

Preface

Two moments from this inquiry will be long remembered by the committee. The first was when members, touring an isolated farm just north of Euston on the Murray River, suddenly came across a team of grape pickers hard at work. Taking fright at our unexpected appearance, they fled down the vine rows toward the other end of the field. The committee had been mistaken for immigration officers conducting a raid on illegal workers.

The second moment took place at the Snap Fresh packing company near Bundaberg. During their visit committee members heard that local labour had dried up, and that there was increasing reliance – up to 80 per cent in some areas – on backpacker labour. The committee was told that we had five years to fix up the problem of labour shortages. If it was not done by then, they would be out of the business, in the likely company of other growers in the district. We could look forward to buying imported vegetables.

These isolated incidents highlight only some aspects of the precarious labour supply which growers were anxious to describe. The first incident highlights the temptation to abuse of visa regulations. The second incident highlights the vulnerability of the industry to an erratic labour supply which threatens optimum profit levels in the industry.

In addition, one general impression stands out. In no submission, in no hearing, and in no informal conversation did the committee receive any data from growers on how they perceived the connection between capital investment and labour supply. It appeared to be scarcely worthy of consideration. If there is one indisputable finding of this inquiry it was the unaccountable failure of agribusinesses to factor labour supply into investment decisions in the horticultural industry.

The committee's approach to this inquiry was, first, to establish whether there really is a labour shortage of such seriousness as to threaten the prosperity of the horticultural industry, worth \$6.6 billion in 2003-04. The committee's view at the beginning of the inquiry was that if labour supply projections showed a decline to the point where prosperity levels and investment returns were threatened, it would recommend consideration of radical proposals to deal with the labour shortage. It now appears to the committee that this point has not been reached. There is only scant evidence that the industry is close to reaching a point where there is an indisputable harvest labour shortage.

The committee recognises that labour shortages occur intermittently, and that they occur sometimes at a point in the growing and ripening cycle when produce reaches its optimum market value. It acknowledges evidence of losses to producers which result from not having labour when it is needed. Whether the current level of inefficiency in the labour supply warrants contracting harvest labour from Pacific

Island states is another matter. The committee's view is that under current conditions it is not prepared to recommend that such a scheme should proceed.

The timeframe and course of this inquiry has been marked by developments and events bearing on our terms of reference, and the consequent switching of signals to 'caution' in regard to possible solutions to labour shortages in the horticultural industry. It is difficult for committee members to disregard the influences which affect them as party members at this moment in the electoral cycle. The inquiry has been affected by the Work Choices debate and by heightened sensitivity about entry arrangements for foreign workers other than those which exist already under skilled migration provisions. Any exploration of policy which includes in other categories of entry a proposal for admitting foreign workers is likely to be vulnerable to populist sentiment at this time.

This is understood by both governments and oppositions. It is one reason for the clearly expressed view of the government that a harvest labour scheme which involves foreign workers is out of the question. The reasons for this are, in part, historical, and in part, to do with employment priorities and the 'just wage'. Such views find strong support across the political spectrum.

Recent changes to visa regulations have been generally welcomed by employers as a measure intended to ease skill shortages across all industries. Of particular relevance to this inquiry has been relaxation of conditions under which working holiday visas may be granted. Growers have widely commended this change. The committee has also taken an interest in the conditions under which section 457 visas have been issued. Advice from the Department of Immigration and Multicultural Affairs is that these work visas are issued only to those with minimum recognised levels of skill, and would preclude harvest workers. Nonetheless, the committee recalls informal discussions with growers in remote parts of the country about arrangements in train to contract harvest labour from south-east Asia.

The committee notes that while employers have welcomed these visa concessions, and accepts that it is highly unlikely to affect local employment opportunities in rural areas, they have attracted strong union criticism. This is mainly because of jobs which may be at risk in the construction industry and other, essentially urban and unionised, occupations. Union attitudes to what is proposed in this inquiry have been coloured by their experience in the urban workforce. So far as seasonal harvest labour is concerned, the relaxation of working visas and the introduction of 457 visas appears to be largely irrelevant.

As this report is being drafted it is becoming apparent that there is increasing evidence of unscrupulous exploitation of 457 visas by some labour contract firms and their business clients. The committee commends the introduction of the Migration Amendment (Employer Sanctions) Bill 2006 in response to this abuse, but this may not be sufficient to stem either populist sentiment concerning resultant threats to employment, or prevent the exploitation of foreign workers. The committee believes that the effect of such abuses is to discredit any proposal for an unskilled seasonal

harvest labour scheme, regardless of the particular circumstances and regulatory regime in which it might operate.

The committee is also of the view that any future *ad hoc* creation of loopholes in current regulations so as to attract more foreign workers into horticulture may not only fail to satisfy future demand for additional harvest labour, but will prejudice the development of more workable policy. Such a policy – at least in reserve - might serve the national interest more broadly should there be clear evidence of the need for imported harvest labour in future. At the present time the committee believes that proposals to use Pacific island contract labour are difficult to consider on their merits.

The important issue of pay and conditions of foreign workers requires mention here although it is dealt with later in the report. Growers repeatedly assured the committee that they were prepared to pay current award rates to anyone who turns up for work and they pay higher wages by way of piece rates. Foreign contract labour was not in any sense regarded as cheap labour. However, it appeared that this was not a view shared by everyone in the industry. Informal discussions revealed that some proponents of a foreign harvest worker scheme anticipate being able to pay much lower than current wage rates. There is strong advocacy for the use of Chinese labour in some areas, which should ring alarm bells for the reason that labour hire companies in that country often exploit their foreign contract workers, in collusion with the firms which employ them. These potential problems would be well understood by DIMA. It is for this reason that the committee believes that should a harvest labour scheme be seriously considered it should be restricted to South Pacific Forum nations and be conducted with high levels of formality and regulation.

This brings us to the south Pacific connection. Several important submissions to the inquiry, while showing an understanding of domestic opinions and perspectives, take a much broader view of the labour market issue. There is strongly held opinion that the entry of Pacific nation workers into the Australian workforce on a seasonal or temporary basis is essential for the economic survival of Pacific nations and to the stability of those societies. The prospect of 'failed states' in the south Pacific is seen by some as a serious challenge to regional security.¹ The committee believes that in the near future an Australian government may need to put aside purely domestic considerations in order to address this problem.

The committee has given more consideration to the current labour needs of growers and producers than to the potential use of Pacific Island labour. The committee had earlier agreed to request government approval for a visit to several Pacific nations. The idea was not pursued because it became apparent that domestic concerns and pressures were paramount in this inquiry. The committee's first priority is dealing with labour and employment matters at home. It is not a foreign affairs committee, and it

1 See, for example, Dennis Rumley *et al.* (eds), *Australia's Arc of Instability: The Political and Cultural Dynamics of Regional Security*, Springer, The Netherlands, pp.11-22

notes that this issue was admirably dealt with by a Senate committee in a report tabled in August 2003².

The committee notes, however, the strong interest shown in the inquiry by Pacific nations, and recognises, as does the government, that pressure for a changed policy response from an Australian government is likely to continue. It also assumes that the Department of Foreign Affairs and Trade is acutely aware of the tensions between domestic political pressures at home and looming problems of instability in some Pacific states that will sooner or later require serious attention. However, the committee is not convinced by argument presented to it that a labour mobility agreement with Pacific island states would be a likely breach of WTO rules. It is reassured by contrary advice from other authorities. Like any other country, Australia would always act in its own interest. Any obligations to WTO would be set against its priority obligations to the stability of the South Pacific region. Even if GATS were found to apply, Mode 4 of the General Agreement on Trade in Services (GATS) allows WTO members to negotiate limits on foreign temporary workers on a 'most favoured nation' basis.

In summary, the committee has drawn certain conclusions from the evidence it has gathered in relation to horticultural labour shortages and their remedy through the use of Pacific island contract labour.

The first conclusion is that while labour supply is sometimes precarious at the moment, depending on location, the backpacker, 'grey nomad' and other local and itinerant casual labour resources are currently sufficient. The committee heard complaints about temporary shortages, and of problems with timing of harvesting. There were a few unsubstantiated estimates of financial losses, but no detail about the circumstances in which they were incurred. The committee heard no empirical evidence that more than a few farmers on odd occasions have been faced with leaving vegetables in the ground, or fruit on trees and vines because of labour shortages.

That is the position now. The committee is of the view, however, that current labour sufficiency is unlikely to be maintained in view of heavy investment in horticulture and greatly expanded areas under cultivation. The current local labour supply is unlikely to increase, and will probably decline. The backpacker supply is precarious and subject to the vagaries of economic and political events abroad. This is scarcely a sound labour market basis for sustaining an industry which has experienced an accelerated rate of investment over the past five years.

The committee concludes that prudence requires the government to make contingency plans for introducing contract harvest labour as early as five years hence. Governments should not be caught by sudden events and developments which would result in hasty *ad hoc* arrangements, the result of having to make policy on the run.

² Senate Foreign Affairs, Defence and Trade References Committee, *A Pacific engaged*. August 2003

Finally, the committee concludes, on the basis of submissions made, that should a temporary labour scheme become necessary, this labour should come from the South Pacific, under the safeguard of treaties with Pacific nations, and with intergovernmental supervision of contracts, work conditions and other arrangements necessary to protect the interests of the seasonal workforce. The committee has set out its views on such arrangements in Chapter 4.

Unusually, this report makes no formal recommendation in regard to Pacific island seasonal contract labour. It does not, for instance, recommend a trial program - as suggested in a number of submissions - for the reason that much more serious discussion about policy and planning practicalities would need to be done before any trial could be properly evaluated. Chapter 4 deals with a number of these issues, and there would be many more which the committee has not identified. Nonetheless, the committee believes that the prospect for some mobility of harvest labour from Pacific states may become more likely in future. To argue, as some ministers have, that this is inappropriate because it has not occurred before (except under vastly different circumstances nearly a century ago) is to deny the possibility that any policy is subject to change if circumstances require it. The committee sees no point in recommending a less dogmatic approach to this issue: it simply urges the government to have some work done which follows up on the issues canvassed in this report.

The committee commends this report to the Senate.

Senator Judith Troeth

Chairman

