



Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 25 August 1999

JUSTICE LEGISLATION (MISCELLANEOUS PROVISIONS) BILL (No. 3)

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (11.36 a.m.): I move—

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

The purpose of the Justice Legislation (Miscellaneous Provisions) Bill (No. 3) 1999 is to amend a number of items of legislation administered by the Department of Justice and Attorney-General. The legislation amended includes the Bail Act 1980, Justices Act 1886, and Penalties and Sentences Act 1992.

The Bill provides an opportunity to make amendments that, taken alone, would be of insufficient importance to justify separate legislation. However, the cumulative effect of the amendments has an overall impact on the operational efficiency of the department and on the quality of the legislation administered within this portfolio.

The amendments made by this Bill were identified during the business process design phase of the courts modernisation project, CMP. The CMP is a major upgrade and replacement of this department's technology infrastructure. It will automate many court processes presently performed manually. It will facilitate the movement of documents and the exchange of information within the department and between other Government agencies instead of in paper form. Generally, these amendments are sought to simplify current requirements of the legislation and allow for the performance of these requirements electronically.

Other amendments address deficiencies in the current legislation. To briefly explain the amendments to the relevant Acts—

Bail Act 1980

On occasions, persons to whom bail has been granted leave the precincts of the court before signing any necessary undertaking documents or otherwise fulfilling a condition upon which bail is granted. The amendments address this deficiency in the Act. It allows the issue of a warrant to apprehend a defendant and allows a police officer to apprehend a defendant without warrant.

Section 651 of the Criminal Code enables summary matters to be transmitted to a Supreme or District Court—the "receiving court"—to be dealt with. Where matters are transmitted and the person is already on bail to appear on those charges, currently the person is still under an obligation to appear before the court of summary jurisdiction. The new section 34A addresses the bail provisions in those circumstances so that an obligation to appear before the court of summary jurisdiction becomes an obligation to appear before the "receiving court".

However, where the receiving court decides, for any of the reasons mentioned in section 653(2) of the Criminal Code, that the summary matters should be decided by the court exercising summary jurisdiction and the receiving court sends them back, the obligation to appear under the original bail undertaking again becomes an obligation to appear before the court of summary jurisdiction. The provisions have been drafted in this manner so that the bail obligations continue under the original undertaking and obviate the necessity for the court to order, and the defendant to enter into, fresh undertaking. In other words, the original bail undertaking is "rolled over". The date and the court before which the defendant is required to appear change. A defendant will always be legally represented when

this occurs—see the relevant provisions of the Criminal Code. Where this occurs, the Bill allows for the issue of a warrant to apprehend a defendant who fails to appear.

Justices Act 1886

The Bill does away with the requirement for a clerk of the court to sign the notice of conviction or order posted to a person. It also elevates compensation, restitution, damages and fixed portion of a penalty—that may be ordered to be paid to a party; previously referred to as moiety—above all other categories. This will be of obvious benefit to victims of crime who sometimes have missed out in cases of part payment of a penalty. It reflects the provisions of sections 112 and 113 of the State Penalties Enforcement Bill 1999.

Penalties and Sentences Act 1992

The amendment of the definition of "proper officer" will allow any proper officer for the relevant jurisdiction to make an appropriate order regardless of where the application is made. For example, where a person makes an application for a fine option order, etc., to a proper officer at a place other than the place where the original order was made, the proper officer to whom the application is made can deal with the application in respect of any order or orders made at another place or places.

The Bill also does away with the requirement for the certificate given by the Department of Corrective Services to be signed to enable these certificates to be given electronically. The Bill also gives a clear power to a proper officer to recall a warrant and issue a new warrant on part payment of a penalty. The CMP will enable the automation of this process and it will reduce the incidence of failure to recall warrants where full or part payment has been made. I commend the Bill to the House.
