Speech by

Hon. HENRY PALASZCZUK

MEMBER FOR INALA

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PRIMARY INDUSTRY BODIES REFORM BILL

Hon. H. PALASZCZUK (Inala—ALP) (Minister for Primary Industries) (12.30 p.m.), in reply: I have arranged to have distributed a new set of amendments to the Bill. This set replaces that which was distributed on Friday. This new set is necessary because of two changes in the amendments which the Government wishes to make. These changes result from further discussions with peak bodies and relate to the date of transfer of the two bodies and the nature of trusts for canegrowers.

This Bill epitomises the two key approaches of the Beattie Government to policy for primary industries. Firstly, it is about reform which benefits ordinary producers, not change for change's sake. Secondly, it is about gradual transition, not about radical change. What the Bill also demonstrates is that this is a Government that is prepared to govern in the interests of all Queenslanders, regardless of their occupation, their regional status, or their political allegiance.

As I said in my second-reading speech, it would have been very easy for the Government to have walked away from the five producer bodies provided for in this Bill. It would have been easy to say that the problems could not be solved, it was all too difficult and we should just cut them adrift. We have not taken the easy way out. We have worked hard, in consultation with the producer groups and with our legal advisers, to find a better way for the five bodies and for the producers that they represent. All of the five are ready to make the change and are very confident about the future.

My department has been in daily contact with the producer bodies and has worked closely with them to explain how this Bill will work to ensure that the transition is as smooth as possible in the circumstances. As a result of these detailed discussions between my department and the relevant industry bodies, I propose that a number of amendments be made at the Committee stage of debate.

Most of these do not raise matters of policy and are consistent with the broad thrust of the Bill. There are, however, three matters of a substantive policy nature requiring explanation, namely: an extension of time for implementation arrangements; the treatment of Canegrowers' subsidiaries; and the treatment of Queensland Fruit and Vegetable Grower local producer associations.

Firstly, let me refer to the extension of time for implementation arrangements. At present, the Bill provides for the transfer of assets and liabilities from the five statutory producer representative bodies to their respective non-statutory replacement bodies to occur one day following the date of commencement of the legislation. In other words, this was to happen on the day after assent. The Bill also provides for the termination of existing levies on assent.

Each of the bodies has different needs in terms of the timing of the change; hence the Bill is to be amended to provide extra time where it is needed. QFVG is happy to proceed on the day after assent, as is currently provided in the Bill. QCFO needs an extra week to complete its arrangements. Canegrowers, Queensland Dairy Farmers and Queensland Pork Producers will all have an additional month to effect the transfer. We cannot delay the implementation of this scheme of the Bill for too long because of the legal imperatives.

Also, the facilitating provisions of the Bill allow for extremely rapid action for transfers. For example, under the Bill, an incorporated association could be registered in one day, when this would ordinarily take around three weeks. Again, this is needed because of the urgency and makes the strict time frames a lot more reasonable than may at first have appeared to be the case.

Secondly, I come to the treatment of Canegrowers' subsidiary bodies and their assets. Following the introduction of the Bill, concern had been expressed by some canegrowers—notably in the Burdekin area—to ensure the proper future use of funds and assets which have been provided by way of levies. These decisions would be made by the mill supplier committees and district canegrower executives which are subsidiaries within the three-tier Canegrowers structure.

I want to ensure that, where assets have been acquired by local bodies for the benefit of local growers through levies on those growers, control of those assets continues to reside at the local level. It is not, and never has been, the intention of the Government to seek control of these assets moved to Canegrowers' head office in Brisbane. I do not believe this was the intention of Canegrowers, either.

As drafted, the Bill provides that assets, such as land and improvements, held in trust by Canegrowers for the mill supplier committees and district canegrower executives are likewise to be held in trust by each replacement company, along with any associated liabilities. However, not all the locally funded assets are land and buildings. Some mill supplier committees and district executives hold substantial cash reserves and other assets not covered by the trust arrangements, such as computer equipment and vehicles.

The Bill, as initially drafted, provides that these other assets become assets of Canegrowers immediately before the transfer day and then transfer to its replacement body, which is to be a company limited by guarantee. It is my understanding that Canegrowers propose in the rules of the replacement company that these assets will, once transferred to the replacement company, be held for and on behalf of equivalent mill supplier and district executive subsidiaries to be established by the replacement company.

However, this is unlikely to satisfy the increasing number of canegrowers who are now starting to press for more legislative certainty as to the future use of their assets. It seems that there is a concern that company rules can be changed far more easily than an Act, and hence initial safeguards in the rules could be removed at some later date. I believe that these concerns need to be properly addressed.

Accordingly, amendments have been prepared by the Office of Parliamentary Counsel in regard to the treatment of all assets and any associated liabilities of mill supply committees and district canegrower executives. These amendments protect and preserve local grower interests. But they also enhance grower control of their assets. Let me repeat—local growers will have more control of their assets under this Bill than they have had for the past 75 years. I will explain these in detail during the debate in the Committee stage.

Finally, I would like to inform the House as to the treatment of QFVG local producer associations. Local producer associations are commonly described as the "base tier" of the Queensland Fruit and Vegetable Growers structure, although in a strict legal sense they are not subsidiaries of QFVG. This means that they are not the same in a legal sense as the mill supplier committees and district canegrower executives within the Canegrowers structure. Therefore, they have to be handled in a different way.

There has been extensive discussion with the Office of Parliamentary Counsel and with QFVG senior management regarding how the Bill should handle local producer associations and their assets and liabilities. In the Bill as it now stands, those local producer associations which have been constituted as cooperatives have already been excluded from the statutory transfer arrangements because they are distinct legal identities in their own right. An amendment is also proposed to exclude those few that are incorporated associations as well.

However, the difficulty has been with regard to what to do with those local producer associations—and this is by far the majority—which are unincorporated and which arguably have no proper legal status at present. More particularly, the question is how to deal with local producer associations in a manner that is both legally sound and which preserves the existing assets, liabilities and obligations of these bodies. It is, of course, recognised that the assets have been funded by the relevant local producers and not by way of QFVG levies.

I am pleased to announce to the House that agreement has now been reached with QFVG on amendments to the Bill which will enshrine local ownership and control of local producer association assets. I will explain these in detail during debate in the Committee stage.

Before leaving this matter, I wish to commend the senior management of QFVG for the responsible way in which they have handled this most difficult issue. They have sought at all times to achieve a workable outcome while recognising the Government's policy framework, on the one hand, and the need to protect and preserve the rights of local producer associations in a legally defensible manner on the other.

The consultation with the bodies themselves has resulted in 38 amendments to the Bill. I want to assist in a smooth transition, and that is why I am prepared to make these amendments. Many of them are only minor or are of a technical nature.

I now wish to address some of the issues raised by honourable members opposite in this debate. A number of these concerns have already been dealt with by the Government's amendments, so I do not intend to traverse that ground again. The honourable member for Crows Nest raised concerns about the inclusion in this Bill of amendments to the Meat Industry Act. It is not, nor will it become, my general practice to add matters such as this to legislation which deals with one topic. In this case, there is a degree of urgency to ensure that the Meat Industry Act amendments are in place by December. This is because the QAC needs the power to enter into contracts in relation to its Cannon Hill site as soon as possible. Australian Country Choice, the prospective investor in the site, needs to get the contract signed for commercial reasons and so that it can begin construction of its new kill floor on site. As this new kill floor needs to be in place by November next year, commencement of construction cannot be delayed. Hence the urgency to sign the contract. I assure the honourable member for Crows Nest that, but for this urgency, I would not have included these amendments in the reform Bill but would have awaited an omnibus amendment Bill.

The issue of the Government's legal advice has also been raised. I will not engage in a legal debate on the floor of the House. I do not think that anyone can argue seriously that the Government would be acting with such urgency were it not extremely concerned about the doubts that have been raised. I have been asked repeatedly by members opposite to table the Government's legal opinions. All honourable members would be aware of the concept of legal professional privilege that attaches to legal advice. If the Government were to begin tabling its legal advice or passing it around freely, it would lose legal professional privilege. It is the strong position of Crown Law, the State's lawyers, that the advice cannot be released, and I will abide by its view on this matter. If members would like me to, I can get legal advice from Crown Law on the loss of legal professional privilege that would result and I will then table that advice.

The shadow Attorney-General asked who has been advising the Government and proceeded to suggest that whoever this was did not understand the law. The Government's advisers on this matter have been Mr David Jackson, QC, of the Sydney Bar, Australia's pre-eminent constitutional lawyer; Mr Cedric Hampson, QC, Queensland's most senior silk; and Mr Pat Keane, QC, the Solicitor-General. I suggest to the honourable member for Warwick that he might want to reconsider his remarks about these learned gentlemen. If they say that there is a doubt that has to be resolved, I will move to cure that doubt. Their advice is that the provisions of this Bill unequivocally cure any doubts that could arise.

The shadow Minister and the shadow Attorney-General raised the issue of a flat fee being a constitutional method of collection. It is the case that a flat fee raises fewer doubts than does the current system. However, has either member thought through their suggestion that this would solve the problem? I very much doubt it. I cite the following reasons. A flat fee is obviously the same for all producers, whether they be large producers or small producers. The question emerges: what rate would one set? For equity reasons, it would have to be quite low so as not to disadvantage the smaller producers. The revenue collected would be nowhere near sufficient for any of the organisations to continue their functions with any degree of normality. This option was canvassed and was dismissed as impracticable.

I must take issue with one comment made by the honourable member for Crows Nest, who suggested that even if the levies were found by a court to be unlawful this would not bankrupt the organisations. With respect, I believe that this shows a flippant attitude to the financial wellbeing of these bodies. I inform the House that some $18m per year is collected by the five bodies through the levy system at present. Canegrowers itself collects $6.7m and the QFVG collects about $5m. Having to repay this money, even if it is limited only to one year, would have dire effects. The members cannot seriously suggest that the Government should risk this. To do so would be irresponsible and highly detrimental to the interests of the organisation and its members. It all gets back to legal doubt. If the Government is aware that there is a doubt, it must act to cure that doubt. I can only hope that the members opposite would do the same if they were in office. I am sure that the honourable member for Crows Nest would do that, but I do have some concerns about other members on his side of the House. I would also be profoundly concerned if they were prepared to ignore such a situation and run the risk of legal challenges. This would be an abdication of responsible government.

The member for Mulgrave, always attentive to the needs of his constituents, raised a number of issues. I assure him that these will be dealt with by the Government's amendments. The issue of stamp duty was raised by the member for Gladstone, the honourable member for Crows Nest and others. I reiterate what I said in my second-reading speech, that is, stamp duty relief will be afforded. However, this will not be done by legislation, it will be done via ex gratia payment. This means that the duty is assessed in the first instance and has to be paid, but then Treasury can make the refund. Cabinet has

already, on my submission, said that this will happen—and it will. This really should be sufficient for honourable members opposite.

Mr Cooper: You can't trust Treasury.

Mr PALASZCZUK: I reiterate: Cabinet has already, on my submission, said that this will happen.

The issues raised by the Scrutiny of Legislation Committee have been alluded to by many members opposite. I believe I have addressed these issues in my letter of reply to the committee. At the end of the day, the committee's comments depend on the urgency of the Bill. As I have said, it is urgent and hence the measures are justified.

The member for Mirani raised the issue of sugar research levies. These matters are not the subject of the Bill. The State BSES levy will finish with the commencement of the new Sugar Industry Act on 1 January 2000. At the recent meeting of the Sugar Industry Development Advisory Council a special industry working party was formed to examine the best mix of funding options for the industry. This can include contributions from the pool via the QSC, use of the Commonwealth levy, local area agreements and voluntary contributions. Industry values its research and development and I am sure that it will work to find an acceptable mix of funding arrangements.

The honourable member for Mirani also raised the issue of the single desk. My support for the single desk marketing of sugar is well known. I believe it is a crucial factor in the success of our industry. The Sugar Industry Act, which this House passed recently, secured the single desk. In my eyes, this is one of its key achievements. Next year the Government will move to allow the single desk to be conducted by an industry controlled marketing company. This is a huge step forward and demonstrates how far we have come. Who would have thought that this would have been possible for the sugar industry even two years ago? However, it is happening and it will give the industry much greater control over its own destiny.

A number of members raised the dairy industry and the potential for deregulation. The new Victorian Labor Government has allowed its farmers a vote on whether or not to deregulate. The vote will be conducted from 6 December to 20 December and will be on the basis of one cheque, one vote. I urge Victorian farmers to think very carefully about what they are doing and the implications for their State and for farmers in other States. I am keenly awaiting the outcome of the ballot and the Victorian Government's ultimate decision.

Before I conclude, I notice that the honourable member for Burdekin is in the Chamber. He foreshadowed his concerns about possible National Competition Policy implications of this Bill in his speech on the Sugar Industry Bill. It was not clear to me at the time why an issue concerning the Primary Industry Bodies Reform Bill was raised in the context of the Sugar Industry Amendment Bill and nor was it clear whether the honourable member was advancing argument in support of adherence to NCP principles. Anyway, I hope to put his mind at rest by saying that this Bill does not raise NCP issues. Specifically, the Bill does not seek to impose restrictions on competition as that term has been defined for the purposes of the legislation review component of NCP. This is because the Bill does not seek to impose any restrictions on the production or the marketing of any commodity and nor does the Bill prevent producers from joining and funding other non-statutory representative bodies.

Compulsory membership is itself not a restriction on competition. This is because the compulsory membership provisions are not linked in any way to the producer's right to engage in the production or the marketing of that particular commodity. To put it in a different way, if a producer fails to pay his membership fee, he or she will not be prevented from continuing to produce or to market the commodity in question. If there were such a restriction, then it would be caught up by the NCP.

Let us consider this example. If the Bill said that a commercial fisher would not get his commercial fisher licence renewed if he failed to pay the membership fee for the QCFO's replacement body, then we would have a restriction on competition as we understand the term to mean. However, the Bill does not contain this type of restriction. I will give another example. If the Bill said that a fruit grower could not sell any produce at the Brisbane Markets unless he paid the membership fee to the QFVG's replacement body or if it said that a sugarcane grower could not supply cane under a cane supply agreement if he was not a fully paid up member of the Canegrower's replacement company, then we would be dealing with restrictions on competition.

However, the Bill does not contain any of these restrictions. It does not restrict production, marketing or competition. It also does not restrict a producer from joining any other body he or she wishes to belong to. For example, it does not stop a canegrower from joining or continuing to belong to the ACFA. I assume that this is where the concerns of the member for Burdekin are coming from. I can assure the honourable member that those of his constituents who wish to belong to the ACFA will be able to continue to do so. The Bill will not affect that in any way, shape or form.

In conclusion, I believe this to be a landmark piece of legislation. As the member for Mulgrave pointed out, the Bill replaces some very historic pieces of legislation. It is true that the times have

changed, but let me urge all producers to belong to their industry associations. These associations do very fine work. I deal with them regularly and they often provide me with wise counsel. At other times, they provide me with a damned good earful, but that is their job and they do it well. Under this Bill, they will do it even better. I commend the Bill to the House.
