DIRECTOR OF PUBLIC PROSECUTIONS BILL 1983

Date Introduced: 10 November 1983
House: Senate
Presented by: Senator, Hon. G.J. Evans, Attorney General

Short Digest of Bill

Purpose

To establish the office of Director of Public Prosecutions to conduct Commonwealth prosecutions and to exercise discretions in relation to prosecutions.

Background

In his speech at the opening of Parliament on 21 April 1983, the Governor-General announced that an office of Director of Public Prosecutions was under active consideration by the government. Interest in a prosecuting authority with some independence was given impetus late last year and this year by the Reports of the Royal Commission into the Federated Ship Painters and Dockers Union (the Costigan Reports) and the Report by the New South Wales Royal Commission of Inquiry into Drug Trafficking (the Stewart Report). The Costigan Reports criticized the functioning of the Crown Solicitor's office and made suggestions for the prosecuting of organized crime and fraud. The Stewart Report criticized the unacceptable delays in the administration of Commonwealth criminal law.

The previous government, in response to one of the Costigan Reports, legislated for the appointment of two Special Prosecutors to deal with bottom-of-the-harbour tax fraud and other organized crimes. However the Attorney-General has expressed dissatisfaction with present prosecuting regimes, suggesting that organized crime is being fought "in an unco-ordinated way by all sorts of bodies"[1].

Main Provisions

Clause 6 enables the Director to institute, carry on and take over prosecutions for the committal, or the conviction summarily or upon indictment of persons in respect of Commonwealth offences. Further, the clause enables the Director, in respect of classes of matters specified by the Attorney General, to take, co-ordinate or
supervise proceedings for civil remedies or pecuniary penalties in respect of matters arising out of prosecutions by the Director.

In discharging the duties of Director, clause 9 permits the Director to give an undertaking that self-incriminating evidence by or documents produced by a person will not be used in a prosecution against the person, other than in a prosecution for perjury.

Clause 11 enables the Director to give written directions with respect to the prosecution of offences to Federal Police, the Crown Solicitor and Deputy Crown Solicitors, and to prosecuting and investigating authorities. Clause 13 enables the Director to request Federal Police assistance to investigate offences and under clause 32 may make arrangements for the Crown Solicitor or a Deputy Crown Solicitor to perform the Director's functions and powers.

Under clause 8 the Director's functions and powers may be limited by a written guideline or direction by the Attorney-General. Directions of guidelines may relate to a particular case, and are required to be published in the Gazette and laid before each House of Parliament, unless and while the Attorney-General is satisfied that the interests of justice require non-disclosure.

For further information, if required, contact:

29 November 1983

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References