Speech by

Hon. RUSSELL COOPER

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PRIMARY INDUSTRY BODIES REFORM BILL

Hon. T. R. COOPER (Crows Nest—NPA) (10.30 a.m.): The Primary Industry Bodies Reform Bill 1999 relates to compulsory levies for five organisations that have had compulsory statutory levies for a long time. The Opposition will be giving qualified support to the Bill, and we will be stating our concerns throughout this debate.

There has not been due process. This Government has failed to consult and deal sensibly, realistically and commercially with five major primary producer representative bodies. This Government, which is intoxicated with power, has used its right to introduce legislation to force a fate accompli down the throats of producer bodies that represent key sections of Queensland's vital primary industries. There is no doubt that, as the Minister himself acknowledges indirectly, this is a rushed exercise, and it is motivated by factors that one can only speculate about. To claim that this legislation is required urgently because of High Court decisions handed down in 1997, the relevance of which to these bodies is problematic, strains credulity.

This Bill represents a case study in how not to approach reform. The Bill is riddled with problems and injustices. Industry bodies have been presented with unrealistic and unfair timetables. The key stakeholders—the primary producers—are still largely in the dark and concerned about the implications of the Bill for services that they have been provided by their bodies as well as the ownership of key assets. To come into this House to try to present this Bill as a bold, generous and intelligent piece of reform, as the Minister has done, serves only to highlight how out of touch the Government is with the primary producers of this State and how out of his depth this Minister is in this portfolio.

The irony is that the coalition does not oppose reform. The coalition is not against a planned and proper move towards these bodies becoming non-statutory legal entities. However, the key to this exercise is proper planning and community consultation. I would have thought that, unless there were compelling constitutional or legal reasons— and they would have to be compelling—a sensible Government would have negotiated with these bodies suitable non-statutory models and then held a poll of relevant primary producers to see whether they wished to move down that path. A sensible Government would have put its cards on the table, negotiated up front with the industry and allowed the grassroots members to decide their own destiny democratically and in the full knowledge of the options and their implications.

It is clear that the views of key primary producer stakeholders have not been taken into account, and under this Bill the only thing on which they will have a say, explicitly granted by this Bill, is whether to extend the compulsory levy for a further two years. This is a case of reform being negotiated after the Government had made up its mind and with a pistol being held at the head of various industries. This exercise has been marked by secrecy, undue haste, lack of consultation and conflicting signals and messages from the Minister and his department.

The Minister may claim that the coalition was slow on reform when it was in office, but he confuses consultation with indecision. He confuses the formulation of sustainable policy proposals in consultation with industry with an abdication of responsibility. We were consulting and we involved the primary producers, whereas the Minister has not. We would have checked out the legal, taxation, legislative and social implications before we introduced legislation into this House. That is how a

sensible Government genuinely committed to sustainable and just reform would have approached this, rather than engaging in a ramshackle and rushed exercise of the type we have to deal with now.

This Bill has two broad objectives. The first is to repeal the Primary Producers' Organisation and Marketing Act 1926 and the Fruit Marketing Organisation Act 1923 to facilitate, in a rushed and compulsory manner, the transition of the Queensland Canegrowers Organisation, the Queensland Dairy Farmers Organisation, the Queensland Commercial Fishermen's Organisation, the Queensland Pork Producers Organisation and the Queensland Fruit and Vegetable Growers to non-statutory legal entities which, after a maximum of five years, will have voluntary membership and contributions.

The second objective is to facilitate the winding up of the Queensland Abattoir Corporation, and I will deal with this aspect of the Bill later. However, I make a preliminary comment that this matter should have been dealt with in separate legislation. This is not a miscellaneous statutes Bill. The primary purpose of this Bill relates to the stripping away of the statutory membership and contribution provisions underpinning the abovementioned five industry bodies. The amendments to the Meat Industry Act are quite distinct. As the Minister should know, having been in this House since 1984, it is poor legislative practice to try to introduce a departmental statutes Bill with more than one broad purpose, unless the Bill covers relatively non-contentious matters. Similar to this whole exercise, this is another example of a breach of process.

Before turning to the clauses, I think it is important to deal with some of the fundamental preliminary issues. In the Minister's second-reading speech, he stated that a major impetus for the Government's examination of the statutory producer representative bodies was legal advice suggesting that recent High Court decisions raise legal question marks about the compulsory levies that fund these bodies. Yet in the very next paragraph the Minister had to acknowledge that a lower court recently upheld these very levies. The best that the Minister could do was to say that there is legal doubt that higher courts would follow the decision and the Government was moving to remove doubt. If the Minister has Crown Law, or Solicitor-General's, advice on the legal status of these bodies, he should table it forthwith. He should come into this Parliament and provide to all members what the Government's own legal advisers are saying.

As the Minister knows full well, having regard to High Court decisions on section 92, section 90 and other provisions of the Commonwealth Constitution, there are doubts about a range of statutes, taxes, levies, policies and entities. The fact that we have been experiencing a bout of judicial activism which renders a lot of settled law unsettled does not provide the basis for rushing around disbanding bodies and repealing statutes unless there is a clear and pressing reason for doing so.

As the Minister did not deal with the legal doubt surrounding compulsory levies, let me do so. The real issue is whether the levies collected under the two statutes being repealed are duties of excise and, therefore, invalid by virtue of section 90 of the Commonwealth Constitution. The first paragraph of section 90 states—

> "On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive."

In other words, the Federal Parliament has the sole and exclusive power over customs, excise and bounties. I might add that both the various constitutional conventions held between 1973 and 1985 and also the constitutional commission established by the Hawke Government, and which reported in 1988, recommended that this section be amended to permit the States to levy excise duties. One hopes that in the future Federal Governments will think about practical constitutional reform issues such as this rather than republican agendas that seem only to excite the chardonnay set on the North Shore of Sydney or those in cappuccino bars in Toorak.

For decades there have been numerous and often conflicting decisions of the High Court on the scope of section 90. Throughout the history of Federation there has been doubt about which legislation would and would not be struck down, yet for decades Queensland's compulsory levy and membership legislation for primary producer bodies has remained constitutionally intact. The Minister would have people believe that there is now more legal doubt about our legislation than has existed previously. With all due respect to the Minister, I suggest that this may not necessarily be correct. It is true that the High Court gave an expansive interpretation of section 90 in the two 1997 decisions of Ha v. New South Wales and Walter Hammond and Associates Pty Ltd v. New South Wales.

However, the Queensland legislation is distinguishable from the legislation that was considered by the High Court. It is clear that the primary purpose of those two statutes is industry advancement rather than revenue raising. When one considers the legislation and subordinate legislation underpinning those bodies, one sees a range of services being provided to help primary producers, including marketing, research and information as well as matters such as arbitration and litigation assistance. The money raised by the legislation is not to benefit the Consolidated Revenue Fund but to look after the various industries. In that regard, there are next to no analogies between these pieces of

legislation and the tobacco tax considered in Ha's case. Indeed, if the Government was so worried about the implications of section 90, it could easily have amended the relevant legislative and regulatory provisions to have totally insulated them from a constitutional challenge. The Minister knows full well that, if the compulsory fees bore no relationship to the quantity of primary produce grown, caught or extracted, then any court looking at the legislation would uphold its validity on the basis that it was a fee for the privilege of carrying on a business, rather than an impost on goods produced or sold. Likewise—and the Minister also knows this—at least one of the industries subject to this Bill imposes a flat levy on all primary producers it is responsible for. In that case, that fee is totally unconnected with the amount of seafood that their members catch. Again there is almost no chance—and I mean less than 1%—of that industry having to worry about section 90.

I am not pretending that I am a constitutional lawyer. I recognise that there are problems and uncertainties, but it is not correct for the Minister to claim that the recent High Court decision somehow transformed the landscape or that there is now a cloud of doubt over the legality of the compulsory levy system. The reality is that there has always been a range of views about the constitutional validity of compulsory levies. Perhaps the 1997 cases brought these views into sharper focus, but it is not open to the Minister to come into this House and say that the only way to remove that doubt is to abolish the current arrangements. He knows full well that there are a number of options available. He knows that there are a number of legal opinions circulating that make it clear that those options are available.

I want to put to rest once and for all the spurious suggestion that this reform has been driven by constitutional considerations. In fact, I suggest that this reform package has nothing or next to nothing to do with section 90 of the Constitution. If the Minister and this Government wanted to reform the industries within the current framework of compulsory membership and levies, it could have done so. It has chosen not to do that. I am not criticising the Government for taking a different path; however, I am critical of the Government trying to use half-baked excuses for what it is now doing and using the High Court as the bogeyman for rushing through potentially unfair legislation. I would like to see the colour of the Minister's money. Let him produce all the legal opinions and the options on which the legal advice was sought or should have been sought. In the absence of some objective backup for these claims about the illegality of the current arrangements, I would suggest that that spurious excuse be dispensed with immediately.

The other preliminary issue that concerns the Opposition greatly is the abysmal level of consultation that has been afforded to the various primary industries affected by this Bill. The most eloquent testimony of this substandard and totally unacceptable consultation comes from the industry bodies themselves. To alert the House and the community, I now quote from the 7 October issue of the Queensland Fruit and Vegetable News, and the following comments of QFVG Chairman, Paul Ziebarth. These comments explain why there is so much discontent in the affected industries about the way the Minister and his department have gone about this exercise. Mr Ziebarth said—

> "On 20 July 1999, the government advised QFVG of its decision to restructure statutory bodies and that we had until 30 June 2000 to review our operations for restructuring. We have since been informed the government now plans to introduce the relevant bill in Parliament in late October, and for it to be given assent in late November 1999. This gives QFVG a matter of weeks to restructure.
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> In other words the Government gave us a short deadline, then shortened it again. So, while the QFVG was already off the starting blocks, the half marathon we thought we were running suddenly became a hundred-metre dash ... with hurdles.
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> In short, this time frame does not give us time to properly consult with growers and may put some research, promotion and grower service programs at risk."

Later in the same issue Mr Ziebarth also made these comments, and I hope that the Minister is listening—

> "My main concerns, which are shared by the Board, relate to the minimum consultation by government, and, consequently a lack of real opportunity for the QFVG to influence the process. Also, the lack of time we have to consult with growers, and the potential for research, promotion and grower service programs to be disrupted is disconcerting.
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> As your representative grower body, we have been particularly frustrated that government has not actively sought our input, nor have they given us time to consult at length with you. While I believe that the decisions the Board made were the best under the circumstances, the experience and expertise of growers throughout the State would have been welcomed. Your suggestions and your collective opinions would have provided us with a stronger voice. They may also have helped us minimise the potential for disruption to essential research, promotion and grower service programs."

That is not the view of only the QFVG, it is shared across the spectrum. In the 7 October issue of Queensland Country Life there is an extensive article headed "Uncertainty surrounds levies". I am sure that members and the general community would be interested in this part of the article—

> "Producer organisations like Canegrowers are wrestling to get a handle on the State Government's current push for the probable corporatisation of statutory producer representative bodies.
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> However, despite 'countless meetings and telephone calls' with government, a spokesman for Canegrowers said that it had little to go on with respect to the fine detail of the impending changes.
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> 'While we are not happy, we see no future in attacking the government because, ultimately, it can do what it likes,' the Canegrowers' spokesman said."

I interpose here to highlight my earlier comment about reform being driven with a gun to the head of industry. That statement by the Canegrowers representative sums up the uncertainty and fear that is hanging in the air. The article continues—

> "Echoing these sentiments sees Canegrowers general manager Ian Ballantyne also worried about the limited time frame required to form a new legal structure, protect assets and consult with growers—all before the next sugar harvest.
>
> Writing to sugar growers, he says the key issue at stake is the right of every cane grower to be represented."

I could quote from a number of other sources, but they would only underscore the widespread anger in the affected rural industries about the lack of proper consultation and the way that reform has been imposed on them without sufficient explanations and without enough time to work through all the implications. The Government, with this legislation, is overturning industry practices and structures that in some cases have been in place since before the Great Depression. To announce just a few months ago that the whole legal structure under which they are operating is to be changed and then to rush into Parliament root and branch restructuring is unfair. This Government has made much of its claims about community consultation. In this case, what little consultation has been undertaken has been rushed and substandard. Many of those organisations still have not determined the full implications of this Bill. So debate on this legislation has to be viewed from the perspective that many of the stated reasons for its introduction have little credibility and the framework of industry consultation has been hopelessly substandard. It should not be any surprise, therefore, that the coalition approaches this Bill with significant misgivings, particularly as its consequences for five critical primary industries and their members is so problematic.

This Bill has a retrospective nature. The first issue is the fact that under clause 2, with the exception of Parts 9 and 10, the remaining provisions of the Bill are deemed to commence on 29 October 1999. I should add that Part 9 deals with amendments to the Meat Industry Act and, therefore, is not relevant to the issue of compulsory levies. The explanation for that retrospective provision is provided in the Explanatory Notes. At page 4 the following reason is adduced—

> "The early commencement of these provisions is to the advantage of producer bodies and their members. It will allow adequate time for those bodies to establish replacement corporations before the date on which the transfer of assets and liabilities is required by the Bill. The transfer is required to occur on the date of Royal Assent."

That last comment relates to clause 10, which defines the "transfer day" as the day after the date of assent.

One of the major concerns with primary producer bodies is the implication of legislation on the transfer of assets and liabilities. Under this Bill, because it will be absolutely impossible for replacement corporations to be established within 24 hours of this Bill becoming law, it is necessary for the legislation to in effect force primary producer groups to start setting up replacement corporations right now, even though this House has not even decided to support the Bill. A number of practical, legal and parliamentary concerns arise from this peculiar and quite artificial arrangement.

In Alert Digest No. 13, the Scrutiny of Legislation Committee made this very legitimate observation—

> "In order to ensure that replacement corporations are appointed by the transfer day it will be necessary for relevant steps to be taken prior to the date of assent of the Act. Thus producer bodies and the statutory appointments under the Associations Incorporation Act 1981 and the Cooperatives Act 1997 will be required to do things between 29 October 1999 and the date of assent which will not be lawful at the time that they are done. Although the retrospective commencement may subsequently make these Acts lawful, the Acts will be unlawful until the date of assent of the Act."

I will deal with the practical concerns of the committee shortly, but I pause and ask this House to consider the implications of what I have quoted.

This Government, acting with utter arrogance, has introduced a Bill that says, in effect, that we must do this now, even though it is illegal. However, our Bill will retrospectively make the illegal acts legal. In the event of not acting illegally, our Bill will ensure that draconian consequences will flow. That is not my fanciful interpretation but the clear consequences of this inequitable Bill. Should there be any doubt, let me quote from page 14 of Alert Digest No. 13, which states—

> "These provisions pre-empt the Legislative Assembly. It appears to be anticipated that producer bodies and relevant statutory appointments will undertake certain activities, contrary to the existing legislation, on the basis that these activities will be retrospectively validated.
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> Any decision by the Legislative Assembly to amend or refuse to pass the Bill may potentially have a detrimental effect on those parties who have acted on the undertaking that their activities will be retrospectively validated. Thus such actions pre-empt the decision of the Legislative Assembly."

I agree totally with the committee. This Bill totally pre-empts this debate and the whole parliamentary process. It treats this debate with contempt and renders the parliamentary process a mockery. So that is the first point—the abrogation of parliamentary process.

Before moving on, I think there is another very important principle here which is of critical importance for anybody interested in the rule of law and the Westminster principles of government. This Bill, in effect, by implication, imposes duties on public servants to process matters which, when they are being processed, are illegal. This Bill, as will be discussed later in this debate, shortcuts and mutates various important requirements of both the Associations Incorporation Act and the Cooperatives Act. How does the Minister think that various forms and procedures are going to be processed, approved or whatever? I wonder if it is going to happen by magic. The reality, though, is that this arrogant Government is forcing public servants to deal with matters which are contrary to the terms of existing legislation on the basis that a Bill we are now considering will be rubber-stamped. This Government is requiring public servants to breach current laws on a "trust me" basis. That is not only bad parliamentary practice but also destructive of the rule of law and proper public administration. It is a total affront to the very underpinnings of Westminster practice.

In his reply to the damning comments of the committee, the Minister responded by saying, and I now quote from Alert Digest No. 14—

> "Officers from the Office of Fair Trading were consulted extensively during the preparation of the Bill. Those officers fully understand and support the urgency behind the retrospective provisions of the Bill.
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> Those officers have agreed to register the replacement corporations, contrary to the existing provisions of the registering legislation. They have done so on the understanding that this Bill will be introduced and passed by the Legislative Assembly. Those officers have done so in good faith on the basis of that understanding.
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> I acknowledge that, as a general rule, such legislative provisions are undesirable. In this instance, however, I consider that the urgent need to remove legal doubt that threatens the ongoing viability of the producer bodies justifies the retrospective provisions in the Bill."

The Minister's trite response cuts no ice with me, and it obviously cut no ice with the committee. The committee, at paragraph 8.9 of Alert Digest No. 14, said in response to these comments—

> "The committee is concerned that a decision by the Legislative Assembly to amend or remove relevant provisions of the Bill would place these officers in an untenable situation."

In the next paragraph, the committee goes on to say—

> "The committee reiterates its view that provisions such as these should only be used in extenuating circumstances and where there is no feasible alternative. The committee refers to Parliament the question of whether the urgency justifies the approach adopted in these current circumstances."

As I have pointed out, I do not believe that there are any urgent circumstances whatsoever. We have a bogus reason being put forward—a Queensland parliamentary version of an Indonesian puppet play. The Minister knows that he cannot justify the urgency of this Bill. This highlights the danger and the unacceptability of him foisting illegal acts on public servants. I also find it unacceptable that this Minister can write to a committee saying that public servants in a consumer affairs office support the urgency of a Bill such as this when they would not even have been given copies of legal opinions justifying the Minister's interpretation of section 90. The Minister is using public servants as a political shield in a vain attempt to deflect the legitimate criticisms and concerns of the committee.

The other implication flowing from this curious arrangement is the problems posed for primary producer organisations. Again, this fact was highlighted by the committee, and Alert Digest No. 13 states—

> "The committee is concerned that this may present practical difficulties for the producer bodies and relevant statutory appointees. The committee is concerned that the provisions for transition to replacement corporations, and the time frame for such transition, may create practical difficulties for the producer bodies. The consequences of a failure to appoint the replacement corporation by the transfer day are that action may be taken to wind up the producer body."

The fact of the matter is that this is a very serious concern. It is a serious concern because of the operation of clause 14. That clause operates if a producer body does not appoint before the transfer day—which I remind honourable members is defined in clause 10 as the day after this Bill is assented to—its replacement corporation or give notice to the Minister of the appointment of its replacement corporation. Looking at subclause 2, the chief executive of the Department of Primary Industries is empowered to make an application to the Supreme Court to wind up not just the primary producer body but also a secondary body of the producer body. The term "secondary body" is given a wide definition under clause 7.

The extremely disturbing thing is that this Minister and this Government have come into the Legislative Assembly with a Bill that provides that, if any of the five primary producer groups have not restructured themselves and their secondary bodies by the day after this Bill is assented to, the Director General of the Department of Primary Industries can forthwith make an application in the Supreme Court to wind them up. As I have said, it is "gun to the head" politics and it is the very worst kind of politics. It is a concern which I have highlighted and which is shared by the Scrutiny of Legislation Committee. In addition, the committee made these observations—

> "The Minister comments in his second reading speech that the Government might simply have abolished the bodies, but they opted for the option of reform instead. Accordingly, it appears that the winding up of the existing bodies is not the Minister's intention. The committee is concerned that in some cases practical difficulties imposed by the requirement that the transfer date be the day after the day of assent may prevent the replacement corporation being appointed in time, thus creating the potential for the producer body to be wound up."

At paragraph 4.20 the committee specifically sought advice from the Minister as to why it was not considered possible to set a transfer date some time after the commencement of the Bill or a date to be set by proclamation. In addition, the committee quite properly and sensibly said that this would enable the Bill to be implemented prospectively, removing the need for producer bodies and relevant statutory appointees to undertake activities which are contrary to existing legislation.

The Minister's response to the committee, which is reported in Alert Digest No. 14, deserves to be quoted, because it really highlights the paper veneer of justification which this Government is adducing. The Minister said—

> "Legal doubts have been expressed about the legal validity of the levies currently raised to fund the producer bodies ... If the levies were found to be invalid the producer bodies would be required to repay a very substantial amount to producers. The sums involved would almost certainly send the producer bodies bankrupt.
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> Given these circumstances the Government considers it urgent that the legal doubt be removed as soon as possible. The earliest date that this could be done is the date after assent of the Bill."

The Minister then generously concedes that, if the primary producer bodies are not able to meet the assent plus one day target, he would be prepared to recommend—and just note that word "recommend"—that the period be extended by a month. I will make a couple of points about this justification.

First, it carried little weight with the committee, who pointed out that, while it may be desirable to have this matter resolved as expeditiously as possible, this had to be weighed against the pre-empting of Parliament. Second, the Minister failed to point out to the committee that, if at any stage the High Court did strike down legislation, section 10A of the Limitation of Actions Act 1974 applies to preclude a claim for recovery of "an amount paid as a tax that is recoverable because of the invalidity of an Act" unless the action for recovery is brought within one year of the payment. So there could not be any suggestion that primary producers who paid compulsory levies could go back and sue beyond that time. If the Minister has any Crown Law or Solicitor-General advice to the contrary, I would certainly be pleased if he would inform the House of it.

Third, and having regard to the clear implications of section 10A, what we are concerned about is retrospective legislation— legislation that forces action within too short a time frame. Extending the operation of the Act by a few months would significantly ease the burdens on primary producer groups

but in no way have any implications on the legal liability of those organisations. This illustrates our concern about this Bill. The Minister's reasons just do not stack up. There is no great urgency from a constitutional point of view, but even if there was, there is no need to go down the retrospective path charted by this Bill.

The Minister himself, in saying that if there were problems he would recommend that the period be extended by a month, illustrates this fact. He has conceded that there is leeway. There is room to move. This then only highlights how unjust and unjustifiable the Bill in its current form is. It makes me wonder just what the revamped office of the Cabinet in the Executive Building is doing in letting a substandard, regressive and unfair Bill such as this get through the Cabinet. Either the Premier and his office do not have any clout in Cabinet or those policy advisers do not have a clue about either primary industries or fundamental legislative principles.

I have previously pointed out that one of the coalition's major concerns with this Bill is the manner in which it is being foisted on the grassroots membership without primary producers being given a say in which way they want to go forward. This denial of democracy is enshrined in clause 11, which empowers the COD and the State Council of Producer Bodies under the Primary Producers' Organisation and Marketing Act to appoint a replacement corporation. Subclause (3) sets out the matters that are to be determined, including the constitution, share capital when there is a company with shares, or membership and conditions for becoming a member when there are no shares as well as the obligations, restrictions and rights attaching to members or shares.

Under this Bill there will continue to be compulsory membership, as a general rule, for a minimum of three years. Yet this Bill denies the grassroots membership of these organisations the right to vote on the proposed rules. It denies the grassroots membership the right to say whether the rights and obligations that attach to membership, including fees, are acceptable or not. I am aware that at least two of the five primary producer organisations intend to incorporate under the provisions of the Associations Incorporation Act. Under section 6 of that Act, a special resolution passed by 75% of the members present at a general meeting is required to adopt proposed rules. However, that requirement will not apply to primary producer bodies under this fast-tracked and anti-democratic measure.

What is truly amazing is that at the moment, under the Primary Producers' Organisation and Marketing Act, a compulsory levy can be struck only with the approval of the Minister. Yet under this Bill, the replacement bodies, while still having the benefit of compulsory membership for three years, will have no ministerial limitation on the striking of fees. The Scrutiny of Legislation Committee in Alert Digest No. 13 also touched on this matter and said—

> "Many unincorporated associations and cooperatives have power under their own constitutions or rules to impose fees and charges on their members. However, the distinction is that pursuant to the provisions of this bill membership of replacement corporations will be compulsory for three or five years in most cases. Further ... there is no requirement that all members be given an opportunity to vote on whether to accept a particular constitution or set of rules."

While clause 85 of the Bill does enable replacement bodies to dispense with compulsory membership during the transitional three-year period, I am sure that this would not be taken up for obvious reasons. The best that the Minister could do in response to these concerns was to point out that, under section 48 of the Associations Incorporation Act, the rules of the replacement body could be altered by a special resolution. In response, the committee said in Alert Digest Number 14—

> "The committee recognises that provisions which enable the members to change the rules by special majority provide some protection to the rights of members. However, the committee is of the view that ensuring that the rules are adopted by special majority in the first instance would have greater regard to the rights of members."

The committee referred to this Parliament the question of whether the urgency of the Bill justified the approach taken. Again and again the Minister rips out the old chestnut about the so-called urgency of this Bill to justify provisions that deny basic rights to primary producers. In this case, by rushing this Bill through, the Minister is denying the membership of primary producer bodies the right to have their say at the outset. This is not the fault of the primary producer bodies at all. They are being forced into action they do not want to take within unreasonably short time frames. As Paul Ziebarth said, the tight time frame set by this Government has prevented the QFVG and other primary producer bodies properly consulting with growers. The fault lies solely with the Government in forcing action on primary producer bodies, with the threat of winding up applications in the Supreme Court if they do not.

Mr Pearce: What is the difference between the producer bodies and the unions?

Mr COOPER: I know where the member is coming from and I know that the line-up of Government speakers to the Bill mainly consists of the AWU Right, who have come in to support the Minister on this issue. I am fully aware of where the member is coming from politically. We can read him like a book. I am talking about process. I think the process is flawed. Some good things may come out

of things being done on a voluntary basis—I have always belonged to voluntary organisations, and a lot of other people do, too. It is the process that we are talking about, and I think I am outlining that pretty clearly.

The fault, as I have said, lies solely with the Government in forcing action on primary producer bodies and the threat of winding up applications in the Supreme Court if they do not. Yet, the real losers are the people this Government claims to be interested in: the primary producers. I totally agree with the committee that it would have been preferable—in fact, absolutely essential—that members be given the right at the beginning to chart their future, rather than trying to organise special meetings and the like at some future time. In response to the committee, the coalition is firmly of the view that the so-called urgency of this Bill does not justify the approach adopted.

Another potentially unfair aspect of this Bill is the fact that existing office holders will cease to hold office by virtue of this Bill, and these persons are denied compensation. The Explanatory Notes claim that there is the likelihood that officers of the producer bodies will become officers of the new legal entity. No doubt that is the case. However, there is a basic principle of fair play at issue. If a person, through no fault of their own, loses their position because of this legislative intervention, I fail to see why this Parliament should step in and specifically deny them compensation. I would be the last one who would wish to see a replacement body saddled with compensation expenses, but on the other hand this will apply only if officers are sacked. If they are sacked because of this Bill, then I fail to see why a person adversely affected should be cut adrift by this Parliament. I would like the Minister to address this point in his reply because clauses 56 and 59 have the potential to operate unfairly and harshly.

We see that Part 3 of the Bill sets out very detailed provisions relating to the transfer of assets and liabilities of producer bodies to the replacement corporations and by secondary bodies to the producer body before the transfer day. There are potential problems with these provisions, but the issue that I am very concerned about is the stamp duty implications. It would appear that there will be at least two distinct series of transfers that will attract stamp duties. The first is the transfer of assets from the secondary bodies to the producer body immediately before the transfer day under Part 3, Subdivision 2. The second is the transfer of assets from the producer body to the replacement corporation under Part 3, Subdivision 4. The Minister has said that the transfer obligations will not result in a stamp duty burden on industry. In his second-reading speech the Minister said that, in common with previous primary industry restructuring exercises, this Bill does not have an explicit stamp duty exemption. However, ex gratia relief will be provided, and the principles that will govern that ex gratia relief are yet to be developed by the Department of Primary Industries and Treasury. The Minister should know that the Latin term "ex gratia" means that which is done as a favour rather than as a duty.

There is no obligation on the Office of State Revenue to do anything in favour of the producer bodies. In fact, far from it. They are obliged to charge these bodies stamp duty, yet in will come the Treasury and, out of the goodness of its heart, come to the rescue.

Mr Palaszczuk interjected.

Mr COOPER: I do not know whether the Minister trusts Treasury. I am afraid that I have doubts. I know that other bodies—I think I can quote the tobacco industry as one—are still waiting. That industry was granted an ex gratia payment. This is what we are worried about. We will be moving an amendment to have it incorporated in the Act so that there is no doubt that the stamp duty will be forthcoming. We say that provisions relating to stamp duty should be incorporated in the legislation. We should forget about this or that legislation in the past. If there is no precedent, then let us set one now. As far as we are concerned it is a good and fair measure, and incorporating it in legislation will allay concerns in the community. Why not just say that the transfer of assets and liabilities is exempt from stamp duty and leave it at that?

It is not satisfactory that these bodies will be left reliant on the favour of the Government of the day—favour which, I might add, will be determined on terms yet to be agreed upon. The implications of stamp duty being levied on these transfers is just too significant for the matter to be left up in the air. I suggest to the Minister that this issue needs to be resolved conclusively by a specific provision in the Bill. If the Minister will not move an amendment to this effect, then I assure him that we will give very strong consideration to doing so. There are other points about the Bill that are of significant concern, but I will raise them during the Committee stage as I want to make some comments now about the amendments to the Meat Industry Act.

In his second-reading speech the Minister made some quite spurious accusations regarding the former Government's divestment of the Queensland Abattoir Corporation which cannot go unanswered. For the benefit of the Minister and the parliamentary record, I will remind him of the untenable situation that the Borbidge Government inherited from the Goss Government with regard to QAC. As far back as Ed Casey's time, the QAC was forecasting the need to redevelop its operations in light of growing commercial difficulties, environmental problems and increasing urbanisation pressures around its south-east Queensland abattoirs.

The former Minister, Ed Casey, commissioned a report on the situation from the QAC board, which was duly completed and submitted to him. That report provided a number of options, with the most favoured being a plan to close down the Cannon Hill, Ipswich and Toowoomba plants and relocate to a new greenfield site. But it was all too hard and that Minister put the report in the bottom drawer and tried to forget about it. He hoped that the problems would simply go away. When the member for Bundamba took over the portfolio, he did not have the intestinal fortitude to do anything about it, either. It was all too hard.

The report stayed in the bottom drawer until the coalition came to office in 1996, by which time QAC's debts had reached some $11m. Labor's inactivity racked that debt up and left the taxpayers of Queensland exposed. It was the coalition Government that went out and consulted with the industry, recognised that government had no place owning abattoirs any more and faced up to the reality that some tough decisions had to be made.

Unlike our predecessors in the Goss Government, of which the current Minister was a member, we tackled the problem. We made those decisions and we set about acting on them. We began the process of withdrawing Government from the meat processing sector in a way which would minimise the disruption to the meat industry and in a way which would help make the industry more competitive in the long term.

Mr Palaszczuk: What a great testament. You closed down 17 abattoirs.

Mr COOPER: That was in the report. That is still valid and the Labor Government now has to contend with that. It was also the Borbidge Government which set about assisting those private operators in the meat industry to develop their businesses, become more internationally competitive and boost jobs through the development of the Meat Processing Consultative Committee's report.

The Beattie Government made none of those decisions. It inherited a process that was well on track and thoroughly thought out. That is why we are debating these changes to the Meat Industry Act today. For the Minister to claim that a process for Government's exit from the meat processing sector has suddenly now come about under his stewardship is conveniently forgetting modern history and is just plain wrong.

One change the Beattie Government made was to revert to a target exit date at the conclusion of QAC's existing contracts in December 2000. There has been some criticism of the coalition bringing this target date forward to 31 December 1999. I remind the Minister and the House that the target date was just that—a target—and was subject to two very important provisos. The exit would be subject to other meat processors completing a satisfactory upgrade of facilities by that date and would be subject to renegotiation of existing contracts.

It was made very clear that our intention was to get out of the industry sooner rather than later, providing the private sector could accommodate the withdrawal. It was also made clear that if those provisos were not satisfied then the withdrawal date would revert to the end of 2000. While the Beattie Government has now reverted to the end of 2000, it is fair to say that bringing that date forward acted as a catalyst for a stepping up by the private sector of its progress towards restructuring the industry in the absence of Government's involvement. This section of the Bill will provide for the next step in Government's withdrawal from the meat processing industry by allowing the QAC board to begin winding down operations and also by allowing for the subsequent appointment of an administrator.

I reiterate that the coalition does not oppose the principle of making membership of the five primary producer bodies voluntary. In fact, we see a number of advantages in producer bodies going down that path, if their members want that to occur. That is the main difference between the Government and the coalition. We believe that there is a case to go in this direction but that it is up to the membership of these bodies to make that decision. This Bill denies members that right. It forces fundamental changes on producer bodies in unrealistically short time frames and with over-the-top consequences if these are not met. It forces these bodies and public servants to perform illegal acts which will be retrospectively validated. It exposes these bodies to enormous amounts of stamp duty and then leaves compensation in the hands of the Government of the day in a grace and favour exercise.

This Bill is supposedly needed to clear up the uncertainties of High Court decisions that are now two years old, the relevance of which to these bodies is doubtful. So we have a smoke and mirrors exercise which forces change on industries which are operating well and denies members the basic right to make these decisions. We will not vote against the Bill, because the organisations involved need the time to make the transition to voluntary status. We do not want to see them have to go cold turkey. If the Minister does not accept our amendments relating to the commencement of this Bill and to the stamp duty exemptions, then we will certainly be moving amendments in that regard and, if necessary, diving on those clauses.

Unlike those on the other side of the Chamber, we have been doing as much consultation with various producer groups as we can. Producer groups in the fruit and vegetable industry and other industries are caught up in the issue of the levies. Some of the representations they have made to us highlight some of the differences in these various levies which I would like to put on the record.

A couple of people who are very big in the fruit and vegetable growing industry have concerns about the current levy structures. These are the sorts of things that have to be worked out. I know that there are people in the industry, the fruit and vegetable industry particularly, who do not like paying levies—I guess there are a lot of people around who do not like paying taxes—but this Bill will move it to a voluntary status in time. Therefore, they will get their way eventually. In that three-year period, if the members of these producer bodies want to have an earlier vote on voluntary status they can. When the three years are up it can be made voluntary, or they can go on for another two years with compulsory status—whatever they then choose.

It has been telegraphed to me that there are people who would prefer that they not be forced to pay levies for any longer than they have to. That is a problem with which people within the industries themselves will have to cope. But just as a matter of interest, I wish to point out some of the differences in the industry levies. For instance, the cotton industry has a levy of 1.6% of the gross margin.

Mr Mickel: A great industry.

Mr COOPER: Cotton?

Mr Mickel: Yes.

Mr COOPER: You betcha! How about sugar?

Mr Mickel: Great—absolutely!

Mr COOPER: That is right. How about wheat? Is that okay?

Mr Mickel: A great industry.

Mr COOPER: Good. We are going well.

Mr Mickel: You forgot dairying—fantastic!

Mr COOPER: Dairying, yes. I agree. That is good. It is a pity that this Government did not look after those people through this legislation. That is the pity of it all.

Mr Mickel: Wait until you see the new factory, and I'll show you how it looks after them.

Mr COOPER: Which factory?

Mr Mickel: The Crestmead factory.

Mr COOPER: I would love to. And I will show the member the chicken abattoir in Toowoomba. That is a very modern abattoir. Has the member been there?

Mr Mickel: No. Are you going to take me there?

Mr COOPER: I would be happy to. Is the member going to the Rockmelon Field Day at St George tomorrow?

Mr Mickel: I can't. I've got electorate work to do.

Mr COOPER: So have I.

Mr DEPUTY SPEAKER (Mr D'Arcy): Order!

Mr COOPER: The cotton industry has a levy of 1.6% of the gross margin. The sugar industry has a levy of 2.1% of the gross margin. And in comparison to those, the rockmelon industry has a levy of 11.37% of the gross margin.

I support the concerns of the people in the fruit and vegetable industry. Again, it is a question of those industries sorting out the level of their levies and applying fairness to their members. But as I have said right from the start, the members themselves are the ones who should be heavily involved. They are their own industry, and their livelihoods are at stake. We have their interests at heart, and that is why we have gone to a lot of trouble to deal with the problems and issues that they face. I am talking on their behalf. And if I have been a bit hard in this particular speech, it is because of the information that has come back from them, and I wanted to ensure that this House was made fully aware of their concerns.