

STANDING COMMITTEE ON LEGISLATION

TRANS-TASMAN MUTUAL RECOGNITION (WESTERN AUSTRALIA) BILL 2005

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 23 MAY 12007**

Members
Hon Graham Giffard (Chair)
Hon Giz Watson (Deputy Chair)
Hon Ken Baston
Hon Peter Collier
Hon Sally Talbot

Hearing commenced at 11.05 am**HILL, MR ALAN****Executive Manager, Western Australian Fruit Growers' Association, examined:****FRY, MS DIANNE****President, Western Australian Fruit Growers' Association, examined:**

CHAIR: On behalf of the committee I would like to welcome you to the meeting. Thank you for returning to assist the committee with its inquiries. There are a few formalities that I would quickly like to address before our discussions commence. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The Witnesses: Yes.

CHAIR: Thank you. Today's discussions are public. They are being recorded and a copy of the transcript will be provided to you. Please note that until such time as the transcript of your public evidence is finalised the transcript should not be made public. I advise you that premature publication of the transcript or inaccurate disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. If you wish to make a confidential statement, you can ask the committee to consider taking your statement in private. If the committee agrees, the public will be asked to leave the room before we continue. I will invite you to make an opening statement to the committee if you like. I probably should point out to you that the committee has received your submission but we have not determined its status with respect to its being a public or private document at this stage, so we will not be quoting directly from it or anything like that during today's hearing. I will now invite you to make an opening statement to us.

Mr Hill: The Western Australian Fruit Growers' Association welcomes the opportunity to appear before the standing committee. As we have stated in our submission, it is not our intention to go through the bill line by line, but rather in our capacity to represent the issues of the 700 pome, citrus and stone fruit growers who are members of our association. Quarantine and biosecurity issues are of critical importance to our members and the association supports the previous comments in state Parliament that the Trans-Tasman Mutual Recognition (Western Australia) Bill has clear quarantine implications and, as such, it is no surprise to the association that Western Australia is the only state not to have passed the legislation or equivalent legislation. Central to our concerns is the critical need to retain the recognition of the regional differences that exist in Western Australia.

In 1995 the commonwealth and states signed the memorandum of understanding on animal and plant quarantine measures outlining a consultation process that should occur when considering sanitary and phytosanitary measures which are to be implemented. It has been our experience that regional differences clearly exist and that federal government agencies have been very slow to recognise these.

[11.10 am]

WAFGA's position is that rather than impediments, our state quarantine restrictions should be viewed as a fundamentally necessary framework which protects the unique operating environment of our horticultural industry. As such, in our submission we called for the standing committee on legislation to acknowledge the critical importance of recognising and protecting Western Australia's regional difference in plant, pest and diseases; to make available to interested parties the updated version of the memorandum of understanding; and to recommend that the legislation not

pass until a clear consultative process with the industries likely to be affected by the bill has occurred.

We will finish off the opening address by giving one example, and perhaps the most long-running and public of the implications of legislative change such as this. This morning we will table a document highlighting the differences that existed in the apple import risk analysis from 2004 and 2005 for the importation of apples from New Zealand. In 2005 the IRA acknowledged Western Australia's unique position and proposed that no import of apples into Western Australia should have occurred, which is unlike the 2004 version of the same document which rated the risk to industry as very low. To our way of thinking, failure by the Western Australian industry to make an effective representation in 2004 would have seen a clear pathway for the entry of pest and diseases into Western Australia, and yet the difference between those documents was some 20 months.

Finally, I would like to say that it is WAFGA's position that the regional difference that does exist should not be a casualty of any process implemented to find the least trade restrictive route to meet Australia's appropriate level of protection. Thank you.

CHAIR: Thank you. I have a few questions that I shall put to you now. Can you go into a little more detail about how the bill in your view will impact on Western Australia's ability to impose quarantine measures?

Mr Hill: It is my understanding that it will restrict our capacity to bring up those areas of regional difference in processes like import risk analysis. I think that is critical to Western Australia both as a state and when we consider areas like Kununurra and Carnarvon as a subset of the state. There is clearly inter-regional difference within Western Australia and I do not think they are fully considered in processes like the IRA where we are generally looking at access to the country or the commonwealth.

CHAIR: We have heard from the Department of Agriculture and Food and its advice to us is that the bill will not prevent Western Australia from enforcing its quarantine protection measures because those measures are already required to comply with the SPS agreement; that is, quarantine measures must not be more trade restrictive than necessary to protect human, animal or plant life or health in Western Australia. Do you have any comment on that?

Ms Fry: I have a comment to make. In your deliberations in establishing and formulating policy we have had one disease, apple scab, and I will use that as an example. We have had how many incursions, Alan, since 1950?

Mr Hill: I think it is five.

Ms Fry: Five incursions. At the end of the day what happens with the position that you put down on paper on a MOU agreement is that somebody must pay. The way government agencies are operating now, history has shown that the people who end up with the bill are the industry and the growers. From a personal point of view and on behalf of the growers that I represent here today, that is totally unacceptable. In Western Australia all government policies say to us that we have to be competitive, we are unique and we have niche markets. There are not many things that make us unique in WA. We are not unique in our labour market. One hour of wages in WA buys you two New Zealand hours and they have the capacity to absolutely blow us out of the water with any horticultural product they decide to put on this market.

In your deliberations about where you go with this policy it needs to be considered that if we have outbreaks of any of the diseases that are not endemic here in WA, we end up wearing the bill, and our capacity to pay under the current model of fee-for-service recovery, is non-existent. That is what actually happens at the end of the day when you formulate these policies. It is great to have free trade and MOU agreements of less restrictive trade, but at the end of the day as I sit here, having had discussions with AgWA and the Agricultural Produce Commission, I am not a happy

lady. I need to make it very clear to you that is what happens with your decisions as they filter down. We have a bill on our table that we cannot pay.

CHAIR: There are two things that arise from that. You talked about apple scab and there being five incursions since 1950. Could you explain how the bill will actually impact on this? Will this mean that you will have either more incursions of apple scab or anything else, or fewer incursions?

Ms Fry: There will be more.

CHAIR: We need to hear from you on how that will work. Additionally, you talked about the price of labour in New Zealand. Does that form part of your opposition to this bill?

Ms Fry: I have been in the position for two years. I believe this came up in 1999. I have very little knowledge of the bill. That lies with your intelligence. I am telling you of the implications to an industry in WA that has a unique status in world production of apples. It is up to you as a Parliament of the people to recognise that uniqueness, because we do not have uniqueness in many areas. We have the uniqueness in that disease-free status, we have the cleanest fruit in the world. In your deliberations you have to work out whether in the detail of the bill that is tradeable or not. I have to leave that with you.

Hon PETER COLLIER: Could I just pick up on grants, because I am a little naïve with regard to this bill as well - green, for the want of a better term. I would just like to pick up on something **CHAIRman** said as well because I am still not convinced by your response with regard to the impact that the bill will have on the industry.

Ms Fry: I will let my executive officer answer that, I think.

Mr Hill: I guess if we begin with being a little green on the bill, the analysis of the legislation is certainly not my area of expertise. I will read from the explanatory memorandum that came out with notification of this: the principle aim of the Trans-Tasman Mutual Recognition (Western Australia) Bill is to remove impediments to trans-Tasman trade in goods and mobility of labour caused by regulatory differences amongst Australian jurisdictions and New Zealand. As a representative of a growers group it looks to me as though what is being said is, "We recognise that there are differences, but we would like to find a way to smooth those out from a federal level." To me that spells concern because it is a failure to recognise a state concern, and our concern with the bill - unfortunately I cannot point to the specific wording within it - is anything that impacts upon our capacity to make an argument based on a state level would be a strong concern to the association.

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[11.19 am]

Ms Fry: When the import risk analysis from New Zealand came in in 2004, we presented our submissions to Biosecurity Australia. We had a lot of trouble getting information from the Department of Agriculture and the Australian Quarantine and Inspection Service about whether the federal laws overrode the state quarantine laws. The New Zealanders had put an application to us. It definitely gave them the ability to access the eastern seaboard, but still to this day I am not clear in my mind whether we have the power in WA to say that because we do not have certain pests and diseases here those guys cannot come in. I believe that since then we have been told that our state quarantine laws do have some bearing on whether New Zealand apples can enter WA, and they will not be allowed in. I guess they are the details you people have to consider. I am just giving you the menial on-the-ground approach to what it comes down to, and I try to keep those things fairly simple so I can understand them.

Hon PETER COLLIER: What about the labour issue you mentioned? What is the problem there with regard to the New Zealand versus Australian labour market?

Mr Hill: At a national level the Australian government has a cost-sharing agreement with industries for pest and disease incursions, and so for a particular disease like fire blight there is clear methodology of response and also cost-sharing with that. At a state level that does not exist and so any incursions - for example, apple scab or, no longer codding moth, but other examples - would mean that largely industry meets the full cost of the eradication and surveillance programs to regain area freedom. With any incursion we face at a state level the cost will come back down to industry which obviously impacts on our capacity to meet those costs. In fact, there has been an example fairly recently where an industry that did not have a lot of capacity to fund itself made a decision to live with a particular disease simply because it could not raise the funds to eradicate it.

That gives us a problem: at what point do we end up living with everything? One of the clear benchmarks the state government has set for agriculture is a focus on a clean and green production system. We have programs like farming for the future which are clearly low input and export focused. In a high cost producer like Australia, compared to our southern hemisphere competitors like Chile, South Africa and New Zealand, we need market advantages. Market advantages clearly to us means clean and green, so the less chemical we are applying through monitoring programs, surveillance programs and freedom of certain pests and disease is clearly a market advantage to us. We are not saying that we cannot compete internationally. We are saying that our capacity to do that is impacted by incursions and, conversely, freedom from certain pests and diseases.

CHAIR: The basic proposition of the question I asked you was based on the advice the committee has received. I talked to you about what we have been advised by the Department of Agriculture and Food and that is that the bill would not prevent Western Australia exercising its quarantine protection measures. If you were to accept that at face value, does that give you the comfort that you are seeking?

Ms Fry: It gives me comfort verbally but -

CHAIR: Your experience tells you otherwise?

Ms Fry: Yes. I honestly feel very uncomfortable about it.

Mr Hill: If that was in its existing state - that is, no entry for certain pests and diseases - we get down to the hair-splitting of what is an acceptable level of risk. Something that is an acceptable level of risk to two parties may be very different and the implications of that are very different. Our reading was a little different to the advice you have had from the department, but I guess, like Diane, if that was correct then that would give us a greater sense of our unique operating environment being protected.

CHAIR: I move on to probably quite a related matter. You referred to the final import risk analysis report for apples from New Zealand in 2005 and 2004. Is there any other comment you want to make on that report in terms of the level of satisfaction you have with the 2005 report?

Mr Hill: Yes. Could I perhaps table what is basically a two-page summary of those two documents? I am quite happy to supply, if needed -

CHAIR: Let us just get the dates right. The one I have is the November 2006.

Mr Hill: Okay. There were two separate draft IRAs which came out, one in February 2004 and one in December 2005. The final determination on the 2005 IRA came out in November 2006, so the 2006 is the final determination on the 2005 IRA, which is separate to the 2004 version.

CHAIR: The document you are referring to as 2005 is in fact the final document?

Mr Hill: It is the determination of 2005-2006. Our comments, as I alluded to in the opening, are that, to put it bluntly, we believe Biosecurity got it right in 2005 and the Department of Agriculture, Fisheries and Forestry got it very, very wrong in 2004. When I read the document it says a couple of things just briefly to me. It says that apple scab is the most economically important apple disease worldwide, that it is virulent and attacks a number of positions on the tree, and that it is quite

common in New Zealand. In fact, in New Zealand at one stage in 2004 it was agreed by DAFF that all orchards would have some level of disease in New Zealand; so they are saying every single orchard in New Zealand. Clearly there is a pathway and the concern to the industry here is late harvested apple fruit that may have an infection that is not visible at the time of harvest, and that can develop on fruit in transit and may or may not express at the point of inspection in Western Australia.

If diseased fruit were to land in Western Australia there is a pathway for it to spread and a distribution mechanism for it to spread fairly wide within the state. Our concern with that was that as well as certain phytosanitary procedures that were common to a number of diseases the only additional measure for Western Australia was that they would be sourced from areas free of the disease symptoms determined; for example, by surveillance, the document says, which seems to contradict an earlier part of the document that says it is widespread throughout New Zealand and cannot be at all times observed through surveillance. To us that was clearly not a strong enough protocol.

As such, in late 2004 our submission said that and a little bit more and to our delight in 2005 that position was vindicated by Biosecurity Australia who said that no satisfactory risk management could be identified for the disease apple scab; therefore, it was proposed that imports of New Zealand apples into Western Australia should not be permitted. We wholeheartedly support that, but question the capacity of the organisation in either form to make such a large policy determination, a large difference, in less than 20 months.

[11.29 am]

CHAIR: I take you to the memorandum of understanding. Would your association be persuaded to support the bill if the MOU was updated to include the partnership approach which was outlined in the letter, which I believe you have seen, from Minister Truss to Minister Chance, dated 24 October 2002?

Mr Hill: Without commenting on the specifics of the letter, clearly there would have to be a recognition of and commitment to that partnership and it would involve consultation at an appropriate level and also within an appropriate timeframe. Time is one of the issues I think we all struggle with, but particularly at an industry association level we do need time to respond to working with the relative state departments and to get a sense that our position has been taken on in a meaningful way. We are not looking to put up the drawbridge on every single issue but we would like some sense that our position is being recognised and taken into account on matters of importation.

CHAIR: That is an MOU between the Australian government and the state governments. You said a minute ago "consultation at an appropriate level". What do you mean by that?

Ms Fry: I think Alan alluded to the fact that there are always two positions in any debate and DAFF comes from the bureaucratic position. We come from a private enterprise industry position and I state clearly here that we are not entirely comfortable, not even comfortably satisfied, that DAFF has delivered to us in the process of pest and disease incursions in the past. It has been hard work and we have ended up with the bill. In signing that agreement we would like to see better clarification that quarantine and DAFF work together and that their goals are clear and directioned. You set down the model and you set down the process, and you also set down the cost-sharing agreement. That has never happened.

CHAIR: Cost-sharing between?

Ms Fry: Between government and industry if something happens. I gather you are trying to reduce impediment of trade here. That is the whole purpose behind this MOU. Is that correct?

CHAIR: I am just trying to find out what your evidence is. With respect, I am not here to answer your questions.

Ms Fry: The evidence is that I do not like signing cheques for bills that -

CHAIR: I will just explain to you, this is an MOU between the Australian government and the state government. Is it your evidence to us that that should be broadened to include industry partners as well? Is that what you are saying?

Ms Fry: Yes, of course. The government must ask itself the question: do you want agriculture to continue in WA? The way things are going in the horticultural industry there are going to be very few of us left. The decision lies with you. If the government values the clean green image that WA has for the betterment of its population, it had better start looking after it because it has not happened in the past. We are not happy people.

CHAIR: I am not sure how much of your unhappiness can be attributed to the bill or whether there are other issues.

Ms Fry: It is attributed to the people who carry out the work for you, which is the Department of Agriculture and Food and the Australian Quarantine and Inspection Service. At Alan's level and at my level where we are dealing at the coalface with these people it is not easy, and if we ask the government to perform a task for us we end up with the bill, and I do not like those bills. Industry will eventually say, "We are going to fold up. Import your apples and that is fine. Live with chemicals that go on there seven days a week, 12 months of the year; that's it, we're out of it. It's too hard."

Mr Hill: I guess perhaps just to clarify that, Australia's appropriate level of protection obviously has been set at reducing risk down to a very low level but not zero, and I think again we are back to splitting hairs about percentage points. To be set at a very low level is unsatisfactory for industry in this issue and I think that is our concern with the MOU; that whilst states and the federal government can agree to an appropriate level of protection on certain issues we think that currently we have what is approaching zero risk and that any move to increase that level puts us under some pressure. I think that is our concern with the MOU.

Ms Fry: Could I make a comment, please? I do not know whether you are aware of this because you are obviously not from agricultural backgrounds. The current biosecurity response to the New Zealand application says, yes, New Zealand apples are going to come in, and some of the quarantine guys are over there now surveying orchards; however, fire blight has no known means of eradicating it. The only way you can eradicate this disease, because it is a viral disease, is to burn the leaves and the trees. The only method of control that is currently used worldwide is spraying with streptomycin. If you think for one minute that I will enjoy going out there and cranking up a big sprayer and filling that spray tank with an antibiotic and putting it on my apples, you will be quite wrong. I will not be in that industry, I can assure you now, because I have children and I want grandchildren. That is a very simple analogy and I would like you to digest that thought.

CHAIR: Okay. The final question I have for you is in relation to your submission. As I explained at the beginning, we received your submission and it is normally our practice to receive our submissions and make them public, unless there is a reason not to. We note the qualifier you have put in there on the use of the submission. Can you just explain to the committee, give us some reasons, why you would want us to do that? What I am saying is: if we made that public would that cause you any great distress or detriment?

Ms Fry: Absolutely not.

Mr Hill: Not at all. That is a bit of cutting and pasting which occurs late at night, to be honest. We have been doing a lot at a state level and particularly there is some use of that on websites. It is a rider that we put on all our submissions but the association has no problem at all with your distributing our submission.

Hon GIZ WATSON: This bill has been brought before the Parliament twice before and before one or two previous committees. I understand that nothing in the bill has changed from what was

presented on those two occasions. What I am hearing is a concern that despite the assurances that have been given you still have a concern as to the possible impact on your sector and that it is your view that if there is any risk it should borne at least by the government rather than the sector on its own. My understanding of what you are saying is that if the objective is to facilitate free trade but there is still at least a residual concern that the level of quarantine protection might be decreased, the liability should not rest with the growers; is that correct?

Ms Fry: I would like to see a cost-sharing agreement. We have been asking for one for I do not know how many years. Since I have been in the position we have been asking for one for two years and I still do not see your leading people in DAFF volunteering that to me. Look at the resource you guys have. I left my farm yesterday morning at five o'clock and I have spent two days at Parliament House on behalf of industry.

[11.39 am]

Mr Hill: I think that is a fair summation of the position. We clearly are not trying to restrict trade. What we would like is some recognition that with that is an increased risk, and we believe a significantly large increase in risk, to industry, and we are likely to be left holding the bill.

Ms Fry: Those two factors, pest and disease, are specific to the fruit industry, but I am talking about the food industry as a whole. I commend the department - now it is the Department of Agriculture and Food. There is some basic stuff that this committee has to get to and I am just telling you that when it washes through all that and gets down to our level, that is what we are dealing with. There must be a way that that can be considered and addressed and tightened up so that the grey areas are removed. None of us has an issue with trade, it occurs, because we all survive on trade. It is about the decision that you make on behalf of the public.

Hon GIZ WATSON: I guess our dilemma is that part of the advice we are receiving is that this bill in itself will not affect -

Ms Fry: Yes. From you have in front of you, you would get a level of comfort, and I should on this side of the table say, "Yes, that sounds really great if everybody plays ball and we all understand what each other is about." You make policy but at the end of the day there is a cost. Where does that cost actually lie and does that affect that industry?

Hon GIZ WATSON: Is there any amendment or way of dealing with this particular bill? I realise that you are not lawyers.

Ms Fry: I do not have that intelligence, I am sorry. I have to leave that with the policymakers.

Hon GIZ WATSON: For me anyway what I am trying to get to is, is there any way that you could amend this or have some other mechanism -

Ms Fry: The policywriters would have to look at how they would address that.

Mr Hill: I am sure you have probably taken some comment on that from someone within the department, and it may very well be that that exists and that the Fruit Growers' Association is not aware of that. Again, we are quite comfortable with a commitment to the state's current quarantine and a consultative process that allows that to be fluid in some way where we can liaise with the quarantine people and department people regularly and have our concerns recognised. That may exist. How you would put that into words that would be meaningful in this context is something else.

Ms Fry: That might exist with the business of quarantine. I would get comment from its chief executive officer and ask whether this exists. We have not seen it and I can only be frank and open in my discussion with you about the things we deal with on the ground in growing food.

Hon SALLY TALBOT: Can I ask a slightly different version of Hon Giz Watson's question? You say in your submission that you are asking this committee to recommend that legislation not

pass until a clear consultative process with the industries likely to be affected by the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 has occurred. You clearly do not think that that consultative process has occurred already, so this is a slightly different version of Giz's question. She is asking you about changes to the legislation. Can I ask you about whether you feel that your point of view has been heard and taken into consideration by the department.

Ms Fry: We work with the department every day. We have an incursion currently underway now. We are working with them every day to try to manage that. I have an issue with consultation. I think it is about participation; it is not really about consultation. It is about industry participating in the workings of the Department of Agriculture and Food. Generally consultation happens only with people who come up with basically what you want them to say.

Hon SALLY TALBOT: What I think the committee is struggling with slightly is given that you are not impressed with the consultation that occurs, and not impressed with partnership approaches of the kind found in the MOU, what sort of wording in the bill, what sort of activity, would you consider satisfactorily protected your interests?

Mr Hill: We can deal only with the factors we are aware of. If we think about the difference between the IRA that existed in 2004 and that which existed in 2005, both met Australia's appropriate level of protection, both had clear industry consultation, and both were signed off at the highest level by the federal government. One of them recommended the importation of apples into Western Australia, one of them did not; so clearly without some level of involvement from industry we would have a very different outcome to the one that we are currently faced with.

When I talk about a clear consultative process in the summary, it is perhaps not so much with the MOU but with the supporting processes, in that industry believes that with the appropriate level of protection that is set that it is perhaps not recognising the issues at a state level that we have. There is nothing worse than hearing Western Australia stand up screaming that we are different, but I think in this one we are. We are genuinely different, so much so to the point that in the response of Apple and Pear Australia Ltd, our national body, to the 2005 IRA, the words "apple scab" are mentioned four times. It is a 430-page document and all four appear on the same page; so clearly the national industry left it to the state to represent itself on that issue. We are saying that without some certainty that our state quarantine is not going to be overridden in this process we think we are in trouble.

Ms Fry: You think about the issues: I am thinking of going into planting a club variety of apple that is owned by a New Zealander but we are dealing with a franchisee in Australia. I am thinking about spending probably \$150 000 in the next couple of years. Just think about when I am sitting down deliberating whether I still want to work for a living or not, and one year you say no and another year you say yes. Government policy very strongly influences any business decision we make on the ground and I feel very, very alarmed for the poor person who is not privy to the information that Alan and I are. Heaven help them if they went out there and made a decision to spend \$1 million and then suddenly the powers that be say, 'Oh, yes, we're right, New Zealand apples can come in.' Where is the consistency in your policy? We are trying to be consistent in what we do as a business because it is a long term business and we cannot have government policy changing from one year to another. It is just a dog's breakfast; we cannot make business decisions, end of story, we're out of here!

CHAIR: Can I clarify one thing? Clearly you make a good point about the AQIS report and the 180 degree change that occurred over a 20-month period. I am not sure how much history the federal government has in changing its position on this. At the state level of course we have a different piece of legislation that we use to exercise our quarantine rights. It is a different piece of legislation, it is a different government to the Australian government - it is the Western Australian government. Putting aside for the moment your argument about a lack of resourcing, can you point

me to a history of the Western Australian government bouncing around in terms of its policy position? Has there been an inconsistent approach at a state level on this question?

[11.49 am]

Ms Fry: On their position if they have taken a stance? Do you want me to quote incursions or do you want me to quote -

CHAIR: No, I do not, because then you are getting into an argument about, "The department's not resourcing us enough," and things like that. What I am saying to you is: can you point the committee to any history that the government of Western Australia has in terms of dropping its quarantine standards and admitting these diseases, or is your beef with the Australian government?

Ms Fry: No, we do not have a beef.

CHAIR: When you are changing your position like that clearly you have an issue.

Ms Fry: Yes, we have, but we would like to try to work towards rectifying it, of course.

Mr Hill: The answer to your question is perhaps no, at short notice. I certainly cannot think of one in recent history. I guess the issue, and it does tie in with the bill we are considering, is that in about mid-2004 had the industry not had the capacity to comment we would have had a very different outcome to 2005. On the information that was presented to the association from the standing committee, is there some reference to a memorandum of understanding that will recognise the concerns of the state in these issues? Clearly you have had different advice from the department and they may be closer to the process than I. Our concern is that if this bill goes through and then we find out, "By the way, what we thought was in the memorandum is not quite what we thought was there," that will leave us with a particular problem, and industry will pick up the cost and, in a large sense, some of the management of that. Our concern, specifically with the bill, is that we have been unable to locate anything other than the 1995 version of the memorandum. If that has changed or if it is likely to change, the consultation we are looking at is to have some access to that, to be satisfied that our concerns are going to be met by that. We are certainly not here for a beef or a stoush otherwise perhaps we would have come in greater numbers.

Ms Fry: I suppose what I ask of you and all the people in this room who are involved in that process is: is it robust enough that it can deliver that to us? It is your business to make sure WA exists in trade with what we have to offer our population and the rest of the world in terms of produce.

CHAIR: The proposition I am ultimately putting to you is that notwithstanding whether or not AQIS changes its position again in a couple of years' time -

Ms Fry: Is it not going out to Murdoch and quarantine and everything else will be based at Murdoch?

CHAIR: I think it is; it is collocating.

Ms Fry: I think \$126 million will be spent at Murdoch.

CHAIR: But that is not -

Ms Fry: Yes, but that is where the machinations of it all -

CHAIR: I am too easily distracted by these things.

Notwithstanding whether or not AQIS comes up with another report that you do not agree with in two years' time, from my understanding of the legislation the capacity remains for the state to enforce its rights with respect to quarantine. The proposition I put to you is: is it not the case that the government of Western Australia has always acted to protect its interests in this respect notwithstanding whether or not it has been able to get the support of the Australian government at

the time? It has always been able to quarantine potentially diseased fruit coming into Western Australia by use of its own legislation.

Ms Fry: To date through the legislation, yes. I have been in this position for two years. I think Steve Dilly attended one of these in 1999. I spoke to him briefly yesterday and his concern was exactly that; that okay, it sounds great on paper and if that is what it can deliver, that is great. That is something you have to weigh up in your consideration of the legislation - that you have read it, you are comfortable with it in its actual verbal presentation, it sounds strong and robust enough to deliver to the WA food industry, and there is adequate security that its pest and disease status in terms of quarantine is protected. I guess we are comfortable with that. Is that the question you ask of us?

CHAIR: That is ultimately the proposition I am putting to you. That is why I asked you to point me to the history of where the Western Australia government has abandoned that quarantine standard.

Ms Fry: We have opened the gates. If you think about it, we now have New Zealand stone fruit on our market floors, and that was because of brown rot. Brown rot came in from the eastern states. When was that, Alan - 2003?

Mr Hill: Brown rot? Yes, 2003.

Ms Fry: What happened was we lost our export market to Taiwan. The stone fruit industry has no funds. Its fee-for-service collected was \$11 000 a year. That does not even pay for the paper that comes out of our office, so how could that sector of the food industry defend? Now we have brown rot endemic in the state and, of course, now you have New Zealand apricots landing on our market floor and you are going to have counter-seasonal; you are going to have northern hemisphere stuff come in. It is about competition. That was one situation where because industry did not have the capacity and the political might and resource to step up and come to you and bang their fists on the table, it happened. Now we have brown rot, so what happens, more chemicals go on the fruit - easy. The cost of production is higher and it deems us more uncompetitive in the world market, so that is what you are looking at.

Mr Hill: On the back of that, as we have said in the submission, rather than being viewed as an impediment, WAFGA believes our quarantine restrictions should be used as a necessary framework that protects the industry. If you are saying that you have had advice that that will still occur then that gives us some level of comfort. However, it is the detail of the framework that we have not seen both in either what is an appropriate level of protection or that, as often happens in these things, there is some erosion over time, so what we understand now may be different in three years' time. That is the sense of concern that we were bringing to this discussion. We certainly have not taken legal advice on the bill. We certainly looked at the Truss letter from 2003 or 2004, I think it was. However, nowhere have we seen that in a final version of the MOU and that is our concern with it, I guess. The implications of that to us we think are pretty significant. The committee may have taken other advice on that which says that what we have now will remain in place in perpetuity, and that would give us some level of comfort that we would not be overridden by federal legislation.

Hon GIZ WATSON: It strikes me that there is a strong parallel with those of us who are concerned about genetically modified organisms coming into the state as well. One of the approaches suggested in that regard is to make the strict liability with the importer and therefore there would be no risk to your sector. Well, there would still be a risk but it would be an additional comfort that if there was an import that caused a loss to the sector, the liability would rest with the importer.

Ms Fry: That sounds great.

Hon GIZ WATSON: That is probably contrary to World Trade Organisation guidelines!

Ms Fry: That is where we are heading next.

Hon GIZ WATSON: That is the tension and, as well, the objective is what financial obligations are placed on whom.

Ms Fry: Legislation always sounds very strong but at the end of the day the failure happens in the human element in the processes, and we are all very aware of that.

CHAIR: Thank you very much for your full and forthright evidence to us today. We appreciate your coming in to see us.

Ms Fry: I offer Alan and myself, if need be, to be available to speak to any of you who have questions or if you are uncomfortable about something in your mind. We are quite happy to talk to you and we like to work in a spirit of cooperation and hopefully get to good places in this whole thing. Thank you.

Mr Hill: Thank you.

The committee adjourned at 11.59 am
