

**TRANS-TASMAN MUTUAL RECOGNITION (WESTERN AUSTRALIA) BILL 1999**

*Second Reading*

Resumed from an earlier stage.

**HON KEN TRAVERS** (North Metropolitan) [5.37 pm]: We are dealing with an incredibly urgent piece of legislation that has taken 12 months to get to the second reading stage.

Hon Simon O'Brien: We have been waiting for you to be appointed the Labor Party's spokesman.

Hon KEN TRAVERS: Hon Simon O'Brien will be pleased to know that I did for a while serve on the Standing Committee on Constitutional Affairs. Therefore, prior to my elevation to the position of the person with carriage of this Bill, I had some limited knowledge of it.

I make it clear that when I refer to a debate in the Legislative Assembly, I am referring to a debate that occurred in a previous session. As I said prior to question time, the Leader of the Opposition, Dr Gallop, raised a number of concerns that he would like to see addressed by the Government. He did not ask the Government to question our support of the legislation, but to address a number of concerns raised at various times by reports into the trans-Tasman and Australian mutual recognition legislation. Reviews have been conducted at a national and a state level.

A number of different organisations had expressed various concerns. To summarise, a number of particularly professional groups were concerned that there would be a lowering of standards and that the lowest common denominator would apply. The Western Australian citrus industry was concerned that citrus products could be imported from the eastern States, where no grade standards apply, and that would lower the standards in this State. Dr Geoff Gallop has received a response from the Premier in relation to these issues, and I will refer to them one at a time. The response from the Premier in relation to the lowering of standards and non-equivalence was -

In relation to occupations, no evidence has been presented to show that the community is at greater risk in jurisdictions which have requirements regarded by other jurisdictions as 'too low' or not equivalent. For example, in relation to the issue of recency of practice requirements in the nursing profession there is no evidence to suggest that there are adverse effects on public health and safety as a result of different standards between jurisdictions.

A concern was raised originally, I think, by the Physiotherapists Registration Board of Western Australia. Its letter was quoted in *Hansard*, at page 2686 on 27 October 1999 -

"Nurses registered in NSW are not required to [have] practiced as a nurse within the past 5 years in order to remain on the NSW register, raising the possibility that a nurse, registered in NSW but not having practiced as a nurse for say 10 years, could apply for registration in WA under mutual recognition and the Nurses Board would be obliged to register that nurse because he/she was registered in NSW."

I am at a loss to understand how the answer from the Premier adequately addresses that concern, unless he is saying that the current practice in Western Australia, whereby a nurse must have practised some time in the past five years in order to remain on the register, is not necessary. If that is the case, one must ask the question: Why have those standards in Western Australia not been changed by regulation? The Premier referred to the concerns of the Citrus Council of Western Australia, and said -

...there is no evidence to indicate that there is a threat to health, safety or the environment as a result of the differing standards across jurisdictions.

The part I find particularly confusing is the Premier's later statement -

It is, however, recognised that differing standards may lead to a lowering of standards in some cases. Where this problem arises, there is a mechanism within the AMRA -

That is, the Australian Mutual Recognition Agreement. It continues -

- for resolving these issues. Under the referral process, where concerns exist about the competency of persons registered in other jurisdictions, the relevant Ministerial Council will, within 12 months of receiving the referral, determine whether agreed standards should apply to the occupation. A similar process exists for goods.

I understand the difficulty is that there must be unanimous agreement across the States. I would appreciate it if the minister could clarify that issue. I am concerned that a mechanism exists for commencing the process but not concluding it. The Premier went on to say -

The anecdotal evidence on this issue suggests that this process has raised standards rather than the opposite.

There is no explanation of that anecdotal evidence, or how the Government has arrived at that conclusion. I would appreciate it if the Leader of the House during his response to the debate on this legislation could explain what that anecdotal evidence is. I hope the minister is in a position to provide some of those responses.

Another concern raised is the time lines for registration. If this legislation is passed, when someone applies for recognition, boards and the like will be required to respond within one month indicating whether that person meets the requirements for equal qualifications and the necessary registration. Concern was expressed at the time that a number of the part-time boards meet on a monthly basis, and it would be extremely difficult for them to meet the requirement to respond within a month. I am sure members in this House are aware that many boards operate on that basis and meet only on a monthly basis. The response to that issue was inadequate and it did not address the issue. It simply restated that boards have been made aware of their obligations under section 21 of the Act. The Premier went on to say -

Although it is recognised that section 21 of the Act could present some minor difficulties for the registration boards, Western Australia considers that the current arrangements are appropriate to ensure that administrative delays do not compromise the mutual recognition of occupations across Australia.

The answers provided indicate an inherent conflict. The Government recognises that there might be some minor difficulties. Someone may have provided evidence that he or she has qualifications from New Zealand equivalent to those in Western Australia. Some of these issues are complex, and I have been observing this issue in relation to the plumbing industry. A plumber from the United Kingdom seeking recognition within the Western Australian plumbing industry has considerable difficulty. I will use this example, because it is an issue with which I have had more involvement, and it is a hands-on case. It has been difficult to establish the training and qualifications that have been acquired in the United Kingdom and match them with equivalent qualifications in Western Australia, even though a national body has looked at the issue in the United Kingdom and has presented a report. It would be difficult in relation to some of the less common occupations for an appropriate board to always be in a position to determine whether a person meets the qualifications and to report back within one month. I do not consider that a minor difficulty; it could become a major difficulty for some boards. It is inadequate to dismiss it without trying to address some of the fundamental issues faced by these boards. I hope that if the Bill is passed there will be ongoing and regular monitoring of these boards to see whether the time line for registration creates major difficulties for them. Those strict time lines could undermine the ability of boards because of the responsibility to respond to an applicant within one month.

The next area of concern to the Opposition, which was raised in the other place by the Leader of the Opposition, relates to a legal battle someone had with a government agency relating to the recognition of a qualification for registration. A response received by the Opposition from the Premier stated that his office was investigating the matter and would provide detailed advice in writing later. I have not been able to track down any correspondence from the Premier about those investigations. Again, I ask the minister whether he can shed some light on that matter in his response to the second reading debate; I am sure it will be of assistance to the House.

The next issue relates to concerns raised by the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board. Those boards, and I am sure other boards under the responsibility of the Ministry of Fair Trading that I have become aware of recently, require applicants for registration to know the local laws and systems that apply to the relevant industry in Western Australia. Members of those boards believe that it is not too onerous to expect someone who may be registered as a real estate agent in New Zealand to be able to pass at least a minimum test to indicate that he or she has knowledge of local practices and principles. I am concerned about this issue because it is important. People should know, for instance, the codes of conduct, which are important, and any relevant Acts, such as the Act controlling finance brokers. For instance, an applicant for a finance brokers licence in Western Australia must demonstrate to the Finance Brokers Supervisory Board an understanding of the code of practice and the Finance Brokers Control Act.

The response received by the Opposition from the Premier states -

The AMRA assumes that people are able to obtain registration in a particular occupation because they have the ability to practise in a range of settings and are capable of interpreting legal and other regulatory requirements. Western Australia expects that individuals registered in WA will require an appropriate level of local knowledge.

It concerns me that as a result of this legislation people with no potential for acquiring local knowledge may enter an industry and we expect them to gain that knowledge. Their defence to that expectation - if there is no requirement to insist on their obtaining that local knowledge or a mechanism to ensure that they have obtained it before being given a licence and an opportunity to practise - could be that they were unaware of that provisional requirement in the code of practice. Given the history of some boards in Western Australia and their reluctance to cancel licences, although it is only a minor matter, it may have a potential to undermine the State's regulations for some of these industries. It may cause only inconvenience to someone selling a property if a real estate agent does not understand the local rules. Globally, it may not be important; however, it may be important for the person who is affected by that agent.

Although I accept the overall principles, I am not convinced that it will not undermine the current system of regulations and protections for Western Australian consumers. I accept that the way in which to manage these issues and achieve the overriding principle of having transfers between Australia and New Zealand, without having one standard set of rules that apply across Australia, is complex, and it is not necessarily a good thing. However, we must be vigilant in that area and must continue to monitor it to ensure that it does not lead to a diminution in the standards that are applied and the standards we expect as a result of legislation passed previously by this Parliament to regulate agencies in Western Australia.

Another concern with this legislation relates to product recalls. The electrical regulatory industry expressed concern that Western Australia will not have a uniform and efficient system for product recalls. I am sure all members are extremely concerned about that and I am sure Hon Murray Nixon will comment on it. Based on information provided in November last year, I understand the matter has been referred to the Ministerial Council on Consumer Affairs to develop a national arrangement for product recalls and product safety. Again, I hope the minister will be able to provide an update when we debate the response about the part of the legislation on product recalls that has been developed, as product recalls are obviously a very serious matter.

I have a number of other concerns. Obviously, there is a process for obtaining permanent exemptions under the legislation. There is a provision to seek a 12-month exemption under the legislation. However, a permanent exemption would require the unanimous agreement of all participating bodies. Although I can understand the reasoning behind that provision, it is an area about which at times we all become a bit parochial in Western Australia when we defend our own patch. I believe there will be times when we may want to be different.

*Sitting suspended from 6.00 to 7.30 pm*

Hon KEN TRAVERS: I have outlined a fair range of specific areas of concern. During the dinner break other members of this House raised some concerns, and I am sure they will continue to raise those concerns as they seek clarification of the implications of this legislation.

In drawing my remarks to a close, I urge members to look at the report of the Standing Committee on Constitutional Affairs. It outlines fairly well the implications of this legislation, the difference between permanent and special exemptions and how that will apply to occupations. Before the dinner break I raised issues about real estate agents and the like having local knowledge. It comes down to the question - which will often arise with this legislation - of the definition of "equivalent". Obviously that must be resolved. It is important that this be passed as general legislation, but we should be cautious of it. It will result in the potential for powers to be taken out of the hands of this State and Parliament and incorporated in a national agreement across all States to protect us. This Parliament tightened the Western Australian Weapons Bill, and the Leader of the Opposition had asked previously whether this State would be given a guarantee. I think that is the case, but the Leader of the Opposition's question was never properly answered by the Premier. I wonder what will be the implications of this Bill on the registration of hairdressers in Western Australia.

Hon Helen Hodgson interjected.

Hon KEN TRAVERS: I do not know that it will have an impact, but it will be interesting, bearing in mind that the equivalent qualifications in the eastern States and New Zealand are probably none at all, unlike Western Australia. I am interested to hear from the Government in all honesty what will be the impact of this legislation on the qualifications of hairdressers.

As long as the concerns that were raised during the dinner break are addressed by the Government - I am sure members who will follow me in this debate will outline those concerns in more detail either today or at a future sitting - it is the intention of the Opposition to support this Bill.

It has taken a long time for this legislation to be debated. Members on this side of the House are glad that, after a year, urgent legislation can finally be dealt with by this Government. I look forward to seeing how long it takes the Government to bring forward non-urgent legislation.

**HON HELEN HODGSON** (North Metropolitan) [7.36 pm]: After listening to the winding-up comments of Hon Ken Travers, possibly I can shed some light on some of the delays.

Hon N.F. Moore: Very uncharitable, I thought.

Hon HELEN HODGSON: I recall that the last time we were told that this matter was on the list for debate that day, which would have been towards the end of last session, I contacted a colleague in Canberra who had done some work on it at the federal level. It did not take me long to realise that we were talking at cross-purposes. That very day the Federal Parliament had passed amendments to its version of the Trans-Tasman Mutual Recognition Bill, while we were still trying to work on the original version of it. That is one of the reasons for a couple of amendments on the Notice Paper - to ensure that we are dealing with the most current version passed by the Federal Parliament.

I believe that the committee report is useful and highlights some of the areas of concern. As is always the case with uniform legislation, we must ensure that the legislation is appropriate for Western Australian conditions, as they may be the same as or different from those of other States and our federal colleagues. The Bill is quite interesting because it has a series of exclusions, which are state specific. That is referred to in part 2 of schedule 2 of the commonwealth Bill. It lists a number of relevant enactments by different States with specific categories.

As a matter of principle, the Australian Democrats support the principle of mutual recognition. It is quite clear that New Zealand is one of our major trading partners, and we regularly hear discussion on how close our economic ties are and whether they should be closer and speculation on common currencies. There is a neat little irony in the fact that on this evening's news program it was reported that the Prime Minister had just suggested that we would be moving closer to a similar arrangement with Singapore. That shows that in a global environment events are changing and that we need to be able to deal with that change.

The principle of mutual recognition is okay, but we need to be careful of its parameters. We need to ensure that the relevant protection of the local community is built into any legislation. When the Bill went through the Federal Parliament my senate colleagues took a great interest in the issues of consumer protection and safety standards. The combined Opposition in the Federal Parliament ensured that some of the consumer protection provisions of this Bill came through in their final format. We are happy to see that protection in the Bill. That is where the exemptions and exclusions become significant. They recognise some differences between New Zealand and Australian jurisdictions. It is important to make sure that we can cope with those.

As was alluded to by Hon Ken Travers, an issue was raised with me during the dinner break. I shall be interested in whether that issue can be resolved in subsequent debate. Although we approve of the principle, if there is a significant area in which we do not think that protection is adequate, we will certainly review our support for the Bill as a whole.

Hon Ken Travers dealt with some provisions in the legislation at length, including professional standards and the ability to ensure that registrations are recognised in each jurisdiction. In the provisions dealing with goods, the Bill is trying to ensure that inferior quality goods cannot be dumped in Australia should the standards in the two countries be different. It is important that the Bill contain that sort of protection.

The legislation contains some interesting privacy provisions. Generally that area is not addressed adequately because there seems to be an underlying assumption that we do not need to worry about it. However, the fact that it is addressed in the commonwealth legislation, which this Parliament is adopting, indicates the need for some privacy protection in many areas of Australian law. Our federal colleagues are pursuing that matter, and we hope to see further development in that area.

The Australian Democrats approve of the principle of the Bill. We are particularly happy to have included some issues in the detail. However, our final support for the Bill will depend on comments made later in this debate and the answers members hope to get in response to some concerns. At that time we will make our assessment accordingly.

Debate adjourned, on motion by Hon Christine Sharp.