CRIMES (FOREIGN INCURSIONS AND RECRUITMENT) BILL 1978

Date Introduced: 7 March 1978
House: Senate
Presented by: The Honourable P.D. Durack, Attorney-General

Short Digest of Bill

Purpose

(a) To prohibit hostile acts directed against the recognized governments of foreign countries. The prohibition includes any preparations for such acts in Australia or elsewhere; and

(b) To prohibit activity in Australia connected with the recruitment of persons to carry out hostile acts in a foreign country or to serve in any foreign armed force.

Background

This Bill should deter extremely undesirable activities originating in Australia connected with violent political elements in foreign countries, e.g. Yugoslavia; and also inhibit the recruitment of Australians for armed forces in foreign countries, e.g. Rhodesia.

The Bill was first introduced in the House of Representatives on 17 March 1977. On 31 March 1977 the Senate referred it to the Senate Standing Committee on Constitutional and Legal Affairs. As a result some important improvements were made in the text, including:

(a) A definition to the effect that a foreign government means one recognized by Australia.

(b) Exemption from the offence of engaging in hostile activity where a person serves in the armed forces of a foreign government or approved force.

(c) An extension of advertisement for recruiting to include the publishing of news items procured for payment or other consideration.

Main Provisions

The Bill defines four offences and specifies the penalty in
each case:

(a) Sub-clause 6(1). Entering a foreign country and either engaging in hostile activity against the government or intending to do so. The offence can only be committed by an Australian citizen or resident, or a person who was present in Australia at any time one year prior to the activity for purposes connected with it. Penalty - 14 years imprisonment. (Sub-clause 6(2)).

(b) Clause 7. Preparation in Australia or elsewhere for hostile acts against the government of foreign countries. The Bill defines a very wide range of activity as preparations, including: possession or stockpiling of weapons, poisons or munitions; training; giving money; receiving money or gifts; and knowingly allowing buildings or property to be used. Penalty - 10 years imprisonment.

(c) Clause 8. Recruitment of persons in Australia to join in any capacity a body or association whose purpose is to enter a foreign country and engage in hostile activity against its government. Penalty - 7 years imprisonment.

(d) Clause 9. Recruitment in Australia for an armed force operating in a foreign country. The offence includes related activities such as publishing advertisements and promotion. Penalty - $10,000 or 5 years imprisonment.

Sub-clause 6(3) defines "engaging in hostile activity against the government of a foreign country". Important elements are force, violence, destruction or damage. Whether achieved or not one of the following objectives is involved:

(a) Overthrow of the government;

(b) Causing in the public fear of suffering death or personal injury;

(c) Causing death or bodily injury to the head of state or holders of public office;

(d) Destruction of property.

Sub-clause 9(2) makes provision to the effect that in the interests of the defence or international relations of Australia the Government may permit recruitment for specified foreign armed forces. This must be done by instrument published in the Gazette and subject to disallowance by Parliament.

Defence, Science and Technology Group

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LEGISLATIVE RESEARCH SERVICE