



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 27 November 2001

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (12.51 p.m.): I move—

That the bill be now read a second time.

This bill provides a legislative framework to ensure the continuation of commonwealth-state cooperative schemes in this state. Significantly, the bill supports two commonwealth-state cooperative schemes of importance to the state—the National Crime Authority scheme and the national registration scheme for agricultural and veterinary chemicals.

The ability of these schemes to operate in Queensland under their current framework was recently placed in jeopardy by the High Court in the *Queen v. Hughes*. In the *Hughes* case, the High Court held that where a state gave a commonwealth officer or authority a power and a duty to undertake a function under a state law, that function must be referable to a commonwealth head of power in the Constitution. The decision in *Hughes* has cast doubt on the ability of commonwealth officers or authorities to exercise functions under state laws for cooperative schemes, such as the National Crime Authority scheme and the national registration scheme for Agvet Chemicals. These schemes are good examples of state and commonwealth cooperation on issues of national importance. The national registration scheme for Agvet Chemicals is necessary to ensure national regulation of agricultural and veterinary chemicals in Australia.

The National Crime Authority is integral to the fight against crime in this state. The National Crime Authority scheme enables commonwealth NCA officers to investigate complex organised crime on a national basis. All Australian states and territories, including Queensland, have enacted legislation to allow the NCA to perform this function in their jurisdiction. This has allowed commonwealth NCA officers to work in cooperation with Queensland crime fighters. The Co-operative Schemes (Administrative Actions) Bill 2001 will ensure that these important schemes can continue without the threat of a constitutional challenge in Queensland.

The purpose of the Co-operative Schemes (Administrative Actions) Bill 2001 is to validate past actions undertaken by commonwealth officers or authorities under certain state laws relating to various cooperative schemes. Under the bill, administrative actions by commonwealth officers or authorities under cooperative schemes are given the same effect as if they had been undertaken by state officers or authorities. The bill initially validates the two cooperative schemes previously highlighted.

Firstly, the bill validates actions undertaken by commonwealth officers operating under the national registration scheme for agricultural and veterinary chemicals (NRS). The NRS provides a uniform regulatory system for agricultural and veterinary chemicals including assessment, clearance, registration, standards, permits and enforcement procedures. The NRS is adopted in Queensland under the Agricultural and Veterinary Chemicals (Queensland) Act 1994, by applying the Agvet code as set out in the commonwealth Agricultural and Veterinary Chemicals Code Act 1994 as a Queensland law. Further, this bill complements the proposed Agricultural and Veterinary Chemicals (Queensland) Amendment Bill 2001, which will soon be introduced by the minister for primary industries and rural communities.

Secondly, the bill also validates actions undertaken by commonwealth officers under the National Crime Authority scheme. The National Crime Authority is an independent commonwealth statutory authority with a specific charter to investigate complex organised crime on a national basis. The commonwealth National Crime Authority Act 1984 is underpinned by legislation in all states and territories. The bill validates all actions taken by the commonwealth National Crime Authority and its officers under the Queensland National Crime Authority (State Provisions) Act 1985.

The bill also provides for the validation of other cooperative schemes that are later found to be affected by the Hughes case. This can occur by amending the legislation at a later date.

The government considers the Co-operative Schemes (Administrative Actions) Bill 2001 as being vital to restore certainty to the effective operation of various state-commonwealth cooperative schemes to which Queensland is a party. I commend the bill to the House.
