Speech by

Hon. RUSSELL COOPER

MEMBER FOR CROWS NEST

Hansard 15 September 1999

SUGAR INDUSTRY BILL

Mr COOPER (Crows Nest—NPA) (3.38 p.m.): The Opposition supports the Sugar Industry Bill 1999 with qualifications. As such, we will be moving amendments during the Committee stage. I indicate at this juncture that the amendments have been developed after extensive consultation with the industry and are being put forward in a genuine attempt to improve the operation of the legislation. In this context, any attempt by the Government to prevent legitimate debate on the Bill and on the amendments that the Opposition will be circulating by moving the guillotine would be counterproductive and an insult to the sugar industry.

This Bill is too important and the sugar industry is too important for this Parliament to not consider very carefully any legislation governing it and with the public interest clearly in mind. We have waited more than 12 months for this Bill to be introduced and we on this side of the House are committed to ensuring that the legitimate interests of the sugar industry are properly addressed. Nevertheless, the Minister did the right thing in deferring the debate on this Bill until after the Budget was handed down and the Government wisely took heed of the widespread industry concern that not enough time had been given to the stakeholders to study it and make submissions.

I totally agree with Harry Bonanno, the Chairman of the Cane Growers Council, who said in August—

> "Rapid passage of the Bill through the House would have given stakeholders insufficient time to consider provisions which are pivotal to the efficient operation of a flexible and internationally competitive sugar export industry."

When the Minister announced the deferral of debate on the Bill, I expressed the hope that he would consult widely with sugarcane farmers and revise various provisions which, in their current form, are not satisfactory and will operate in a harsh manner. Time will tell whether the Minister has used this time wisely, but for the sake of the industry I hope that he has.

Queensland produces approximately 95% of Australia's raw sugar output. Almost all of Australia's export sugar emanates from this State. Around 85% of Queensland's sugar is exported, and in that context Australia now holds 16% of the world trade. Last year, Queensland's raw sugar production totalled a record 5.22 million tonnes—a 4.6% increase over the previous year. Exports increased in the same period by 9.3% to 4.45 million tonnes. Despite the Asian downturn and a decline in sugar consumption in that important market, our total tonnage sold to Asia increased by 5.3% to 2.78 million tonnes.

Over the past decade or so, with successive controls on assignments relaxed, the area of land assigned for sugarcane production has increased from 363,000 hectares in 1989 to 483,779 by 1996. Between 1997 and 1998 alone, there was a 2.5% expansion in the assigned areas. In real terms, that meant that, last year, 12,514 hectares of extra caneland was assigned. This has resulted in approximately 700 new farmers entering the industry, which is tremendous. Capital investment by both farmers and millers has been substantial—so, too, with bulk terminals. Major infrastructure which has flowed from the expansion of sugar growing includes dams, irrigation and drainage works, as well as the expansion of cane railways.

But it is not just increases in the area of land under cultivation that is impressive. Perhaps even more so are the dramatic increases in productivity. Since 1989, the average production per farm rose from 4,600 tonnes of cane harvested per season to 5,900. The average harvesting group size rose

from 20,300 tonnes of cane per season to 50,000. Finally, the average season crushing per mill increased from 970,000 tonnes to 1.4 million tonnes of cane. Production of sugar in Australia increased by 40% from 3.68 million tonnes in 1989 to 5.25 million tonnes in 1996.

As the Sugar Industry Review Working Party said—

> "There is increasing cooperation between cane growers and sugar mill owners, who have developed an integrated approach at the local level to cane pricing arrangements, to expansion and productivity, and centrally to issues such as sugar quality, legislative amendments and prioritisation of research and development."

It is a matter of pride to know that our sugar industry leads the world in bulk storage, loading and shipping. We have a competitive edge and ongoing leadership with respect to sugar yields per hectare and high factory extraction and recovery. Fortunately, over the years, people connected with the industry have recognised and given the necessary support for research and development so that we can maintain our competitive edge despite a range of very heavy price overheads that afflict all levels of the industry.

But it is not all good news. As I mentioned, the Asian economic crisis has resulted in a decrease in sugar consumption levels, and our increased export performance was due in no small part to the reduced crop of Thai sugar in that period. It is a matter of concern that the Queensland Sugar Corporation reported that sugar consumption fell by up to 20% in key markets such as Korea and Malaysia. The industry faces the expansion of the Thai sugar industry, as well as ongoing, vigorous competition from South Africa, Brazil and Cuba. There are the ongoing problems of industry protection overseas, especially Europe and the United States. Despite our often hairy-chested approach to world trade, it has often not been reciprocated by our trading partners, as we see constantly. In making this point, I simply want to highlight that the sugar industry has been at the forefront of industry change, even though these changes have sometimes come at some cost.

In recent years, we have witnessed the breakdown of markets in Eastern Europe, the very significant expansion of the Thai industry, increasingly aggressive competition from Brazil and Guatemala and yet a rise of sugar consumption of only 1.5% per annum. There is also the ongoing difficulty of competition from alternative sweeteners in the generic sweetener market. It is a matter of concern that over 7% of the world sweetener market has been captured by starch-based sweeteners, 8% by artificial sweeteners and 5% by traditional glucose and dextrose sweeteners.

On top of all of this, there are ongoing climatic problems, such as successive cyclones in the north and unseasonal wet weather, which has wreaked havoc during harvesting seasons in recent years. There are also issues of crop disease, pests like the grey-backed cane grub and serious rat infestation problems in the Mackay region, as well as the serious threat of declining c.c.s. levels, particularly in the far north. The industry has also seen sugar prices drop dramatically since 1997.

Despite some forecasts of a sugar deficit in 1997-98 which saw sugar prices reach a high of 12.55c per pound in December 1997, it soon became clear that there was a sugar surplus. Sugar prices dropped dramatically and, in just six months, fell to 7.2c per pound—a drop of 40%. Prices are even lower now, and just a few weeks ago the world's biggest sugar traders suggested that there may be a mounting sugar surplus—something in the order of seven million tonnes. The only bit of good news on that front is the anticipated move of the Brazilian Government to raise the level of ethanol derived from sugar in petrol from 24% to 26%, which will divert more sugarcane from the world's sugar markets.

In August, the Queensland Sugar Corporation announced that the returns for the current crop were 30% down on returns last year. In reality, this means that some farmers will not cover production costs. It is a measure of the seriousness of the situation that the Cane Growers Council has been forced to make an incapacity to pay submission to the Full Bench of the Industrial Relations Commission to prevent a flow-on of an across-the-board $12 a week wage increase, which I realise was lost last week. As the Cane Growers Council pointed out, growers can ill afford to pay more for farm labour at a time when most are unable to cover their production costs. So although the industry is strong, competitive and critical to the economy, it has many challenges. These should never be forgotten or downplayed. In this context, it is important that legislative changes assist the industry and neither add extra imposts or burdens nor destabilise it by the threat of constant change. I sincerely hope that the industry will get a rest from non-market-driven changes developed by politicians, bureaucrats and economists. As a Parliament, we should ensure that the industry is allowed to regroup and move forward.

I will now deal with how this Bill will affect the industry. The Bill contains many positive points and implements most of the recommendations of the Sugar Industry Review Working Party. The Minister has outlined these matters in his second-reading speech, and I do not intend to go over the same ground except to quickly mention single desk selling. The retention of single desk selling should receive

unanimous support. The Minister said it is the cornerstone of the industry, and it is. I totally support the following comments of the Sugar Industry Review Working Party—

> "Through single desk marketing, the Queensland raw sugar industry has become internationally competitive with marketing structures and industry infrastructure which are regarded internationally as operating at world's best practice."

I would also like to record in this place the appreciation which all people owe to the Federal Government and, in particular, to John Anderson who, while Primary Industries Minister, ensured that the Trade Practices Act was amended to put beyond doubt the Queensland Sugar Corporation's vesting powers. Section 173 of the Trade Practices Act now makes it absolutely clear that the vesting of ownership in sugar in the corporation does not result in a breach of section 50. So since July last year, any doubts people had about National Competition Policy striking down single desk marketing have been allayed. Of equal significance has been the pledge of the Federal Government that should any further amendments ever prove necessary, then they will be actioned.

I also want to make mention of, and give credit to, my friend and colleague the member for Hinchinbrook who, when Primary Industries Minister, succeeded in obtaining approval for the transfer of the ownership of bulk sugar terminals to the sugar industry and the provision of security of tenure by the granting of long-term leases.

Mr Palaszczuk: You're right there.

Mr COOPER: I would not say anything else—only the truth. This had been recommended in 1993, but the then Goss Labor Government was very slow to act.

Mr Palaszczuk: Come on!

Mr COOPER: It did not get done, did it? The Minister cannot have it both ways.

Mr Schwarten: We supported it.

Mr COOPER: I know. The announcement by the coalition of this initiative in May 1998 was greeted with universal enthusiasm and has never since been questioned.

It is pleasing that the current Government supports this coalition initiative. I would not be honest if I did not indicate my concern about how slowly the matter has proceeded over the past year. I recognise that the industry established a bulk sugar terminal management group as a forerunner of a company to run the terminals and that there are difficult issues surrounding the options for assigning a share of entitlements to individual participants in the enterprise, as well as the more general issue of whether a wider but still restricted market should be able to buy shares.

I would appreciate it if, in his reply, the Minister would deal with the milestones of this matter over the past seven or eight months. There are quite a number of issues that I will raise in this speech which I hope the Minister will be able to deal with in his reply. That is why the coalition has gone to the trouble of putting this together. Maybe some of the anomalies and the problems that we have discovered can be ironed out in that form, as well as by way of amendment.

Despite some very good and positive features, there is nevertheless concern throughout the industry about certain aspects of the Bill. It is important that the Minister promptly addresses these concerns. One of the key features of the sugar industry to this point has been assignments. The assignment system, in effect, confers on growers the right to grow cane on defined parcels of land for crushing and guarantees access to crushing capacity. Conversely, from the mill owners' point of view, it also guarantees a supply of cane. Assignments also underpin mill area collective bargaining arrangements and ensure that there is orderly marketing.

All the studies that the working party commissioned found that this arrangement, despite a few wrinkles, works well for all concerned and has ensured that the Australian sugar industry is at the forefront of the global industry. I just mention in passing that the argument that growers are guaranteed that the mill will crush their cane, but there is no obligation on the grower to grow sugarcane on assigned land, fails to acknowledge that there is already a process in place for cancelling assignments if cane is not grown. This is important because, when one reads some of the reports, one could form the view that somehow the current system favours growers disproportionately, when in fact that is far from the truth.

The working group said—

> "This lack of supply guarantee was rarely of genuine concern, because cane growing is usually more profitable than other farming alternatives."

That certainly may not be the case at the moment, but it is an historical fact. Canegrowers invest too much capital in cane production to be anything other than meticulous and scrupulous in growing cane on their assignments.

It has also been recognised that assignments act as a framework for the collective bargaining process. It has ensured that—to quote the Boston consulting group's report on the industry—

> "Both sides negotiate with the knowledge that they are guaranteed that the other side cannot simply 'pull out' of negotiations, and that the QSC will step in if an agreement is not reached. Unlike labour negotiations, for example, there is no real threat of a 'strike' or a 'lockout'. This is significantly different from the situation that could exist in the absence of assignment."

The concerns that I raise all stem from the widespread view that this Bill, in an endeavour to make our intentionally competitive and innovative industry even more competitive and innovative, has moved the goalposts in a manner which could harm farmers.

The Bill creates some uncertainties and could result in some mill owners gaining too much negotiating power without the necessary checks and balances being put in place. My first major concern is the breaking of the nexus between cane and sugar prices. This nexus has been in place since 1916. For the benefit of those opposite, it was a T. J. Ryan initiative, and it is enshrined in the existing legislation.

Canegrowers is very concerned about this change, as is the Australian Cane Farmers Association, who point out that this change, together with the deletion of the requirement that the price paid for cane is the same for every grower bound by the award, will result in a diverse payment system. It will allow payment for standing cane and for flat rate payments to be made to farmers. The potential problems that could flow from this were outlined by the association as follows—

> "In future, the mill can purchase cane as standing cane, at the farm gate or at the mill gate, with farmers 'paying' for cane transport. Multiple prices for the same quality cane can be used for the same season within the same mill area."

No doubt the Industry Commission and the National Competition Council would be delighted to see this outbreak of so-called choice, but at what potential cost to growers and to orderly marketing? The Minister can correct me if I am wrong, but the deletion of this nexus was not a recommendation of the working group. In those circumstances, the industry is rightly worried that the implications of this initiative may not be known to the very people who have framed this Bill.

The Opposition will move an amendment which is designed to ensure that a supply agreement negotiated pursuant to clause 49 of this Bill must link the cane and sugar price unless the negotiating team otherwise agrees. The amendment will not compel the insertion of a nexus into each supply, but it will allow it to occur and will place the onus on the negotiating team not to insert it. This is a commonsense approach to a very serious issue and I hope the Government sees the merit in this initiative. The initiative is strongly supported by both growers organisations.

The Bill is aimed at freeing up the industry. I point out to the Minister that it would appear that the drafters of this proposal have not considered the relative negotiating power of canegrowers and mill owners. It was the disparity of bargaining power between growers and millers, and the consequent misuse of this market power to lower canegrower returns, that resulted in the 1916 legislation which has underpinned the sugar industry ever since.

My concerns are not based solely on the concerns that have been raised with me by many growers or from any representations that I have received, but from a clear appreciation of what was found by the Sugar Industry Review Working Party in 1996. I draw the Minister's attention to this finding of the working group—

> "The working group concludes that there is an imbalance in the negotiating power of cane growers and mill owners in many mill areas and there is the potential for some mill owners to attempt to take advantage of this situation."

In these circumstances, one of the key tools that should be used to prevent the misuse of market power is the requirement that key pricing information be made available to the key players.

The Opposition will be moving an amendment which will require mill owners, for each crushing season, to supply growers who have supplied cane to that mill with information about the payments received by the mill owner from the Queensland Sugar Corporation. The supply of this information will assist growers in benchmarking their payments against the value of sugar in their cane and should help growers entering into discussions with respect to collective or individual agreements.

I emphasise that the coalition is not coming into this debate with an attitude of opposition to the development of multiple payment systems within each mill area. We do not challenge the right of parties to negotiate the best deal they can, subject to individual agreements not significantly adversely affecting growers who are subject to a mill collective agreement. We support local and individual choice, but we demand fairness and equity. What we say, loud and clear, is that a nexus between cane and sugar prices is, in most instances, the fairest and most appropriate approach for this industry. We concede that the parties should have the right to move away from this approach, but only after they have sensibly considered the alternatives and the implications that this will have on the mill, the growers and the community.

We suggest that if we are to move into a brave new world of individual and collective agreements, of multiple arrangements and prices, and of flexible market oriented procedures, the very people who grow the cane and who more times than not do not have an equivalent bargaining power, should be given market-sensitive information so that their interests can be looked after.

If this was, say, the Consumer Credit Code and we were talking about a consumer about to enter into a loan or credit card arrangement, there is a raft of protections designed to ensure that the customer is given key market information so that the customer can strike the best deal and is not misled. The very same principles of disclosure can and should apply in the context of an historically very regulated industry moving into a much more deregulated market.

Another matter the coalition will be raising in the Committee stage concerns the loophole in the Bill which allows a mill owner who owns a cane production area supplying cane from that CPA to his own mill without a supply agreement. Although the coalition has no objection to this taking place, there is the inherent problem of a conflict of duty and interest situation arising. Just as a grower has an obligation to supply, the mill has an obligation to process the cane. However, if a mill has its own cane, in the context of a much more deregulated market, a situation could arise where the mill prioritises its own crop over that supplied by local owners.

The Opposition will be moving an amendment which will ensure that, while a mill can have its own crop—and I emphasise that we are not arguing against that right—it must not detrimentally impact on growers who have entered into a collective agreement with that mill. Once again, this is fair and reflects basic rules of both enforceability of contracts and an entity in a position of trust not abusing its position and power to disadvantage growers to whom the mills owe a duty of care in these circumstances.

Some in the industry perceive that aspects of this Bill require of growers more responsibilities but confer fewer rights. As mentioned, this view is particularly prevalent in the context of how this Bill deals with supply agreements. The Minister has pointed out that, under this Bill, there is a devolution of responsibility to the mill area for all matters concerning cane supply and processing arrangements. The Bill also allows and facilitates the entering into of individual agreements between growers and mills. Although the Bill provides for individual agreements, it is likely that in the foreseeable future the vast bulk of the industry will continue to be governed by collective agreements. The Bill contains a number of provisions governing cane supply and processing agreements. However, despite the volume of words and the number of clauses, the coalition is concerned that some basic issues that will promote fairness and parity in negotiating power have been omitted.

The Bill sets out how collective agreements are to be negotiated and who negotiates them. The composition of a negotiating team, which is the body who negotiates agreements, is clear as are the obligations placed upon the negotiating team. Yet, despite this, the Bill is silent on the obligations placed on the team to consult with growers before the agreement is signed. I recognise that, of the four members of a team, two are appointed by the mill suppliers committee or jointly by the mill suppliers committees. I recognise further that clause 182 provides specifically that the objective of a negotiating team is to help growers and the owner of the mill improve profitability. Yet as the Minister knows, once a collective agreement is made it is binding and enforceable in any court of competent jurisdiction as a contract on any grower who enters or—I emphasise—who is taken to have entered into the agreement.

The Bill does not mandate maximum time limits for agreements and there is no scope for appeal by an aggrieved grower. Although within 21 days after notification of it has been published 20 or more growers can ask the negotiating team to vary the agreement, no variation will occur unless there is unanimous agreement. As far as I can see, an aggrieved grower has no right of appeal.

In addition, clause 45 requires each grower to have a supply agreement and, unless a grower has negotiated an individual agreement, the grower is deemed to have entered into the collective agreement. I think that collective agreements are a particularly appropriate mechanism for guaranteeing basic rights and responsibilities for all parties in the sugar industry. However, it must be recognised that these agreements have the force of individual contracts and can operate on numerous growers by default. In these circumstances, I would have thought that this Bill should require up-front consultation not just between the four members of the various negotiating teams but between the members of the negotiating teams and the growers. I am not suggesting that that would not occur as a matter of course. I am not in any way suggesting that each and every member of all negotiating teams would operate in any way other than what would be appropriate. However, collective agreements are just that: they constitute a bundle of rights for a collection of people, and the persons whose lives and livelihoods are so inextricably intertwined with the terms of these agreements should be consulted prior to the agreements being executed. The Opposition will be moving an amendment that will place an up-front, positive and clearly stated statutory obligation on each negotiating team to consult properly with growers about collective agreements before they are signed.

The nature of the consultation will be specified in a written directive of the Minister. That ensures that any doubts about what sort of consultation is mandated will be cleared up. No-one should object to

this amendment. It is fair and it is plain commonsense. It should be standard industry practice and, in that it states what should be done, I would be very surprised if the Minister and the Government did not agree with it.

As I mentioned, the collective agreement is binding on all parties and can be enforced through the courts. Obviously, every effort should be made in drafting industry legislation of this type to avoid the parties being forced into the courts. If a grower is not complying with the collective agreement and the mill wants to enforce it, the Opposition believes that the most sensible way of proceeding is for it to apply to the relevant cane production board to cancel the relevant cane production area or part of its number of hectares. This right would be in addition to that granted to the cane production board under clause 31. This amendment has been sought by Canegrowers and is supported by the ACFA. It mandates a very tough remedy for mill owners but, on the other hand, prevents the parties ending up in the Supreme Court or even the Court of Appeal.

As I have mentioned, the coalition supports the right of mill owners and growers to enter into individual agreements. However, the manner in which the Bill is currently drafted ensures that those farmers who are part of a collective agreement could be placed in a disadvantageous position. Clause 42 provides that, under a collective agreement, the negotiating team has up to 21 days to publish in a newspaper circulating in the area from which the cane will be supplied to the mill notice of the signing of the agreement and how a copy of it can be obtained.

As I see it, two potential problems could arise. The first one is that, as has been raised by the ACFA, clause 47 provides that within seven days after a collective agreement is made, the mill owner must give to the mill suppliers' committee notice of every individual agreement the owner has entered into with growers for all or part of the period to which the collective agreement applies. I refer to an article in issue 14 of the Australian Sugar Digest of 4 August 1999 in which the ACFA raises the following argument—

> "This allows the mill owner to decide action on individual agreements after they know the collective agreement arrangements. The grower seeking an individual agreement with the mill owner will not know the implications of a collective arrangement until after an individual agreement is required to be settled. Given that failure to complete an individual agreement necessarily means a farmer is caught by the collective agreement, the miller's negotiating strength is enhanced compared to the grower seeking an individual agreement."

The Minister might care to respond to those concerns in his reply.

The other potential problem is from the other angle. Just as the farmer wishing to enter into an individual agreement may be disadvantaged by not knowing the terms of the collective agreement, so, too, are growers wanting a collective agreement but who are denied knowledge of individual agreements entered into for all or part of the collective agreement period. The Opposition will be moving an amendment that will require the mill owner to give the mill suppliers committee a copy of each of these agreements before a collective agreement is made. At the moment, this does not apply until seven days after the collective agreement is signed. Of course, by then the horse has well and truly bolted.

This amendment is designed to ensure that growers who want to enter into a collective arrangement do so with the full knowledge of what other individual arrangements are in place so that proper and informed negotiations can occur. The Opposition is supportive of fair agreements, whether they be individual or collective. One of the most effective ways of ensuring that this takes place is to ensure that growers and growers' representatives enter into negotiations properly armed with pertinent information.

As the Minister would know, clause 48 of the Bill allows a mill suppliers committee to apply for an order stopping or cancelling an individual agreement. The only ground prescribed by the Bill for such radical action is if the agreement's provisions will have a significant adverse effect on growers supplying cane to the mill under the collective agreement. There is no question that a provision along those lines is necessary. However, there will be endless debate as to what is encompassed by the term "significant adverse effect". The coalition has consulted with the industry on this point and there is widespread support for clarifying this matter and giving guidance to the industry. In an endeavour to facilitate this, the Opposition will be moving an amendment that will insert into the clause an example of a provision having a significant adverse effect. The incorporation of this amendment should go a long way towards preventing unnecessary disputes and I ask the Minister to give this amendment favourable consideration.

Unless otherwise stated, from clause 49 the Bill sets out provisions dealing with the content of supply agreements. These provisions cover both individual and collective agreements. I am very concerned that clause 49 requires that a supply agreement must—and I emphasise that the Bill uses the word "must" not "may" or "shall"—deal with growing. This is a significant extension of the current legislation and, again, a matter not recommended by the working party. All growers' representatives are

concerned about this requirement. There have to be concerns that a supply agreement could be made that directed growers to, for example, hill up, to use high-density planting or not to go past fourth ratoons. As the Minister says, this Bill strengthens existing environmental and land use requirements. In this context, the insertion of this head of power is out of place and quite inappropriate. There are adequate controls on land use provided already in the issue and variation of CPAs. Other legislation is also used to control farming practices. The Canegrowers organisation has been instrumental and proactive in developing a code of practice. The overall scheme of the Bill empowers and enables millers to negotiate commercially and environmentally sensible agreements without the insertion of a provision like this, which has the inherent capacity for misuse and intrusion into farming practices that are properly the preserve purely of the grower.

I say to the Minister that this subclause is unnecessary if it is viewed in a benign way or is undesirable if viewed as a trigger that would allow provisions to be inserted into supply agreements that are inappropriate and represent an unwarranted intrusion into farming practices. In the very significant main, land-holders are the best custodians of their land. No-one suggests that a farmer should be allowed to abuse his land, nor would any farmer want to. That is not the case now and it will be even less so in the future. What growers and the coalition suggest, however, is that this head of power could be misused. It has not been recommended and it is not needed. At the Committee stage I will be moving that it be deleted.

Conversely, the Bill provides that one of the matters that a negotiating team which develops supply agreements may include is "cane and sugar quality". This is an absolutely critical matter and in our opinion should be inserted in the list of mandatory matters that must be included in each and every supply agreement. The quest for better quality cane and sugar is strongly supported by all in the industry and is in the best interests of the industry. Similarly, the coalition does not view this issue as an optional extra. Accordingly, we will be moving an amendment to give effect to that goal.

Another matter that the coalition believes should be included in each and every agreement is the provision that a mill owner who refuses to accept a canegrower's cane for crushing must give notice to the owner as soon as possible. The various grounds enabling a mill to refuse to accept cane for crushing are set out in clause 50. The grounds for refusing to accept cane are similar to those currently located in section 159 of the Sugar Industry Act 1991.

We have no objection to the kinds of grounds set out for refusing to accept the cane. However, we believe it is only fair and just that if cane is to be rejected, the grower should be notified as soon as possible. This is simply inserting into the Bill a basic element of natural justice, and no fair person could or should object to it. Like many of the other matters in this Bill, when one moves increasingly from a tightly regulated environment to a less regulated one, one needs to spell out in the legislation various principles designed to encourage not only competition but also fair market behaviour. This is such a proposed amendment.

I mentioned earlier that each negotiating team is required by clause 182 to have, as its objective, improving the profitability of both mill owners and growers. This positive obligation has to be read in conjunction with clause 54, which sets out general considerations for collective agreements. Subclause 3 actually provides that a negotiating team must consider ways in which growers and mill owners may jointly improve profitability. In effect, this subclause ensures that the objective set out in clause 182 is given practical effect to.

As the Minister knows, there is concern in the industry that under this Bill one of the matters that the negotiating team may consider—and I emphasise "may"—is cane payment arrangements. This contrasts markedly with section 122 of the Sugar Industry Act. At the moment, section 122(8) states—

"(a) that except where the mill is in the possession of an administrator under this Act, the mill owner is to pay to each assignment holder, in respect of the holder's sugarcane accepted in each month of the season, a sum equal to the interim minimum price for the sugarcane under the award;

(b) unless the award provides for payment within a lesser period of time—that the payment is to be made within 30 days after the end of the month to which it applies; and

(c) if the mill owner fails to make the payment within the specified time, the mill owner commits a breach of the award."

It is true that the working party recommended that these requirements be made non-mandatory to improve the flexibility of local area negotiations. The Opposition accepts that analysis and we are not suggesting that anything as prescriptive as is contained in subsection 8 be inserted in the Bill. However, it is a long way from making these matters non-mandatory to leaving the whole issue of cash flow up in the air. Cash flow and profitability go hand in hand. One can have a very profitable operation but go broke if one does not get paid quickly and consistently.

I will be moving an amendment that will require the negotiating teams to consider not only profitability but also cash flow. The Parliament should note that the compulsion is to consider. There is

no compulsion that this or that form actually be included in a collective agreement. This amendment will simply give teeth to the current discretionary requirement that the negotiating team may consider present payment arrangements. The amendment will give focus and urgency to this critical issue, but at the end the day it will be up to the negotiating team. This amendment is consistent with the working party's recommendation and should go some way towards allaying concerns with the industry.

Before concluding, I wish to address two other issues. The first is the power granted under clause 94 for the corporation to give a directive to a mill requiring the mill to produce a particular brand of raw sugar in a particular amount. The Opposition does not oppose this requirement. However, we believe it is only fair that before giving such a direction the corporation must have regard to the impact that this will have on increasing growers' costs through extending the length of a crushing season for a particular mill. I will be moving an amendment to clause 94 which is designed to have this effect. In no way will it prevent or impede the corporation giving directions of this nature, but it will cast a positive statutory obligation on the corporation to properly take into account the immediate and local impact of its decision on growers' costs.

The final issue I will speak of is the concern raised by the ACFA surrounding mill closures. I draw the Minister's attention to the following comments in the Australian Sugar Digest—

> "Mill closure or the change in ownership of mills is not subjected to the terms of a cane supply agreement. Mills can seek restitution under a supply agreement where a grower transfers or abandons his CPA.
>
> However, growers are not able to enforce the terms of a supply agreement (or seek compensation for non-performance) from a mill owner closing or transferring ownership of the mill.
>
> In this regard it should be noted that ownership change of mills has been a reasonably common past occurrence and several mills have closed.
>
> In addition, some growers are to be required to give at least four years notice of cancellation of all or part of their CPA. No notice is required to close a mill."

The Opposition has considerable sympathy with those sentiments.

There is no doubt that the Sugar Milling Rationalisation Act 1991 is a very prescriptive piece of legislation and was recognised as such by the working party. However, it seems to us that the Bill moves too far in the opposite direction. In effect, this Bill contains just one clause—clause 75—that deals with what is required in closing a mill, and the rights and obligations of growers are left up in the air. I will be moving an amendment designed to address this matter. However, in the interim I ask the Minister to give this issue further consideration. It is clear that the Bill as it stands is very stark and legitimate concerns are being expressed.

In conclusion, the Opposition sees much merit in the Bill. We are very happy to debate it. As the Minister knows, we have been critical that it has taken so long to come before the Parliament. The sugar industry has borne the brunt of a succession of reviews and policy changes and has withstood an unstable global economy. Despite all of these challenges, it remains at the forefront of cutting-edge practices and is the world leader. It is integral to the economic wellbeing of Queensland and supports communities all along the coast.

The sugar industry is predominantly a family based industry. Unlike some other primary industries, it is continuing to grow, develop and mature. In these circumstances, I think it wise for all Governments, both State and Federal, to recognise the importance of the sugar industry and to work cooperatively with it to develop overseas markets and improve productivity and profits and not to subject to it to any further unsettling changes unless they are necessary and do not just emanate from the economic think tanks in Canberra and George Street.

During the Committee stage of the debate, the Opposition will be raising a number of other issues that I have not outlined. At this time I signal that the coalition does have a number of concerns about provisions which vest significant powers in the hands of the Minister and which, in some cases, fail to satisfactorily deal with issues of conflict of interest. Key matters are left up in the air which may in the future lead to disputes and litigation rather than negotiated outcomes.

There is no doubt that this Bill has many very good elements, but it also has a number of problems that need to be fixed. With a little goodwill I am sure that they can be addressed promptly. I thank the Canegrowers, the ACFA and the Sugar Milling Council for the considered views they have put to the Opposition. They have approached this exercise sensibly and with the interests of their members at heart. They deserve to be thanked publicly, as I am now doing.

Finally, I again encourage the Minister to consider the amendments that I have outlined. An acceptance of them will go a long way towards bolstering industry support for the Bill and will make it fairer and prevent unnecessary disputes arising in the future. As I said, in general the Opposition supports the Bill and commends it to the House.