Speech by

Mr T. MALONE

MEMBER FOR MIRANI

Hansard 15 September 1999

SUGAR INDUSTRY BILL

Mr MALONE (Mirani—NPA) (4.30 p.m.): It is with a great deal of pride that I rise to speak to the Sugar Industry Bill. With respect to the previous speaker, the member for Mackay, I can say that in my electorate we actually do grow about a fifth of the cane grown by the sugar industry in Queensland.

In common with other members, I support the Sugar Industry Bill. It is a Bill for which we have been waiting for a long time and it is a milestone in respect of where the industry is going. It largely but not entirely follows the recommendations contained in the report of the Sugar Industry Review Working Party. The report was commissioned in 1995 by the then Federal and State Labor Governments in part due to the National Competition Policy, in part due to the Keating Government's desire to review the sugar tariff and also in part due to the fact that under the Sugar Industry Act 1991 there was a requirement to review the sugar price differentials by 15 July 1996.

The report and this Bill are focused on lessening the regulation of the industry, allowing more freedom of choice for growers in terms of agreements with mills and focusing the Queensland Sugar Corporation squarely on improving the industry's export performance. In a broad sense, these goals would be shared by most people involved in the industry. On top of that, the report recommends a continuation of compulsory acquisition of all raw sugar. It recognises "the significant benefits which flow to the industry and the community as a whole from these arrangements". It further recommends a retention of the corporation as a single desk seller of sugar for both the export and domestic markets. Of course, most members would be aware that that will change in the near future.

I would like to record in Hansard just why single desk selling is so important for the sugar industry. First, it enables the industry to build closer customer relationships based on the ability to differentiate Queensland raw sugar from its competitors. The working party said—

> "Access to markets and control of supply chain to end users represents a long-term strategic benefit to the Queensland sugar industry."

Second, it enables Queensland to influence regional price premiums by managing the export supply of raw sugar. The working party estimated that the benefit to the Australian community flowing from this influence would be between $30 and $60m per year. I just reiterate: the benefit of single desk selling is worth between $30m and $60m per year to our community. Finally, it facilitates the coordinated and integrated management of the industry's logistics with a consequential flow of cost savings in the form of reduced rate charges and lower cost bulk sugar terminal facilities.

I join with my coalition colleagues in supporting those aspects of this Bill which retain the single desk selling as it is logical, necessary and brings enormous benefits to Queenslanders. I also join with my colleague the member for Crows Nest in giving full credit to the Federal Government in July last year for fast-tracking the insertion in the Trade Practices Act of section 173, which makes it clear that the vesting powers of the corporation do not contravene section 50, which prohibits acquisition resulting in a substantial lessening of competition. I use that to counter what the previous speaker just said.

The sugar industry has been waiting a long time for this Bill, as I said before. The industry is also suffering from review fatigue. Since 1977 there have been at least 11 major reviews of this industry, including in 1977, the Committee of Inquiry into the Expansion of the Sugar Industry; in 1979, the Industries Assistance Commission Review; in 1983, the Industries Assistance Commission Review; in

1984, the Internal Sugar Industry Review Program; in 1985, the Sugar Industry Working Party; in 1989, the Review of the Senate Standing Committee on Industry, Science and Technology on Assistance for the Sugar Industry; also in 1989, the Committee of Inquiry into the Queensland Sugar Industry Pooling System; in 1990, the Sugar Industry Working Party, known as the Fitzpatrick working party; in 1992, the Industry Commission Review of the Australian Sugar Industry; in 1993, the Commonwealth Sugar Industry Task Force Review; and in 1996, the Sugar Industry Review Working Party. So honourable members can see that there has been a long history of reviews.

Yet at the end of the day, these reviews have found that the Queensland sugar industry is highly internationally competitive, with high labour productivity; high sugar yields per hectare; efficient milling, transportation, bulk storage, port system; leading edge R & D; and an admirable degree of cooperation between all sections of the industry. So while Government should be assisting this critical industry to continue to lead the world, I sound a note of caution that the sugar industry should not be subjected to ongoing legislative reviews. Indeed, the industry needs time to consolidate and move forward.

Back in December 1996, the Chairman of the Australian Sugar Milling Council, Graham Davies, said that it was important that there be no further reviews to enable the industry to plan with certainty, and I agree very strongly with that sentiment. We have a legislative structure which, with some modifications, has been in place since World War I and which all through the intervening decades has enabled this industry to grow and prosper. If we are to continue to witness the industry growing with all the flow-on benefits to the rest of the community, we need to listen very carefully to what people in the industry are saying and not be driven by people who have no real knowledge of the industry pushing their own economic theories.

As I said, the Opposition supports the broad thrust of the Bill. The shadow Minister explained various component parts in his speech. As I mentioned, the coalition supports the retention of single desk selling and focusing the corporation on more export driven marketing. However, the real area of concern I have with this Bill relates to cane supply and processing arrangements. The Minister has characterised the changes contained in the Bill in this area as one of devolution to the mill area for all matters with respect to cane supply and processing. Yet, as the Minister and his department well know, whenever we move from one regulated situation to a far less regulated environment, we need to ensure that protections are in place to prevent misuse of market power. We also need to ensure that people are empowered with key information and appropriate remedies so they can adequately protect and advance their rights.

Under this Bill, a canegrower may hold an entitlement which is called a "cane production area". A cane production area entitles the grower to enter into a supply agreement with a mill with respect to the cane grown on a specified number of hectares. The Bill goes on to provide that a supply agreement can be entered into either individually or collectively. As my colleague the member for Crows Nest pointed out, the Opposition will be moving a series of amendments at the Committee stage designed to ensure that, in this less regulated and devolved market, the interests of all growers are properly protected. It is the view of growers' representatives that this Bill places mills in a position of too much power. Even without the changes brought about by this Bill, there is this disparity of negotiating power. The working party itself concluded—

> "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."

The working party report also states—

> "Mill owners had a negotiating advantage over many cane growers because it was economically unviable for at least some cane growers in virtually all mill areas and all cane growers in some mill areas to transport their cane to mills owned by another mill owner. Boston Consulting Group argued that it was economically unviable for at least 80 per cent of cane grown in 13 out of 25 mill areas to be sent to another mill owner.
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> Further, because cane growing was often significantly more profitable than alternative land uses, mill owners could use their negotiating power to lower cane prices significantly, at least in some instances, before cane growers left the industry.
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> In addition, many cane growers faced significant capital costs in transferring to other land uses and this could act as a significant barrier to such action, at least in the short to medium term."

No-one, especially me, is suggesting that there are currently any major problems between mills and growers. Far from it. In fact, the working party report at page 39 points out that there is increasing cooperation and a far more integrated approach at the local level to a range of matters, from pricing to productivity and cane expansion. However, one would have to be very short-sighted not to recognise that this Bill will be in place for a very long time. There are many people in the industry and local

conditions obviously differ. It should be the object of this legislation to head off disputes and encourage cooperation.

The most sustainable form of cooperation is when the parties sit down and speak as partners in developing an exciting future for this industry rather than as combatants or with one party having the whip hand. I think the Bill as it stands tilts the balance too far in one direction, and in the context of a deregulated industry at local level it is important that some extra protections be written into it.

I place on record my support for our sugarmills and acknowledge the tremendous work they do, but it would be remiss of anyone in this Chamber not to recognise that at the end of the day the most vulnerable element in this industry is its growers. We have to ensure that their legitimate interests are addressed.

In the time I have remaining I will deal with some of the areas in which the Bill needs to be improved. Without any doubt, the biggest issue of concern to growers is the absence of a statutory nexus mandated between the selling price of sugar and the price of cane. For many years there has been industry understanding that the price of sugar and cane must be associated with the selling price of sugar. This nexus was first required to prevent the misuse of market power by millers and was supplemented by a requirement that the price paid for sugarcane be the same for every grower covered by a particular award. I appreciate that the sugar industry working group recommended that the existing law is too prescriptive, but it did not recommend that the nexus be dispensed with altogether.

At the moment there is consistency of payments and legislatively mandated fairness. Under this Bill these protections will disappear and it will be up to the parties at local or individual level to negotiate what is contained in their supply agreements. We have a situation where, at the very time these protections are being omitted, the Government is seeking to provide a legislative framework for multiple agreements for the same mill area. A situation not only could but most probably will arise where, under various agreements, mills will be negotiating multiple prices for the same quality cane for the same season and all in the same local area. Some may say that this is a function of free enterprise and that in any event it promotes competition and industry flexibility. I would say that these changes may lead to greater competition but that it is uninformed competition that actually harms the industry and does not promote or encourage expansion. As the member for Crows Nest pointed out, we will be moving amendments to require a negotiating team to deal with this nexus issue.

Another situation that requires clarification is the power of a mill to refuse to accept cane for crushing. Of course this right is needed, but the Bill is silent on the question of notification of the decision to the grower. Under our amendments, the mill owner will be required to give notification as soon as possible, as is the case in the current Act.

A further issue of concern to growers is the fact that a negotiating team drafting a collective agreement is required to consider ways in which both mills and growers can improve profitability. This is a very important matter and we strongly support its insertion in the Bill. However, the concern is that, unlike the current Act, this Bill is totally silent on the question of cash flow. At the moment, mill owners are required to make payments as specified. In comparison, this Bill says nothing at all and we believe it would be a mistake not to require the negotiating teams to deal with this issue.

Another issue that is worrying to growers is the fact that clause 49 mandates that in all supply agreements—that is, both individual and collective agreements—there must be provisions dealing with the growing of cane. This matter has already been raised and the problems and risks of intrusion are spelt out. All I can say in addition is that this could be a major problem for growers attempting to negotiate individual agreements. A grower acting alone could well be saddled with obligations with respect to growing cane that are inappropriate, unfair and counterproductive. The risks for those entering into collective agreements would be less, but it is nevertheless a requirement that is not needed and not appropriate. We will be moving that it be deleted.

Another matter that the coalition believes the Bill has not dealt with appropriately or clearly enough relates to mill closures. In fact, the Bill is almost silent on this matter. We will be moving an amendment designed to spell out growers' rights in relation to the new mill owner as well as the closed mill owner. It is our contention that a mill closure should in no way affect the right of growers to take proceedings against the closed mill where such an action was available before the closure. Further, we believe that, so far as the new mill owner is concerned, the terms of the existing cane supply agreement should apply to govern the relevant rights of all parties. In short, we believe that the Bill should mandate certainty and fairness in this area and not leave the whole issue of the relationship between the various parties in doubt.

My colleague the member for Crows Nest has fully explained the reasons for the rest of the amendments we will be moving. I will discuss one or two additional matters. Under the Bill, a cane production area is granted, varied or cancelled by a cane production board. Boards comprise five persons: the chair, nominated by the Minister, and two representatives each of mills and growers.

Under clause 151, all questions are to be decided by a majority of members present. My concern is that a cane production area can be granted or the number of hectares increased by a majority of the board, but in the case of a variation of the conditions a unanimous vote is required. It is hard to understand why the granting of a cane production area can be made by a majority of those present but a unanimous vote is required to vary it. Some people have labelled this as unusual, and I agree. I would like the Minister to address this discrepancy in his speech in reply to the debate.

The other issue is the absence of any provision for the funding of the dispute resolution mechanism for negotiating teams. This is a matter that has been raised by the Australian Cane Farmers Association and I would like the Minister to address this in his speech in reply.

Finally, some growers have raised the problem of a grower representative on a negotiating team who may have negotiated or been negotiating an individual agreement with a mill and yet is responsible for the drafting of a collective agreement. As the Minister would know, the Bill deals specifically with the question of conflict of interest situations in the context of both cane production boards and cane protection and productivity boards, yet so far as the negotiating teams are concerned the Bill is silent. I would appreciate it if the Minister would also address this apparent anomaly and deficiency in his speech in reply.

Overall, we support the Bill and recognise that it substantially implements the working party report, but in many ways it is not an even-handed document. It quite rightly takes on board many problems faced by mill owners, including enforcing contractual obligations and capital expansions for example, but it often ignores the very same problems that growers face.

This Bill can and must be amended so that all areas of industry can be dealt with equally. The industry is going through a very difficult time at the moment. World sugar prices are low, there is a world sugar surplus, consumption is dropping in some of our key Asian markets, the Thai industry is expanding, and we face more and more competition from Brazil and Guatemala. Europe and the United States continue to place trade barriers in our way. The Australian dollar continues to fluctuate widely.

Time expired.
