



House of Representatives

Supplementary Order Paper

Tuesday, 22 August 2000

International Crimes and International Criminal Court Bill

Proposed amendments

Hon Phil Goff, in Committee, to move the following amendments:

Clause 12(1)

To add to paragraph (c) (line 20 on page 13) the word “; and”.

To add the following paragraph:

- (d) despite paragraphs (b) and (c), the fact that an act done outside New Zealand is not an offence under the law of the place where it was done is not a justification, excuse, or defence.

Clause 31

To omit from the heading to clause 31 the words “suspect or accused”, and substitute the word “person”.

To omit subclause (1) (lines 20 to 25 on page 24), and substitute the following subclause:

- (1) The existence of any immunity or special procedural rule attaching to the official capacity of any person is not a ground for—
 - (a) refusing or postponing the execution of a request for surrender or other assistance by the ICC; or
 - (b) holding that a person is ineligible for surrender, transfer, or removal to the ICC or another State under this Act; or
 - (c) holding that a person is not obliged to provide the assistance sought in a request by the ICC.

Clause 55(1)

To omit the words “The District Court or the Minister, as the case may be,” (line 6 on page 39), and substitute the words “The Minister”.

Clause 114(1)

To omit from paragraph (a) the word “modify” (line 16 on page 75), and substitute the words “accept the conditions or other modifications suggested in order to implement”.

To insert in paragraph (b), after the word “inadmissible” (line 20 on page 75), the words “and **section 118(4)** applies”.

Clause 116(1)

To insert, after the word “Zealand,” (line 16 on page 77), the words “despite any other provision in this Part,”.

Clause 158(2)

To omit the word “request” in the first place where it occurs (line 27 on page 103), and substitute the word “matter”.

Explanatory note

This Supplementary Order Paper amends the International Crimes and International Criminal Court Bill.

The amendment to *clause 12* clarifies that the fact that an act done outside New Zealand is not an offence under the law of the place where it was done is not a justification, excuse, or defence in proceedings for an offence under *clause 9* or *clause 10* or *clause 11* (which relate to the offences of genocide, crimes against humanity, and war crimes). Recently enacted Canadian legislation contains a similar provision.

The amendment to *clause 31* is designed to clarify the intended effect of *clause 31*, which deals with the effect of a claim of diplomatic or other immunity by or on behalf of a person who is the subject of a request for surrender or other assistance by the ICC. *Clause 31* gives effect to article 27(2) of the Rome Statute. The amendment provides that the existence of any immunity or special procedural rule attaching to the official capacity of a person, is not a ground for—

- refusing, or postponing the execution of, a request for surrender or other assistance by the ICC; or
- holding that a person is ineligible for surrender, transfer, or removal to the ICC or another State under this Act; or
- holding that a person is not obliged to provide the assistance sought in a request by the ICC.

This rule is subject to exceptions described in *clauses 66 and 120*, which enable the ICC to make a binding determination in relation to any claim of diplomatic or other immunity.

The other amendments made by the Supplementary Order Paper correct errors of expression and make other changes of a technical nature.