GENETICALLY MODIFIED CROPS FREE AREAS REPEAL BILL 2015

Second Reading

Resumed from 17 May.
[Leave granted for Hon Stephen Dawson’s speech to be continued at a later stage.]

HON KEN TRAVERS (North Metropolitan) [6.01 pm]: I just want to make a few comments. I acknowledge the contribution by Hon Darren West, but I want to expand on a couple of areas that I thought he skipped over a little bit in trying to get through debate in a reasonable time. I feel that we need to expand a couple of areas on the Genetically Modified Crops Free Areas Repeal Bill 2015 and why we should be opposing it.

Members may recall a debate when members of the National Party moved a motion in this house some time ago calling for the Genetically Modified Crops Free Areas Act 2003 to be repealed. At the time I said that we need to completely understand what we are doing with this bill. The Genetically Modified Crops Free Areas Repeal Bill 2015 is in itself a relatively simple bill as it has only got five clauses. The substantial clause of the bill is clause 3, which reads —

The Genetically Modified Crops Free Areas Act 2003 is repealed.

The questions then arise: What impact will that have? Will it change anything? Will it mean the passage of this bill will suddenly allow canola to be grown in Western Australia because it cannot be grown today? The answer to that is no. In fact, one of the things that I am intrigued to hear from the Minister for Agriculture and Food is why we want to hand over powers to Canberra. That is what this bill does. I will go to the second reading speech of Hon Kim Chance when he introduced the bill that became the act that we seek to repeal here today about why we put that act in place. At the moment, the national Gene Technology Regulator can determine whether genetically modified crops or organisms can be grown or used in Australia. The act that we seek to repeal gave us control in Western Australia to determine our own destiny regarding whether those crops should be allowed to operate in Western Australia. This was not necessarily solely because we were opposed to the genetic modification, although many are opposed to GM in our community, but for a range of reasons—that is, the state may not have been ready for GM with the handling and processing and the legislative framework for dealing with disputes. If we look at the history of when we handed over powers to Canberra, which has taken away our controls, we can see what impact that had on Western Australia. It has never been pretty. In 1999 we agreed to hand over control for taxing, despite people issuing concerns, as part of the GST agreement. We reduced our ability to create our own taxes and control our own revenue sources, and we all know what impact that has had on Western Australia. We handed over a power and we moved our capacity to manage our own affairs in Western Australia.

It is really important to understand how the original 2003 act is constructed because it set up the system. I go back to the explanatory memorandum to the 2003 bill. I hope that members on the other side who are baying to support this bill have read this so they can understand what it provided for. Section 3 of the act sets out a range of definitions; for example, it defines a genetically modified crop and a genetically modified organism. It is mainly definitional. Section 4 is titled “Designation of genetically modified crops free areas”. In relation to clause 4, the EM states —

This is the crux of the Bill. It empowers the Minister to make an order designating an area of the State as an area in which a genetically modified food crop may not be grown.

Subclause (2) provides that an order or a combination of orders may designate the whole of the State. Without this provision it may have been argued that “an area” meant less than the whole of the State, which is not the intention. If the Minister considers it is necessary in order to protect the integrity of, and markets for, a non-GM food crop, the whole State may be designated.

The other important part of the EM to the original bill states —

Subclause (4) provides that section 42 of the Interpretation Act 1984 applies to an order as if it were a regulation. This means that any order made under the Act will have to be tabled in Parliament and will be subject to disallowance.

What does that all mean? The minister’s second reading speech, which he read when he moved that the bill that we are dealing with today be read a second time, stated —

In 2004, the whole of Western Australia was designated as an area where GM crops could not be grown.

That means that GM crops cannot be grown in those areas in WA that are using the powers of the 2003 act. That legislation was passed. I am trying to remember whether a disallowance motion was moved against that order but if it was, it survived the challenges in this house. The minister’s second reading speech goes on to state —
Two exemptions to this were subsequently granted. In 2009 an exemption order allowed for commercial cultivation of GM cotton in the Ord River irrigation area ...

Interestingly, GM cotton had previously been grown in the Kimberley in Western Australia. Someone whom I take a lot of notice of and who has always used as a sounding board on GM issues is Hon Kim Chance, a former member of this place and a former Minister for Agriculture and Food. I remember as a new member of Parliament, prior to the 2001 election—I cannot remember exactly what year it was, but it would have been sometime between 1997 and 2001—Hon Kim Chance, Hon Tom Helm, Hon Judy Edwards and I took a trip to the Kimberley to look at proposals to dam the Fitzroy River. A company called Western Agricultural Industries, I think it was, had been given the rights by the then government to explore the options for harvesting, by damming or other means, water out of the Fitzroy River. I remember Hon Kim Chance was very excited about and wanted to look at some of the trial crops, I think, at Shamrock Station—but my memory might be fading these days because it was so long ago. They were using pivot irrigation to grow GM cotton there. That was occurring back in those days. Kim was really excited to have a look at that. He was excited about GM and GM technology. The reason I say that is that he did not come from the position of automatically opposing GM crops, yet he was ultimately the person who brought in this bill. Still, to this day—certainly during this term of Parliament—he continues to be very concerned about genetically modified crops and their impacts, yet he was someone that I remember was excited about the Bt cotton grown at Shamrock Station.

GM crops have been grown previously. In 2009 there was an exemption to allow GM cotton to be grown in the Ord River irrigation area, and in 2010 an exemption order allowed for the commercial cultivation of GM canola. If I remember correctly, there may have been, under the original order issued in 2004—I am sure there are members in this place who would know this better than I—provision to preclude the commercial growing of GM crops, but there was provision for trial crops to be grown in some areas of Western Australia. Again, it was not a complete blanket ban, but it was put in place so that trial crops would be grown in specific controlled circumstances. Remember, at that stage Canberra had to approve all GM technologies to be introduced into Western Australia. In 2003 there was widespread concern in the farming community and more broadly about the introduction of the GM technology that had been approved by the national regulator, and about the fact that systems and laws were not in place to be able to handle GM crops. That is why orders were put in place.

The Liberal and National Parties, after some flip-flopping by the Nationals—as is often its wont in this place—decided they were comfortable allowing the commercial growing of GM canola in Western Australia. That was a decision taken by this Parliament—in fact, we had disallowance motions in this place around that issue—and control of the Western Australian industry was retained by the Western Australian Parliament. Remove this bill introduction of the GM technology that had been approved by the national regulator, and about the fact that systems and laws were not in place to be able to handle GM crops. That is why orders were put in place.

The minister’s second reading speech said that this legislation does not give effect to any intergovernmental agreement. It does in my view because it gives effect to allowing the national regulator to have complete control in Western Australia. The only other way of looking at it is that it certainly removes our capacity to have any control or say. I do not see what harm is done by maintaining that ability should we need it at some point in the future. We often talk about how it is hard to predict the future. The fact is, in the next Parliament, if Labor seeks to implement a ban on genetically modified crops, as we have said we will do, it will be up to this house to determine whether it occurs. If the numbers in this house are anti-GM as a result of the election, that order will get through because, as I mentioned earlier, it is disallowable under the Interpretation Act. If the numbers in this house are not such, I have no doubt members on the other side will move a disallowance motion and the world will not have changed and people will be able to grow GM crops. They can ignore the election and the mandates that are given and vote down the disallowance motion. What will we have achieved by getting rid of this legislation?

I heard members of the National Party talk about wasting money and time. I will tell members what the waste of money and waste of time is. It is the money and time that has been put into drafting this Genetically Modified Crops Free Areas Repeal Bill and bringing it into this chamber for something that will not have an effect other than determining what happens with future Parliaments and giving control to Canberra at the expense of Western Australia and the Western Australian Parliament having control over those matters. I do not think it is a bad thing that we control our destiny. We will have robust debates in this chamber about whether GM is good or bad, but let us have them here. Let us not allow Canberra to make those decisions. Yesterday the government
Hon Ken Travers was railing about the High Court’s decision to overturn the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Amendment Bill. That is a sad indictment. I wonder whether someone’s head will roll over that because of the expense for a bill that was always going to be challenged and that would have an unpredictable outcome.

The government said it thought it had a deal with Canberra. Did Canberra live up to that deal? Did Canberra honour the deal? I do not know how we could ever get a deal with the federal Treasurer and the Australian Taxation Office because just like the WA Office of State Revenue, the Commissioner of Taxation is independent and therefore cannot be controlled by Joe Hockey, so I am not sure how the political people in Western Australia did a deal with the politicians in Canberra on that matter. But the government reckoned it had a deal. Canberra sold out WA on the Bell Group bill. That is the way the government presented it yesterday, yet today we are back in Parliament saying, “Here Canberra, take control.” Mark my words: there will come a time when we will regret that. The government of the day might seek to scramble about and bring in legislation to reinsert the powers under the 2004 act.

However, what will happen in the meantime? What damage will be done in the meantime to the Western Australian agricultural industry? I am amazed that groups in Western Australia, such as the WA Farmers Federation and the Pastoralists and Graziers Association, which usually rail against the imposition of Canberra regulation on Western Australia, are saying hand over the powers to Canberra and remove control of WA’s own destiny. That is their choice; they are entitled to do that and be it on their head if it ever comes back to bite them on the backside. I think one day someone will want to introduce a new crop into Western Australia that the rest of industry is concerned about.

It is interesting that in his second reading speech, the minister spoke about 90 per cent of canola grown in the United States being genetically modified, yet only 30 per cent grown in WA is GM. I know there are some complex reasons for why we would or would not use genetic modification, but that tells me that Western Australian farmers are not busting their gut to grow GM crops because they understand that a good premium can be made from growing non-GM canola in Western Australia. At the moment, because it is only 30 per cent, we have protection. One of the problems for Canadian growers is that even if they grow non-GM canola, they are bunched in because so many GM crops are grown there now that people do not bother to differentiate. Therefore, farmers lose a right. This bill allows us to do that. In fact, it allows the National Party to implement the policy it took to the election; namely, if I remember correctly, to allow individual councils to make their own local decisions.

Debate interrupted, pursuant to standing orders.