Honour Ian Callinan advice that clearly states that the Queensland government has the power to make pro-competitive amendments to the Sugar Industry Act, and we have also had economic work done by Deloittes Access Economics to show that there is a market power imbalance and they have demonstrated that in their work. That is again work by ourselves and Canegrowers and some of those other works through other related parties.

Mr KATTER: Stephen, in other presentations we heard about the risk to the capital invested by some of the millers. Do you hear much from the growers about the risk to their investment in their farms?

Mr Ryan: Yes, this is a very urgent issue. The growers, of course, have at least two-thirds of the capital tied up—some $11 billion or more in the industry. At the moment they are making investments in their crops, in routine crops and plant crops that need to be hedged. They need certainty and so confidence is a crucial issue at the moment. That confidence is important for going ahead in the sugar industry, but it is also confidence that is very important to supplying cane for the biofuels industry, should that happen. We are going through another iteration of that at the moment. Confidence in supplying sugar cane for whatever purpose is on a knife edge, and the issue is that, quite frankly, mills are holding the cards at the moment. They have contracts and are saying, `When you need to price come and see me, I have a contract,' and we know that every day that we delay plays into their hands and that every day we delay is one day closer to an eventual price uptick where growers will feel the need to price. Collectively and individually, they do not have the upper hand at the moment.

DEPUTY CHAIR: If there are no more questions, I might give Shane or Steve the opportunity to take a couple of minutes to make a closing statement. Is there anything you would like to add in closing?

Mr Ryan: I will make a few remarks. I am here in a consultative capacity. The remarks I would like to make is that the legal and economic advice that we have had on the strength of what we have just said about a need for choice and a need for certainty to make pricing and investment decisions is that we strongly think considering the history and context of the industry a pro-competitive amendment to the Sugar Industry Act is very much a state issue. The Queensland sugar industry is pretty much a Queensland issue and we have a state act that has been very strong for a number of years. It has been amended a few times. I think that what has happened in the last few years was unforeseen and unintended. I think we have unfortunately suffered the brunt of raw market power which was an unforeseen and unintended consequence of a stage of deregulation. There needs to be, in our view, a necessary adjustment to put that back in kilter.

Mr KNUTH: In terms of my closing remarks, as I have said before, I am very passionate about this bill but my passion comes from the farmers and the communities. When putting this bill together, I made sure that this was put together appropriately with the support of the cane farmers and the Canegrowers association. I also acknowledge the need of not necessarily making changes but trying to continue with the status quo but at the same time not bringing in reregulation; bringing about a choice. This is what this bill does. It brings about a choice. As Steve was saying in regard to the legal side of it, it has been tested but there is no reason for it to be tested. When you look at any big company—whether it is fuel companies or Woolworths or Coles—they are always marketing and promoting the word `choice'. We have implemented something that the big corporates, the big multinationals, want. I hope that it does not get to the situation, particularly with the multinational millers, that everyone else is calling for choice but when it comes to choice they want all the farmers to choose them but by force. What this bill does is provide the legislative framework. There is no gun or anything like that. If you want to market your sugar through QSL, you can. If you want to market through multinational millers you can, and that is the wonderful thing about this bill.

DEPUTY CHAIR: That brings this public briefing to a close. I sincerely thank Shane and Stephen for their presentations to the committee today. We remind everyone that the closing date for lodging written submissions for this bill is 20 July and the guidelines are available on the website. I declare the briefing closed.

Committee adjourned at 12.59 pm