**CANNED FRUITS MARKETING ACT AMENDMENT BILL 1984**

**Legislative Council, 24 October 1984, pages 1410-1**

Second reading

**The Hon. C.J.Sumner, for the Hon. FRANK BLEVINS (Minister of Agriculture),** obtained leave and introduced a Bill for an Act to amend the Canned Fruits Marketing Act, 1980. Read a first time.

The Hon. C.J. Sumner, for the Hon. FRANK BLEVINS: I move: That this Bill he now read a second time.

The purpose of this Bill is to extend the operation of the Canned Fruits Marketing Act, 1980, which is due to expire on 31 December 1984, for a further period of three years ending 31 December 1987 and to complement measures considered by the Commonwealth Government to be appropriate for greater flexibility of operations by the Australian Canned Fruits Corporation. A Bill to amend the Commonwealth legislation was introduced in Federal Parliament during September 1984 and, while that Bill covered matters unnecessary for the purposes of the South Australian legislation, honourable members nevertheless will appreciate the principles behind the complementary Commonwealth/ State scheme. In particular, it will be known that the canned fruits industry is of much social and economic importance to the Riverland of South Australia, the Goulburn Valley in Victoria and the Murrumbidgee irrigation area of New South Wales.

Basically, since 1 January 1980 the marketing of canned deciduous fruit produced mainly in South Australia, New South Wales and Victoria has been controlled through the Australian Canned Fruits Corporation under the terms of agreements between canners and within the legislative framework provided by the Commonwealth Canned Fruits Marketing Act, 1979, and complementary legislation in this State and the other States concerned. Under these arrangements, the Corporation acquires and arranges the marketing of canned deciduous fruit, sets minimum selling prices, equalises returns to canners from domestic market sales and sales to certain export markets, and arranges for the provision of seasonal finance to canners.

In addition to the extension of existing arrangements there are a number of planned changes to aspects of the Australian Canned Fruits Corporation which are designed to improve its operation performance and to enhance its commercial flexibility. Although the South Australian legislation (and that of the other participating States) does not deal with certain matters dealt with in the Commonwealth legislation (for example, the establishment, powers and functions of the Australian Canned Fruits Corporation), some of the amendments made to the Commonwealth legislation in those areas will be of interest to honourable members.

First, the Commonwealth Bill provides for the appointment to the Australian Canned Fruits Corporation of two more members who by virtue of their professional qualifications and business expertise will make a positive contribution to the broad workings of the corporation. Secondly, the overall performance of the Corporation and its ability to aid the industry in adjusting to changing market circumstances will be enhanced by a requirement that it develop a corporate plan setting out its objectives, including marketing strategy, for the three years ending 1987 and for this to be supplemented by annual operational plans. These plans or significant variations from them are to be approved by the Commonwealth Minister. These plans will enable the Corporation to address the strategy, structure and programmes for the marketing of canned fruit appropriate for the market circumstances that are likely to develop over the next few years.

The Commonwealth proposals provide expanded borrowing powers to the Corporation, enabling it to raise finance by more contemporary methods, such as the discounting of commercial bills, the issue of promissory notes, or hedging operations or foreign exchange and financial futures markets. Such operations will be subject to approval by the Commonwealth Minister. Both the Commonwealth and State measures contain provisions intended to introduce an element of flexibility in relation to the extent of insurance cover to be taken by the Australian Canned Fruits Corporation over canned fruit. The Commonwealth Minister may set guidelines in this respect and, moreover, the Corporation will be required to establish an insurance account that makes adequate provision in respect of risks to the extent that they are not covered by insurance. It is understood that the changes to the insurance provisions could reduce significantly the costs to the Corporation and the industry of protection against risks of loss or damage of the canned fruits.

The Bills prescribe in detail measures empowering the Corporation to allow canners and marketing agents to retain premiums obtained from the sale of canned fruit. As a general principle it is considered appropriate that premiums realised above the Corporation’s minimum prices be retained by the canners and marketing agents who earn them. The statutory arrangements have worked well to date and a greater measure of stability in marketing has returned to the industry compared with the late l970s. The industry has met a particularly difficult period of adjustment with a substantial cut in production, but forecasts are for a continuing decline in sales to overseas markets. This indicates pressure will be maintained on the industry to adjust progressively the amount and composition of its production to meet the changing market requirements.

Thus there is a need for continued recognition of those adjustment pressures and for on-going stability in marketing to allow this adjustment to occur in an orderly manner. Following its review of the Industries Assistance Commission report on the industry, the Commonwealth decided that the statutory marketing arrangements required a three year extention to December 1987, by which time it is judged that industry should be in a position to manage its own marketing without the benefit of statutory arrangements. The extension of the statutory arrangements and improvements to certain functions of the Australian Canned Fruits Corporation are supported by local industry.

It is of interest to note that the Commonwealth has taken this opportunity to specify that, in terms of the Australian Canned Fruits Industry Advisory Committee, the representative of growers of canning apricots, peaches and pears be appointed from among persons nominated by the Australian Canning Fruitgrowers Association. Finally, it will be noted that increased penalties are proposed for contraventions of the Act. The legislation has no financial implications for the States or the Commonwealth.

The corporation’s marketing and related costs are met from the proceeds of sales of canned fruit while its administrative and promotional costs are met by a levy on canned fruit production. This complementary Bill is of significance to the industry concerned and I commend it to the attention of honourable members and thank the Minister of Agriculture for providing me with an opportunity to learn something. I seek leave to have the detailed explanation of the clauses inserted in Hansard without my reading it. Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure commences on 1 January 1985. Clause 3 makes amendments to section 4 of the principal Act, which deals with interpretation of expressions used in the principal Act. Most of the amendments are consequential upon other amendments contained in the Bill. Of significance is the amendment of the definition of ‘season’ presently defined as the period of 12 months commencing on 1 January 1980 and the next four succeeding 12 months. The last of those next succeeding periods of 12 months ends on 31 December 1984, and the effect of the amendment is to extend the application of the principal Act to the period of 12 months commencing on 1 January 1985, and the next two succeeding periods of 12 months. Clause 4 amends section 6 of the principal Act. That sections sets out the powers of the Australian Canned Fruits Corporation. New subsection (la) provides that, so far as is practicable, the Corporation that endeavours to exercise its powers under the principal Act with a view to giving effect to the corporate plan determined under the Commonwealth Act and the annual operational plan determined under the Commonwealth Act. Subsection (3) is struck out. Clause 5 inserts new section 7a in the principal Act. Under subsection (1) ‘relevant risk’ is defined as the risk of loss, deterioration or damage to canned fruits acquired by the Corporation. Under subsection (2) the Corporation is empowered to insure against relevant risks. Under subsection (3) the cost of such insurance shall be met out of the proceeds of the disposal of the canned fruits covered by the insurance and, for that purpose, the Corporation shall fix an insurance reimbursement rate.

Subsection (4) provides that during any time when the Corporation does not have full insurance cover against all relevant risks the Corporation must maintain an account (the ‘insurance account’) for the purposes of making provision against such risks as are not covered by insurance. Under subsection (5) the Corporation shall pay into the insurance account sufficient amounts to provide adequate cover against relevant risks not covered by insurance. Under subsection (6) payments by the Corporation into the insurance account shall be paid out of the proceeds of the disposal of canned fruits being canned fruits against relevant risks in respect of which the Corporation was not fully insured— for that purpose the Corporation may fix an insurance account reimbursement rate.

Under subsection (7), money in the insurance account may be applied only in payment of loss by reason of a relevant risk, not fully covered by insurance and such amounts as are appropriate to make provision for expenses incurred in maintaining the insurance account. Under subsection (8), the Commonwealth Minister may, by determination in writing, set guidelines for the Corporation to follow in exercising its powers under this section and revoke or vary such guidelines. Under subsection (9), the Corporation must exercise its powers in accordance with such guidelines. Clauses 6 to 8 amend sections 9, 10 and 11 by increasing the penalties provided in those sections. Clause 9 provides for the repeal of section 12 of the principal Act. Clause 10 inserts new section 13a into the principal Act.

Under the new section, where the Corporation has determined a minimum price for which particular canned fruits are to be disposed of and those canned fruits are disposed of by a marketing agent at a price that is higher than the price so determined, then unless the Corporation otherwise directs, the amount of the difference between the amount actually obtained and the amount that would have been obtained if they had been disposed of at the price determined by the Corporation, shall be disposed of in accordance with arrangement between the marketing agent and the person to whom the amount payable by the Corporation under section 13 or 14 in respect of those canned fruits is to be paid in accordance with section 15 and for the purposes of section 4 (3), shall not be taken to be part of the proceeds of the disposal of those canned fruits. Clauses 11 to 13 amend sections 18, 22 and 23 of the principal Act by increasing the penalties provided in those sections. Clause 14 amends section 25 of the principal Act, the regulation making power. Penalties that may be prescribed for breaches of the regulations are lifted from $200 to $500.

The Hon. M.B. CAMERON secured the adjournment of the debate.