

FLAGS PROTECTION BILL 2003

Second Reading

Resumed from 18 June 2003.

MR M.F. BOARD (Murdoch) [6.33 pm]: This is a private member's Bill that was brought on by the Leader of the Opposition. I remind members that the reason behind the Bill was a spate of public episodes in which the Australian and Western Australian flags were defaced publicly. There was very strong community reaction to the fact that people could deface the Australian and Western Australian flags in a public manner that was designed to bring publicity to people's protests. The acts offended a great number of Western Australians. In particular, it offended older Western Australians who had fought under and defended the flag that was being defaced. The Bill was brought into the Parliament primarily to protect the interests of those people and the community, and to make it an offence to deface, cut or in some way denigrate our national symbol, and in particular the Western Australian symbol. This important issue was raised by the Leader of the Opposition because it is about protecting the community, as much as anything else. The flag is a symbol of our nation. As other members and I indicated earlier in this debate, the flag is the most important symbol of our nation. The Western Australian flag is the symbol of Western Australia; in fact, it is the most prominent symbol of Western Australia, as it combines the heritage of our State through the Union Jack - some people may have a political issue about that, but that is our heritage on the flag - and, of course, the origins of the Swan colony and the black swan. The black swan is a very strong symbol of Western Australia, and it is now exported around Australia and, indeed, the world. It is prominent as an icon of this State and shows itself on the flag.

The purpose of the Bill is to protect the community and to protect people from being abused emotionally by acts of violence, acts of protest and acts of stupidity against a symbol that is our state and national icon. I find it quite incredible that it is an offence for people to spray graffiti on walls and it is an offence to cut or deface our currency; however, people can deface, cut, urinate on or do something to our strongest icon, yet it is regarded as a privilege of democracy and a privilege for which we fought. That to me is anathema. We are about to move into Anzac Day. In fact, we are about to take some young Western Australians to France and England - unfortunately, we cannot go to Gallipoli - to celebrate, with people from other parts of the world, Anzac Day and the contribution of those who fought for democracy and freedoms under the flag we are talking about today. I am sure that the diggers who fought for freedom and democracy would be appalled today - even though they fought for the very freedoms we talk about, such as the freedom to express oneself, the freedom of the media and the freedom to protest - if they knew that it meant the very flag they fought under, the very symbol of that freedom, could be protested at and defaced in a way that incurred no penalty at all and was, in fact, an accepted part of an expression of public concern. I am concerned that if members do not support the Bill, we will be regarded as condoning and not taking a public stance against that activity. If we held a referendum today of people across Western Australia, including young people, they would be very surprised to learn that it is not an offence to deface the greatest symbol of the State and that it is condoned publicly. They might ask why it is an offence to spray their name on the back window of a bus or to spray a protest note on any wall or public building. What those in the community feel most emotional about, particularly for their parents and grandparents, is the symbol of our nation, what we stand for - our flag; yet we do not take a stand against people defacing and abusing that image. That is a strange policy. The Premier and the Labor Party argue that that is democracy. It is not democracy. There are many things in the community that are not accepted in the public interest. People in our community are not allowed certain freedoms. We do not allow them to abuse other people. We do not allow them to drive on roads in a manner that may cause concern to others. The community does take a stand on many things, and we believe it must take a stand on this issue. People do not have a right to abuse others. People feel passionate about their country and their State, and they feel passionate about those who have defended this symbol. It is not acceptable. We raise this issue today, not to highlight an icon, but to protect the interests of the community, particularly the interests of those people who feel very emotional, distressed and hurt by the public defacing of the very icon that stands for their pride in their State and their country, and, above all, the people who have lost loved ones in the defence of that icon.

MR W.J. McNEE (Moore) [6.41 pm]: I support the comments made by the Leader of the Opposition concerning our flag. I find it abhorrent when I see on the television people burning a country's flag. I cannot believe that anyone would sink to such rotten, skunkish, low depths as to burn the flag, the icon, of their great nation. If anyone feels inclined to do that, we should send them to the country of their choice with a one-way ticket.

Mr C.J. Barnett: To a country of our choice.

Mr W.J. McNEE: Yes; and, for goodness sake, we could make some wonderful choices. They would be happy when they remembered their demonstrations in this wonderful country.

I remind you, Mr Deputy Speaker (Mr A.P. O’Gorman), that the second worst Government in Australia - this is the worst one - was sacked by the Governor General under this flag. Whether or not we like what he did, he said that he, as the umpire, was blowing the whistle to give the people of Australia a choice, and they overwhelmingly made a choice to change the Government of the day! No shots were fired; no flags were burnt; it was done with nothing more than a pencil. That is the Australia that I have enjoyed living in for 70 years, and I hope that is the Australia that I will finish living in, because I have enjoyed this country and it has been great to me. My father came here as a boy and turned himself into a very successful farmer. He did not have any money, but he came to a land of great opportunity. He was able to see and grasp those opportunities by working damned hard. There are people who get jealous of that so they want to do all these ridiculous things, including changing the flag. When I was a younger man and lived in Wyalkatchem, people came to the town who were called displaced persons. What great citizens they turned out to be. They are wonderful people, and some of their children are still in the area. They are proud to be Australians. I was proud to be at their naturalisation ceremonies in my electorate on Australia Day. I support the Leader of the Opposition in his comments. I have an abomination of anyone who wants to destroy the flag, which should be the subject of pride. I am similarly disgusted by anyone who burns a flag of any nation. I respect flags of other nations. I hope the Australian public will do the same.

[Interruption from the gallery.]

The ACTING SPEAKER (Mr A.P. O’Gorman): Order! I remind members in the public gallery that it is not appropriate to clap or interfere with the proceedings of this House.

MR P.D. OMODEI (Warren-Blackwood) [6.46 pm]: I support the Flags Protection Bill and fully endorse the comments of my good friend and colleague the member for Moore, who has made a fine contribution to this Parliament over a long time. I will be sad to see him retire from this place. He has made this place richer by being here. The member for Moore is a good example of someone in the community who begs no pardons and tells it as it is. His comments on the protection of the flag are correct; any country’s flag should be protected.

Clause 5, which is the most important part of the Bill, reads -

The Australian National Flag and the Western Australian State Flag protected

Any person who burns, damages or otherwise physically mistreats -

- (a) the Australian National Flag;
- (b) the Western Australian State Flag; or
- (c) a reproduction of either the Australian National Flag or the Western Australia State Flag,

in a manner that -

- (d) is intended to cause offence to any person or persons; or
- (e) could reasonably be expected to cause, and which in fact causes, offence to any other person or person

is guilty of an offence.

Penalty: \$6 000.

I presume the jail equivalent of \$6 000 would apply. I am prepared to agree to the Bill, which is a compromise from the position I come from. I am one of those people who is very black and white on these issues. I hold dear to my heart this State, this country and the people who live in it. I believe burning the flag deserves the firing squad; that is what people get in most other countries in this world. I say this in deference to those people who have volunteered and given their lives for this country. In my time as a local government representative and a state member of Parliament, I have had cause to mix with returned servicemen, who in my home town of Pemberton created a war memorial. Ron “Butch” Thompson and Bert Gough did marvellous things. Anyone who visits Pemberton will see that wonderful memorial. It has a lot of history. It has black granite walls, the plinth and the cannon. The memorial is lit at night, and is a tourist attraction for all to see. I know the trials and tribulations that those veterans, mostly of Vietnam, have faced. They have made an extraordinary contribution to the State and nation. The war memorial launch was attended by more than 500 people. There was a massive downpour of rain, but not one person sought any shelter. Everybody was there to give deference and reverence to the people who had worked under their flag in defence of this country, so that we could enjoy the freedoms we enjoy today. We have freedom of speech, freedom of expression, freedom to mix with whomever we want, freedom of religion and a range of other freedoms. One would have to wonder what those good men and women would think about somebody desecrating the flag that they risked, and in many cases gave, their lives to defend.

In Vietnam, Bert Gough went out with his unit on a sortie behind enemy lines. The helicopter came to pick them up, and he missed the helicopter by an arm's length. For the next week he lived on insects and grass and hid in the jungle until they managed to get him out of there. He has written a book about it. Today Bert is a great community worker, but his health has been damaged severely by his experience in Vietnam. There is no better example of a person who works very hard for his community. He received an award recently for his voluntary efforts. There are dozens like him. I think back to all the people who came back from the Second World War and who went through great deprivation, trial and tribulation. Some of them were in Changi prison camp. Some of the prisoners were found in the rubber plantation, tied with barbed wire and tortured by the Japanese. We allow people to burn the flag that they fought for so that we can enjoy the freedoms we have today.

Mr M.P. Whitely: Would you be a member of the firing squad to shoot people who burn the flag?

Mr P.D. OMODEI: I will not labour the issue, and I will not listen to the drivel from members opposite. I would actually pull the trigger for somebody who burned the flag that I hold so dear. What is the member's electorate? He was the failed schoolteacher from Christchurch Grammar School. They were glad to get rid of him, from what I hear.

This is a very important issue. At this time of the year, in the lead-up to Anzac Day, a large number of people throughout this country, and particularly Western Australia, will celebrate Anzac Day to remember all the people who have given gallant service to this country. This legislation goes at least part of the way to ensuring that those people who made a great contribution to this country and this State are able to know that somebody in the halls of power - the Parliament of Western Australia - is prepared to do something about protecting the flag. I strongly support this legislation.

MR C.J. BARNETT (Cottesloe - Leader of the Opposition) [6.52 pm]: I thank members for contributing to this debate. There has been a large number of thoughtful speeches, both for and against. I will briefly remind members what this Bill is. The Australian flag, as members have said, is the symbol of our nation. It has been our flag for more than 100 years. It is the only national flag that flies over an entire continent. Many members have referred - as we have just heard from the member for Warren-Blackwood - to those who served in war under the Australian flag.

Mr M.P. Whitely interjected.

Mr C.J. BARNETT: I will not cop the interjection.

This Bill does some simple things, of which I will remind members. It makes it an offence to burn or desecrate the Australian or Western Australian flags - the proper flag; not a reproduction or a flag on a T-shirt, but a formal Western Australian or Australian flag. The Bill makes it an offence to burn or desecrate that flag in a manner designed to cause offence to others. The Bill creates a penalty - not a criminal penalty but a penalty of a fine of up to \$6 000. The Bill also give legal status to the Western Australian flag, because it has no legal status. It formally establishes the Western Australian flag and makes sure that that flag cannot be changed without the approval of Parliament. This Bill is about enshrining in law the right of people to protect their great national and state symbols. In the few minutes I have, I will read some of the comments made by members during the debate. The member for Kingsley said -

Does one person have the right to carry his desire to protest to the point that he deeply offends the belief and feelings of another?

I agree with her. No person has that right. No-one can defend, as freedom of speech, something that is highly offensive and hurtful to thousands, if not millions, of Australians. Indeed, market research, such as it is, indicates that more than 60 per cent of Western Australians believe that our Australian and state flags should be protected. The member for Dawesville had this to say -

The flag is a symbol that unites our nation; it is a symbol of freedom; it inspires our hope.

I agree with him.

Mr M.P. Whitely: What about the member for Warren-Blackwood? Do you agree with him?

Mr C.J. BARNETT: I remind the member for Roleystone and his constituents of what he had to say -

The right to freedom of speech exceeds any desire to protect the flag.

I disagree with the member. I do not think a right to freedom of speech extends to desecrating the Australian flag. If the member for Roleystone wants to stand on the side of a protester who would burn or desecrate the Australian flag, he can do so, but I will not. I remind members what the member for Hillarys said -

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p1927a-1930a

Mr Mike Board; Mr Bill McNee; Acting Speaker; Mr Paul Omodei; Mr Colin Barnett

The last time an issue of significance was raised in this Parliament was when Australian troops were going to war with the United States and the United Kingdom against a tyranny in Iraq. I was disappointed that the Premier would not give unqualified support to our troops.

Again, the Premier will vote against this Bill. Members have a choice. We are approaching Anzac Day. Anzac Day and Australia Day are our two most symbolic and emotional days, yet the member for Roleystone laughs because Labor Party members have described this as a stunt. The Minister for Tourism had this to say -

When this legislation is analysed, it can be seen as either a very naive attempt to legislate for people's anger or a political stunt.

Members opposite think this is a political stunt. They take the side of the protester. I differ from the member for Roleystone. I take the side of decent Australians who have pride in this nation and in the flag.

This Bill is about where members line up. I will sit down and we will vote on it. This vote, leading into Anzac Day, is either for or against the Australian and Western Australian flags.

Question put and a division taken with the following result -

Ayes (15)

Mr C.J. Barnett	Mr J.P.D. Edwards	Mr P.D. Omodei	Ms S.E. Walker
Mr M.F. Board	Ms K. Hodson-Thomas	Mr P.G. Pandal	Dr J.M. Woollard
Dr E. Constable	Mr R.F. Johnson	Mr R.N. Sweetman	Mr A.D. Marshall (<i>Teller</i>)
Mrs C.L. Edwardes	Mr W.J. McNee	Mr T.K. Waldron	

Noes (25)

Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr P.B. Watson
Mr A.J. Dean	Mr R.C. Kucera	Mr N.R. Marlborough	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr F.M. Logan	Mrs C.A. Martin	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	
Mrs D.J. Guise	Mr J.A. McGinty	Mr J.R. Quigley	
Mr S.R. Hill	Mr M. McGowan	Mr E.S. Ripper	

Pairs

Mr M.J. Birney	Mr A.J. Carpenter
Mr J.H.D. Day	Ms J.A. Radisich
Mr D.F. Barron-Sullivan	Mr D.A. Templeman

Question thus negatived.

Bill defeated.