CRIMES (CURRENCY) BILL 1981

Date Introduced: 11 June 1981
House: Senate
Presented by: Senator the Hon. A.J. Messner, Minister for Veterans' Affairs on behalf of Senator the Hon. P.D. Durack, Q.C., Attorney-General

Purpose

To consolidate and update the law relating to the counterfeiting of coins, paper money, government bonds and other securities and to provide the legislative basis necessary to enable Australia to accede to the International Convention for the Suppression of Counterfeiting Currency.

Background

The International Convention for the Suppression of Counterfeiting Currency was made under the auspices of the Council of the League of Nations at Geneva in 1929 and was opened for signature on 20 April 1929. By resolution of the United Nations General Assembly in November 1963 any member of the U.N. may accede to the Convention. Until now Australia has been unable to accede to the Convention as one of the pre-requisites is that an intending party must ensure that its legislation and its administrative organisation conform with the rules of the Convention. In particular existing Australian legislation has not enabled this country to reciprocate the protection afforded to Australian currency by other member countries of the United Nations; for example the prohibition on counterfeiting current coins under Part IV of the Crimes Act 1914 only extends to coins that have been minted in any part of the Queen's dominions or are lawfully circulating therein.

In addition to the matters required for the purposes of the Convention, the Bill also extends to foreign and domestic government bonds and other securities; this action stems from recommendations contained in a resolution passed in 1969 in Mexico City at the 5th Conference of Interpol.
Main Provisions

Clause 2 provides that sections 1, 2 and 3 will come into effect on the date on which the Act receives Royal Assent. This will enable Australia to accede to the Convention. The remaining provisions will come into operation on proclamation after accession in order to implement Australia's obligations under the Convention.

Clause 3, the definition clause, defines, inter alia, "prescribed security" and includes in the categories of bonds, debentures, stock, stock certificates, treasury bills or other like securities; those issued by, or with the authority of, the government of a country other than Australia.

Provision is made by clause 5 for extra-territorial operation of the legislation. However, the extra-territorial effect of the legislation is modified by clause 23 which provides that charges shall not be laid unless the offence is committed in Australia or on an Australian ship or aircraft or if outside Australia relates to Australian money. As clause 23 presently stands the Act will not provide for prosecution of offences committed by Australian citizens outside of Australia, except where these offences relate to Australian money. However, it may be that Australia's laws of extradition take it outside the requirement of Articles 8 and 9 of the Convention in this respect.

Part II of the Bill contains the offences created by the legislation. As required by Article 5 of the Convention there is no differentiation in scales of punishment between offences in respect of Australian and foreign currency. Additionally, although not in pursuance of the Convention, identical provisions are applied to both Australian and foreign prescribed securities.

The provisions of clauses 6 to 14 create crimes as provided for by Article 3 of the Convention and also extend to cover prescribed securities. In summary the offences are:

- clause 6 - making counterfeits
- clause 7 - uttering counterfeits
- clause 8 - buying or selling counterfeits
- clause 9 - possessing counterfeits
- clause 10 - importing or exporting counterfeits
clause 11 - dealing with instruments and material used for counterfeiting

clause 12 - importing or exporting instruments for counterfeiting

clause 13 - conveying, without lawful authority, instruments, materials, currency or prescribed securities from the premises on which they are produced

clause 14 - giving information as to methods of manufacture or dealing with counterfeits.

In all cases penalties are severe. Clauses 6 to 13 provide for imprisonment ranging from 10 to 14 years for a natural person and fines from $50,000 to $75,000 for a company. Under clause 14 the penalty is $10,000 or 5 years imprisonment, or both for a natural person and $20,000 for a company.

Clauses 15 to 17 apply to Australian currency and replace existing offences in the Crimes Act 1914 relating to tampering with or defacing coins or paper money, penalties range from $5,000 or 2 years imprisonment to $10,000 or 5 years imprisonment for a natural person and from $10,000 to $20,000 for a company.

Clause 18 creates a new offence of possessing defaced, disfigured or mutilated Australian currency and provides penalties of $5,000 or 2 years imprisonment for a natural person or a fine of $10,000 for a company.

Clause 19 creates another new offence of designing, making, printing or distributing facsimilie of Australian paper money or Australian prescribed securities with similar penalties to those prescribed by clause 18. The import or export of the material referred to in clause 19 is prohibited by clause 20 and the same penalties are provided.

The manufacture, sale, import or export, possession or use of articles designed to be used in substitution for current Australian coin or current Australian paper money in any machine designed to receive such coin or paper money is prohibited by clause 21. In each case the penalty for a company is a fine of $5,000 whilst for a natural person the fine is $2,000 with an alternative, or additional penalty of 6 months imprisonment for manufacture, sale, import or export.
By clause 22 the provisions of sections 6, 7 and 7A of the Crimes Act 1914 relating to accessories, attempts and inciting or urging the commission of offences are applied to the offences created by the Bill.

Clauses 24, 25 and 26 relate to jurisdictional issues and effectively provide jurisdiction for State courts, including courts of summary jurisdiction in respect of offences under the legislation.

By virtue of clause 27 a certificate by a person appointed as an examiner of counterfeit foreign coins, counterfeit foreign paper money, or counterfeit foreign prescribed securities shall be admissible as prima facie evidence in court proceedings.

Clause 28 sets out procedures to be followed in dealing with counterfeit money and clause 29 provides for the forfeiture and seizure of counterfeit money or prescribed securities and articles and materials used for their manufacture.

Clause 30 provides a regulation-making power for the purposes of the legislation and Part IV, consisting of clauses 31 to 42, makes consequential amendments to existing Statutes.

The International Convention for the Suppression of Counterfeiting Currency is set out as the Schedule to the Bill.

For further information, if required, contact:

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Law & Government Group
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