**FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) BILL 1987**

**Legislative Assembly, 19 February 1987, pages 3004-6**

Second reading

**The Hon. M.K. MAYES (Minister of Fisheries**) obtained leave and introduced a Bill for an Act to provide for rationalisation of prawn fishing in the Gulf of St Vincent and Investigator Strait; to amend the Fisheries Act 1982; and for other purposes. Read a first time.

The Hon. M.K. MAYES: I move: That this Bill be now read a second time.

I seek leave to have the detailed explanation of the Bill inserted in Hansard without my reading it. Leave granted.

Explanation of Bill

It provides for the rationalisation of the number of prawn fishery licence holders in the Gulf St Vincent prawn fishery, for payment of compensation to those licensees removed, and for repayment of compensation moneys by remaining licensees.

By way of background, the Government announced an enquiry into the management of South Australia’s prawn fisheries in November 1985, and in particular, asked Professor Parzival Copes of the Simon Frazer University in British Columbia, Canada:

 (a) to assess and report to the Minister of Fisheries on the effectiveness of the management strategies being implemented in the Gulf St Vincent/Investigator Strait prawn fishery;

 (b) to investigate and report to the Minister of Fisheries on the allegations of mismanagement against the Department of Fisheries by the Gulf St Vincent Prawn Fishermen’s Association;

 (c) to investigate and report to the Minister of Fisheries on additional management measures, where appropriate, for the Gulf St Vincent/Investigator Strait prawn fishery.

Written submissions to the enquiry were invited up until the end of February 1986, followed by a visit to South Australia by Professor Copes in April 1986, during which time verbal submissions were received. Thus all parties were provided an opportunity to place any facts or points of view before Professor Copes.

The final report to the Government was received in July 1986, and immediately released for public comment until the end of August 1986. The Government subsequently endorsed most of the recommendations from the enquiry in October 1986, but recognised that the recommendation on the removal of vessels required careful discussion with industry, particularly on the actual process of achieving the recommended reduction of six vessels. Accordingly, the Government instructed the Director of Fisheries and the Executive Officer of the South Australian Fishing Industry Council to consult with all 16 licence holders in the Gulf St Vincent/Investigator Strait prawn fishery to discuss alternative options for removal of vessels, including the financial and legislative implications of such options. A report on the outcome of the discussions with the fishermen was made available to the Government on 7 November 1986.

Since the release of the Copes Report, the research staff of the Department of Fisheries, have worked very closely with the St Vincent Gulf Prawn Boat Owners’ Association (currently 10 members) to develop the required research and survey programs necessary to determine the most appropriate harvesting strategies aimed at assisting in the rehabilitation of the fishery, whilst enabling continued fishing by the fleet. By necessity, as clearly identified by Copes, during this rehabilitation period and until the number of vessels are reduced, the available time for fishing must be restricted to contain the effective effort within biologically acceptable limits. Ultimately, however, the removal of six vessels must be addressed to avoid a return to the indiscriminate and inappropriate fishing levels and practices experienced in the past. Failure to do so will result in justifiable criticism that the fishery is not being properly managed, despite clear direction from Copes on what management measures need to be implemented.

In considering the matter of vessel removal, the Government is well aware that there is substantially greater fishing capacity in the Gulf St Vincent/Investigator Strait prawn fleet than required to take the available stock, even with a rehabilitated stock and fishery. Unless this over-capacity is removed, the present licence holders will continue to experience financial difficulties and without very stringent controls on fishing activities, the stock will remain at reduced levels. In summary, whilst the Department of Fisheries has applied much more restrictive time and area closures in the absence of any removal of vessels, the Government recognises that this course of action cannot continue indefinitely. The Government is also keen to ensure that the State’s reputation for fisheries management is maintained, in keeping with Copes’ observation that: ‘South Australia has a good reputation for fisheries management, largely because the State has been more active than most other jurisdictions in efforts to correct fisheries problems before they become intolerable’.

Above all, Copes left no doubt that the ultimate responsibility for management of the fishery lies with the Government; accordingly, this Bill provides the Government with the necessary legislative authority to adequately address this responsibility.

In response to the Copes report, the Government has removed three vessels from the combined fishery by allowing the two licences under the Scheme of Management (Investigator Strait Experimental Prawn Fishery) Regulations 1985, to expire (with compensation of $450 000 for the licence being paid to each of the two licence holders), and by accepting the surrender of a Gulf St Vincent prawn licence and vessel, with the Government agreeing to pay compensation of $600 000. The Government has allowed a further period of three months in which licence holders in the Gulf St Vincent prawn fishery have been invited to voluntarily surrender licences; however, the Government warned that if insufficient licences were surrendered, legislation would need to be implemented to cancel the required number of licences. No such offers have been forthcoming and the Government has therefore decided to pursue appropriate legislation not only to achieve the required vessel reduction, but also to provide the means whereby compensation can be paid to the three licence holders already removed.

This Bill makes provision for the Minister of Fisheries to cancel fishery licences in the Gulf St Vincent prawn fishery if there are more than 10 licences in force as at commencement of the Act. However, the Bill provides the Minister with flexibility as to when licences might actually be cancelled. It makes provision to compensate licensees for the removal of their licences (and vessels and gear where appropriate) and to require the remaining licence holders, who are expected to benefit from improved returns from the fishery, to contribute equally to the cost of providing that compensation. The purpose of the Bill, therefore, is to establish a legislative scheme that provides for cancellation (if necessary) of licences, for compensation of former licensees (including the three licence holders already removed from the combined fishery) and for recouping the cost of providing that compensation from those licence holders remaining in the fishery. The Government has considered three alternatives for the removal of a further three vessels on a compulsory basis as follows:

*1. First In, First Out*

The South Australian prawn fishery resource is a community property with commercial access provided to a restricted number of fishermen under a limited entry licensing arrangement. Initially, access was provided at a nominal fee, although in more recent years, the access fee has risen significantly to more realistically compensate the community for the costs incurred in managing the resource. Original licence holders in the Gulf St Vincent prawn fishery received the protection of limited entry from the outset, and received excellent returns at nominal costs; this was identified by Copes in his report. In addition, the original licence holders demanded and won the introduction of licence transfer provisions in the fishery, together with the removal of the owner-operator policy. Consequently, later entrants paid a high entry fee with the result that they received less favourable returns on capital invested due to the transfer debt they were required to service.

Removal of vessels under this option will result in the removal of those licence holders who have benefited most at minimum cost from privileged access to a community resource. It is likely that these licence holders would be best able to absorb the impact of removal, provided their removal is accompanied by fair and reasonable compensation. Importantly, the debt repayments from those licence holders remaining in the fishery will be minimised. On the other hand, this option removes licence holders who entered the fishery in its formative stages and have not capitalised their licence on transfer.

*2. Ballot*

 Removal of a further three licences by ballot is probably seen as the most equitable means of determining who should be removed, as all licence holders have an equal chance.

*3. Last In, First Out*

This option recommends that the most recent entrants to the fishery should be those first removed. Under this option, there is concern that if compensation is to be based on the transfer price that any of the current licence holders paid, then the total debt that will be placed on the remaining fishermen may be in excess of what they might realistically be able to afford, lf this is the case, then the restructuring process may unnecessarily delay economic improvement in the fishery. In fact, it may also result in further biological damage to the Gulf St Vincent prawn stocks through inappropriate fishing practices in an attempt to service any excessive debt, despite the implementation of rigorous fishing strategies.

The Government has decided to pursue the compulsory removal of vessels (if necessary) on a ballot basis as the most equitable and fair means of selection.

Whilst the Government intends implementing Copes’ recommendation of removing six vessels in all, it recognises that the success of any further vessel removal process largely hinges on the ability of the remaining fishermen to meet the repayments associated with the scheme. The Government is presently assessing this aspect, and will take any relevant information into account in any decision to remove further vessels from the fishery. Any deferral of a decision to remove further vessels from the fishery, however, must be accompanied by a clear and written undertaking from the St Vincent Gulf Prawn Boat Owners’ Association that that Association will nominate a system whereby a further three vessels will be removed from the fishery within a specified time period on a voluntary basis.

In the absence of agreement on the further removal of three vessels, the Minister will require the necessary legislative authority contained in this Bill to compulsorily acquire licences. Specifically, if the Government is unable to remove the excessive effort in the fishery at the earliest opportunity as recommended by Copes, then it will be necessary to attempt to achieve some reduction on the impact on prawn stocks through even more rigorous area and seasonal closures. This in turn will result in very restrictive fishing periods which will have a detrimental effect on marketing and returns to the fishery.

In summary, although this legislation provides for compulsory removal of vessels from the Gulf St Vincent prawn fishery, it does not preclude the implementation of a buyback scheme on a voluntary basis by agreement with the remaining licence holders in the Gulf St Vincent prawn fishery. However, the Bill itself will still be required to ensure the payment of appropriate compensation to those vessels already removed, as well as providing the Minister with the legislative authority to remove a further three vessels in the absence of an agreement with the remaining licence holders.

Clause 1 is formal. Clause 2 provides for commencement on a proclaimed day. Clause 3 defines certain words and expressions used in the Bill. In particular, ‘former licensee’ applies to three categories of former licence-holders—those who surrender their licences (including the licensee in the Gulf of St Vincent fishery who has already agreed to do so); those whose licences in that fishery are cancelled under the proposed Act; and the two licensees in the Investigator Strait fishery whose licences have already expired.

 Clause 4 provides for cancellation of licences held in respect of the Gulf of St Vincent fishery. This proposed section will not apply if, before the commencement of the Act, sufficient licences have already been surrendered. The Minister is empowered to cancel sufficient licences to reduce the total number in force to 10. The Minister need not cancel all the licences ‘in excess’ at the same time but may proceed gradually. The licences liable to cancellation will be those drawn by lot in a ballot conducted by the Electoral Commissioner.

Clause 5 provides for compensation for loss of licence to be paid to former licensees. The amount will be $450 000 or the value of the licence at the time it was acquired by the former licensee, whichever is higher. (Subclause (2) relates to the calculation of the value of the licence at the time of acquisition.) Subclause (3) provides that where the Minister and a former licensee cannot agree on the amount of compensation, either may apply to the Land and Valuation Court to determine the amount. The compensation is to be paid from the Fisheries Research and Development Fund under the Fisheries Act 1982.

Clause 6 gives the Minister power to purchase a former licensee’s vessel and equipment at their market value and then to re-sell them. The purchase price will be paid out of the Fisheries Research and Development Fund and the proceeds of a subsequent sale paid back into the Fund.

Clause 7 provides that the net amount of money expended under the Act will be recouped to the Fisheries Research and Development Fund by means of surcharges on licence fees payable by the Gulf of St. Vincent licensees. The Minister will have power to impose the surcharges, vary their amounts and give directions as to payment. If a licensee fails to pay the surcharge or an instalment of the surcharge, his or her licence may be cancelled. The Minister may give an exemption to a licensee whose licence is liable to cancellation under the proposed section 4 or whose licence was acquired after the commencement of the proposed Act. Subclause (9) provides for calculation of the amount to be recouped to the fund and once all of this amount is recovered the surcharge will be revoked.

Clause 8 provides that the Minister may borrow money for the purposes of the proposed Act, and any money so borrowed will be paid into the Fisheries Research and Development Fund.

Clause 9 enables regulations to be made. The schedule amends section 32 of the Fisheries Act 1982, to enable transactions in and out of the Fisheries Research and Development Fund to occur.

The Hon. P.B. ARNOLD secured the adjournment of the debate.