



Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 19 November 1998

JUSTICE LEGISLATION (MISCELLANEOUS PROVISIONS) BILL

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (8.21 p.m.): I move—

"That the Bill be now read a second time."

The proposed Bill contains minor or technical amendments to a number of statutes directed at curing anomalies, correcting minor errors, repealing obsolete provisions and generally tidying up the Department of Justice and Attorney-General's list of statutes. The Department of Justice and Attorney-General is responsible for the administration of over 90 statutes and, as a result, there is a necessity for a large number of minor or technical amendments to be regularly made to various legislative provisions to ensure that the statutes continue to operate in the manner intended. To ensure this occurs, from time to time a departmental miscellaneous provisions Bill is prepared so that the minor or technical amendments needed can be effected by means of one statute. This ensures that much-needed statutory reform is not delayed and the time of the Parliament is not unnecessarily expended on dealing with a number of disparate pieces of legislation each of which would be of a relatively minor nature.

This Bill makes amendments to 13 Acts within my portfolio. The most important amendments, in my view, are the amendments to the Bail Act 1980. Elements of these amendments are the same as those introduced by my predecessor in a similarly named Bill which is now lapsed. These amendments introduce another procedure for the review of certain bail decisions.

By way of information, when a person is charged with an offence, the police are obliged to bring that person before a court where it will be the responsibility of the magistrate (or justices) to consider the issue of bail. If, however, it is not practicable to bring the person before a court forthwith, the police may grant bail. This is what is commonly referred to as "watch-house bail". If released on bail, it is then the responsibility of the defendant to appear before the magistrate in accordance with the bail undertaking.

Apart from watch-house bail, bail may be granted by—

- (a) Magistrates Courts during criminal proceedings and at the conclusion of a committal proceeding;
- (b) the District and Supreme Courts after a person has been committed for trial before those courts;
- (c) the Supreme Court, which has an overriding jurisdiction to grant bail at any time; and
- (d) the Court of Appeal.

As the accused moves through the system, bail is usually enlarged at each successive court appearance. An accused person who has been refused bail can apply for a bail hearing on two days' notice. However, without a change of circumstances, successive applications for bail will usually not be successful. The Act presently does not provide a clear basis for an appeal by the prosecution. It does allow the prosecution to apply to revoke bail, but this is arguably only intended to cover the situation where an accused has breached bail in some way (for example, by not appearing in court when required or by not reporting to police if that was a condition of bail) or if the surety seeks to withdraw. In these situations bail may not necessarily even be revoked, instead it might be varied in some way.

To clarify the situation and to provide a more appropriate system of review for the benefit of the accused, this Bill amends the Bail Act 1980 to allow for review by higher courts of decisions granting or refusing bail. The Bill provides for the amendment of the financial transactions Act 1992 to allow the Queensland Crime Commission or an authorised Queensland Crime Commission officer who is carrying out an investigation arising from reports of suspected transactions to adequately discharge its functions.

An amendment is made to the Property Law Act 1974 to require that a cheque used in the settlement of the sale of land may be a financial institution cheque drawn on itself or a bank. This amendment follows the same policy underlying the enactment of the miscellaneous Acts (non-bank financial institutions) Act 1997. Such an amendment will contribute to the underlying philosophy of competitive neutrality between banks and non-bank deposit-taking institutions as they are currently categorised.

Like my predecessor, it is envisaged that I shall also use departmental miscellaneous provisions Bills to ensure that much-needed statutory modernisation is not delayed and the time of the Parliament is not unnecessarily expended on a number of disparate pieces of legislation each of which would be of a relatively minor nature in terms of size. I commend the Bill to the House.
