**POTATO MARKETING ACT AMENDMENT BILL 1973**

**Legislative Assembly, 3 October 1973, page 1039**

Second reading

The Hon. J. D. CORCORAN (Minister of Works): I move:

That this Bill be now read a second time.

This short Bill, which is introduced following representations from the South Australian Potato Marketing Board estab­lished under the principal Act, the Potato Marketing Act, 1948, as amended, is intended (a) to increase penalties for offences against the Act; (b) where the offence involves unlawful activity in relation to potatoes, to include in the penalty an amount equal to the value of those potatoes; and (c) to facilitate somewhat prosecutions for offences against the Act. The actual amendments put forward are, in expression and in effect, somewhat similar to those inserted in the Citrus Industry Organization Act by an amendment in 1971 and, in practice, the amendments have been found most helpful by those responsible for the administration of that Act.

Clause 1 is formal. Clause 2 repeals section 21 of the principal Act and inserts in its place three new proposed sections, which I shall deal with seriatim. New section 21- increases the penalty that may be imposed for a breach of a provision of the Act from a maximum of $400 to a minimum of $50 and a maximum of $400 for a first offence, and a minimum of $100 and a maximum of $600 for a subsequent offence. In addition, where the offence involves, in effect, the unlawful marketing of potatoes, the defendant may be liable to an additional penalty based on the market price of those potatoes at the time the offence was committed. Members will appreciate that in orderly marketing legislation penalties for breaches must be substantial lest it become economically profitable for breaches of the legislation to be contemplated. The short-term economic benefit to the individual should not be allowed to outweigh the good of the industry as a whole.

New section 21a in effect transfers the burden of proof to the defendant. In cases in the contemplation of this section, it is quite easy for the defendant to show that his transaction was lawful but very difficult for the authorities to prove, in the strict legal sense, that the transaction was unlawful. It seems reasonable therefore that, once it is proved that the defendant had possession of potatoes at a particular time and that he could not produce appropriate evidence that the transaction was lawful, it shall lie on the defendant to satisfy the court that the transaction was a lawful one. New section 21b merely ensures the invalidity of agreements or arrangements that have the intention or effect of defeating the objects of the principal Act.

Mr. DEAN BROWN secured the adjournment of the debate.