*Australian Journal of Agricultural Economics*, Vol. 27, No. 2 (August 1983), pp. 124-128

# AGRICULTURAL POLICY: COMMONWEALTH-STATE ISSUES

R. G. MAULDON
*Industries Assistance Commission, Belconnen, A.C.T. 2616*

The Report commenced, appropriately, by addressing the federal contract within which Australian agricultural policy is set. The Australian Constitution limits what can be done by the Commonwealth and State Governments and establishes procedures for settling arguments about where jurisdictions lie. There is a wider constitutional framework than the Constitution itself. It includes, for example, the Australian Agricultural Council which is the major means of co-ordinating powers and resolving conflicts between the Commonwealth and states in the field of agricultural policy. The federal contract also includes the wide range of co-operative approaches to policy, such as statutory marketing intitutions and the complementary legislation which supports them.

The issue of federalism runs through the whole of the Report, but only in Chapter 2 was it addressed as a central issue. The Group viewed the Constitution itself as virtually immutable. The Australian Agricultural Council was criticised for acting only slowly and by consensus. Where there is a fundamental conflict of interest, the Commonwealth's financial strength may need to be used to encourage state co-operation. The emergence of the National Farmers' Federation was seen as hopeful, and there was a hint that a formal link between the Council and the Federation could facilitate consensus. But, on the whole, the tone of the Report regarding the federal contract was not enthusiastic. It was seen to constrain opportunities for change rather than to create them. Issues for the 1980s with respect to inter-governmental relations were expected to be similar to those of the past.

In Chapter 2, the Group provided a brief synopsis of the respective roles of the Commonwealth and State Governments in areas covered in the rest of the Report, namely, assistance, marketing, international trade, transport, innovation and resource management. But having set the scene with an overview of the constitutional framework, the Group did not return to a federal overview of policy options. It is with that important task in view that I will address briefly three of the issues raised in Chapter 2, namely, assistance, marketing and international trade, and comment on Commonwealth grants to the states which are relevant to the remaining issues. My purpose is to highlight some policy dilemmas which need to be resolved within a federal context.

## *Assistance*

Assistance was identified by the Group as principally a Commonwealth responsibility. The major instruments on which assistance policy is based are customs duties, production or export bounties and excises, and income taxation. Under the Australian Constitution all but the last of these are solely Commonwealth powers and, since 1942, income

taxation has become a sole Commonwealth responsibility within the federal contract. The Commonwealth is required to exercise each of these powers uniformly among the states and parts of states.

Thus, our federal contract appears to have been founded on a belief that assistance within individual industries should be uniform among regions. But an alternative belief is also embedded deeply within our federal contract: no area of economic activity should be allowed to develop an undue disadvantage with respect to any other area. This belief underlies Australian approaches to such issues as grants to dependent states, capital city price equalisation and the equalisation of marketing costs. As a result, both the Commonwealth and State Governments have found a variety of ways for providing differential assistance within industries.

Nothing within the federal contract suggests that levels of assistance should be uniform among industries and a diversity of assistance levels to different industries has arisen. This diversity within the agricultural sector becomes a theme in later chapters of the Report, where levels of assistance to some rural industries are found to be excessive and progressive reductions are proposed.

Some resolution of the apparent inconsistency of a federal contract requiring uniform assistance within industries among regions while permitting variations between industries would be a valuable contribution to policy thinking. There is no apparent economic rationale for such a distinction. Any resolution of this issue should preferably be worked out in a federal context since the individual states, working outside the federal context, assist their rural industries in a number of ways, principally by providing services and resources below cost. Furthermore, the regional income shifts which result from assistance to both agriculture and manufacturing, from the north and west toward the south and east, have recently become issues of concern within the adversely affected states.

### *Marketing*

Marketing was identified by the Group as the most complex area of agricultural policy within the constitutional framework. The federal contract appears to have been founded on a belief that Australia should be a common market. But there is also an alternative belief that competition in agricultural markets should be 'orderly', which underlies Australian approaches to statutory marketing arrangements and the pooling of market returns. Since s.92 of the Australian Constitution, which is the guarantee of freedom of trade among the states, does not spell out what it is that trade among the states is required to be free from, both the Commonwealth and State Governments have been able to create barriers to the 'free' flow of goods. These barriers have sometimes involved circuitous devices for ensuring market order.

Much was made in the Report of the difficulties created by the Australian Constitution for the successful operation of national statutory marketing schemes. But the difficulties probably result less from s.92 than from a lack of federal consensus on an appropriate trade-off between 'freedom' and 'order'. A federal consensus which has allowed 'order' to triumph over 'freedom' has worked reasonably successfully for

over three decades for wheat. A federal consensus has been harder to achieve for dairying.

Notwithstanding the difficulties of making constitutional changes, deeply embedded beliefs within the federal contract can change. Orderly agricultural marketing has been defended by State and Commonwealth Governments of different political persuasions for half a century. But in recent years there has been a broadly-based questioning, both from within agriculture and from without, of the rationale for many of the statutory controls of marketing. The Report itself is part of that process, which could well alter some of the realities of the federal contract later in the decade.

Of relevance in this regard is the issue of whether agricultural marketing should take place in a framework of specific industry marketing schemes or in a framework of general commercial law. State statutory marketing schemes arose at a time when there was little social restraint of anti-competitive trade practices. It was partly to countervail the marketing power of non-farm business which, it was asserted, had a fairly free hand to fix prices and restrict competitor entry, that marketing boards were set up. Since the mid-1960s, however, the public control of anti-competitive activities has been considerably strengthened, eroding one of the traditional foundations for the statutory control of agricultural marketing. It is ironic that agricultural marketing has been virtually exempted from trade practices legislation. The justification for continuing anti-competitive practice within the agricultural sector, much of it enabled by State Governments in the face of strong Commonwealth trade practices legislation, is an issue which needs to be addressed in the context of our federal contract.

### *International Trade*

The Group gave scant consideration to constitutional issues in international trade, which was seen to be a Commonwealth responsibility. Since the Australian Constitution gives the Commonwealth Government sole powers over imports, exports and the right to enter into foreign treaties, there is considerable backing for this view. Yet significant components of our agricultural exports are controlled by state instrumentalities and there are issues about international trade which should be approached in the context of the federal contract.

Uniformity of access to export markets would seem to be implied by the constitutional requirement that the Commonwealth's regulation of trade not give preference to any state or part of a state. But one of the principal means of controlling exports, the issuance of export licences, is a highly discriminatory instrument. Export licensing is, in practice, often left largely in the hands of Commonwealth statutory authorities which may have to work with disparate approaches to marketing by the various states.

A further interest of the states in export marketing stems from the relationship of export sales to domestic prices. The original functions of the Commonwealth statutory marketing authorities in the 1920s were related to the diversion of surplus production away from domestic markets in order to support domestic prices. Domestic pricing objectives have remained important considerations in the export marketing of some products ever since. In this regard the interest in export marketing arises not

only in states with significant export surpluses. There can be considerable conflict among states which produce solely for their own domestic market and states whose surplus production could be diverted either into interstate or export sales. In that context the Group's suggestion that a dairy authority be based at a Victorian level rather than a Commonwealth level focuses on a very sensitive facet of the federal contract.

### *Special-Purpose Grants*

The Group observed that co-ordinated action will often require that the Commonwealth provide financial incentives to encourage independent State Governments to participate. Special-purpose grants to fund uniform policies among the states are an integral part of the federal contract. They result from the greater financial power of the Commonwealth and the greater legislative and administrative powers of the states. In agricultural policy special-purpose grants to the states have played a significant role in transport and water resources development, rural extension and rural adjustment. Though the Group did not cast its subsequent suggestion regarding the Commonwealth funding of state programs in terms of 'carrots' to elicit action, it supported many of the existing programs and proposed significantly greater specific purpose funding for soil conservation.

Financial relations within the federal contract have ramifications which go well beyond agriculture. Under Whitlam, special-purpose grants were to be extended for national objectives to regions and local governments. Under Fraser's 'new' federalism, the special-purpose grants were to be phased into general purpose funding with spending priorities to be developed by the states.

The Australian Constitution protects the nation from the extremes of centralism and fragmentation. But it opens options over whether Commonwealth policy should direct states to conform to common criteria, or whether state programs can develop their own emphases. This can become an important issue in highly discriminatory assistance programs, such as the Rural Adjustment Scheme, where different interpretations of criteria could lead to radically different destinies for farmers in similar financial positions but located in different states.

In spite of the expectation of uniformity of treatment from Commonwealth policies, it is important that there be some variety of approaches within a federal system. In many respects Australian agricultural policy lacks elements of choice which are features of the agricultural policies of some other countries. For example, in the U.S.A. it has been possible for farmers to opt in or out of certain price support programs. Canada has been even more venturesome in allowing provinces to opt in or out of some federal programs.

The constitutional stumbling blocks to such approaches in Australia are profound. Yet the barriers are more likely to be a lack of creative policy proposals and public discussion than an excessively restrictive Constitution. As Sawer (1966, p. 108) has concluded about the Australian constitutional framework:

> In Australia, if enough people want something badly enough, and for long enough, they are likely to get what they want, and to do so without formal amendment of the Federal Constitution. Judicial

review is likely at most to delay matters, or to compel the use of a less direct method than first thoughts would suggest.

## *Reference*

Sawer, Geoffrey (1966), 'The Constitution and its politics', in Henry Mayer (ed.), *Australian Politics—A Reader,* Cheshire, Melbourne.