



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 3 April 2001

CRIMES AT SEA BILL

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (12.56 p.m.): I move—

That the bill be now read a second time.

This bill will be Queensland's part of a new national scheme of state and Commonwealth legislation that will simplify and modernise the criminal law applying to offences committed at sea. In Australia, the criminal law applicable to an offence committed at sea is currently determined by reference to matters that include: the ship's location; its intended destination; the domicile of the persons on the ship; the citizenship of the persons on the ship; and other matters.

The laws that apply to an offence may overlap and the laws of the various states are sometimes inconsistent. There are also problems with enforcement. For example, I understand that the 1987 America's Cup regatta off the Western Australian coast demonstrated some of the potential problems with the current state of the laws of the various jurisdictions. There were on that occasion many spectator craft, all from different countries and all anchored beyond the limit of the territorial sea. It would have been problematic for the police in that state to identify the applicable law had an offence been committed on one of the vessels.

The general outline of the proposed scheme will be as follows. Within 12 nautical miles, the law of Queensland will apply by force of this bill. This area will be referred to as the inner adjacent area. Beyond 12 nautical miles and out to 200 nautical miles or the outer limit of the continental shelf, whichever is the greater distance, the law of Queensland will be applied by force of the law of the Commonwealth. That area will be referred to as the outer adjacent area. The same situation will apply in each of the other states and the Northern Territory as well.

Mr Speaker, I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

Generally, the laws of criminal investigation, procedure and evidence of the commonwealth and states will apply to investigations and in judicial proceedings conducted by the police or in the courts of those jurisdictions.

This will permit, for example, south Australian procedural and evidentiary provisions to apply in proceedings conducted in a South Australian court for an offence against Western Australian law, should that need arise.

A state's laws relating to criminal investigation apply in the 'inner adjacent area', and elsewhere as may be determined by intergovernmental agreement.

The bill will also repeal section 14a of Queensland's Criminal Code. This provision operates to extend Queensland criminal law to vessels and persons connected with Queensland out to 320 kilometres (essentially 200 nautical miles).

Section 14a adopted an approach different from that of some other states, which have legislation that determines applicable law by reference to matters that include whether the vessel was on a voyage between places within the state.

This provision will now be redundant as Queensland law will apply out to this distance without the need for that connection.

Under the scheme, there will also be special rules for offences committed beyond the 200 nautical mile limit of the adjacent area for Australia or on or from a foreign ship.

The consent of the commonwealth Attorney-General will be required for the scheme in relation to such offences.

As noted, there will also be an intergovernmental agreement between the commonwealth, the states and the Northern Territory. This will relate to enforcement responsibilities.

Mr Speaker, there is an appendix to the bill containing an indicative map, showing the various adjacent areas that I have been describing. This will assist those using the legislation to understand it more readily. The bill, however, will prevail over the map in the event of any conflict between them.

Mr Speaker, this national scheme was an initiative of the standing committee of attorneys-general. That committee first looked at the matter in 1991, following the 1990 report of the Australian Law Reform Commission on criminal admiralty jurisdiction and prize.

Since that time, the solicitors-general of the states and the Northern Territory, together with the parliamentary counsel's committee, have had input as well.

The various jurisdictions involved have been progressively passing the required legislation since the end of 1998. The commonwealth's legislation was passed last year and it was our intention to wait until the commonwealth's legislation was in place. The commonwealth legislation will enter into force on the 31 March 2001.

There has also been consultation in this state with the current and former directors of public prosecutions and the Queensland Police Service, together with a range of other affected departments.

Once this new scheme is operational, the various jurisdictions with responsibility for Australia's vast coastline will have modern legislation suitable for the new millennium.

With the extensive tourism and recreational activity that occurs in areas such as the Great Barrier Reef, this will be an important initiative for this state.

I commend the bill to the House.
