



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Main Committee

**CRIMES LEGISLATION
AMENDMENT BILL 2010**

Second Reading

SPEECH

Thursday, 10 February 2011

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Keenan, Michael, MP

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Mr KEENAN (Stirling) (9.59 am)—I rise to talk about the Crimes Legislation Amendment Bill 2010. The main purpose of this bill is to strengthen the powers of the Australian Crime Commission's Chief Executive Officer in dealing with ACC employees who engage in serious misconduct or corruption, and to strengthen the powers of Commonwealth law enforcement agencies to gather, examine and use evidence in the investigation and prevention of criminal offences.

The bill will align the dismissal powers of the CEO of the ACC to deal with serious misconduct and corruption with those of the Australian Federal Police Commissioner, provide more flexible arrangements for appointing ACC examiners and extend the application of certain search related provisions in the Crimes Act that apparently only apply to searches conducted under warrants in relation to premises so that they also apply to searches conducted under a warrant in relation to a person.

The bill will also insert rules to govern when documents are produced under the Crimes Act; streamline and extend provisions governing applications for and determinations of orders in relation to the Crimes Act; allow the AFP Commissioner to delegate responsibility for dealing with things seized and documents pursued, again under the Crimes Act; introduce a new standing power for the Australian Federal Police to take fingerprints and photographs of arrested persons when taking them into custody in relation to a Commonwealth offence; and amend the Australian Federal Police Act to enable the commissioner to authorise a payment in special circumstances that arise out of or relate to a person's engagement as an AFP appointee.

To expand a little bit on the amendments made by the bill, it will make two sets of amendments to the Australian Crime Commission Act. As mentioned in the bill's explanatory memorandum, schedule 1 will amend the ACC Act and the Telecommunications (Interception and Access) Act 1979 'to provide the ACC CEO with powers mirroring those of the AFP Commissioner to deal with serious misconduct and corruption'. The main effect of these changes is that the ACC CEO will be able to make a declaration that a staff member's conduct amounts to serious misconduct and can therefore 'disapply' the Fair Work Act 2009 in order to dismiss that staff member. The explanatory memorandum goes on:

Schedule 2 will amend the ACC Act to allow for greater flexibility in the appointment of examiners. The ACC Act currently only allows the appointment of full-time examiners. This does not meet the operational needs of the ACC. The amendments will allow the ACC to utilise part-time examiners as well as full-time examiners.

The bill will make a range of amendments that improve the operations of the Crimes Act. The bill's explanatory memorandum notes:

Part 1 of Schedule 3 will extend the application of certain search-related provisions in the Crimes Act that currently only apply to searches conducted under warrants in relation to premises so they also apply to searches conducted under a warrant in relation to a person. These amendments will help police deal more effectively with electronic equipment, such as laptop computers and smartphones, located during searches under a warrant in relation to a person.

Further amendments to the Crimes Act include the following:

Part 2 of Schedule 3 will make three sets of amendments to Part IAA ... The first set of amendments will insert rules about when documents produced under Division 4B must be returned to the person who produced them or to the owner. The second set of amendments will streamline and extend provisions governing applications for, and determination of, various orders in relation to things seized and documents produced. The final amendment will allow the AFP Commissioner to delegate responsibility for functions related to returning things seized and documents produced to a Commonwealth officer if he or she is satisfied on reasonable grounds that the officer is able to properly exercise the relevant powers, functions or duties.

Part 3 of Schedule 3 will amend the Crimes Act to provide police with a standing power to take fingerprints and photographs of arrested persons. This amendment will assist police to confirm the identity of arrested persons, prove matters relating to identity in court ... and maintain accurate records of arrests.

To expand on the amendments made to the AFP Act, schedule 4 will enable the commissioner to authorise a payment in special circumstances that arise out of, or relate to, a person's engagement as an AFP appointee. This will bring the AFP into line with other Commonwealth agencies with respect to making payments to employees and other persons in special circumstances. It will also avoid the problems currently encountered with delays in obtaining approval for ex-gratia payments.

Moving to the end of the speech—clearly, things are under control! In the report by the Parliamentary Joint Committee on the Australian Crime Commission on the Australian Crime Commission annual report for 2007-08, there was the following recommendation:

The committee recommends that the Australian Government review existing arrangements for the suspension and dismissal of Commonwealth law enforcement agency employees believed on reasonable grounds to have engaged in serious misconduct or corruption, and that the Government take action as appropriate, bearing in mind the need to respect the rights of employees.

The Parliamentary Joint Committee on the ACC noted the dismissal power available to the AFP and stated:

... it is of concern to the committee that ACC employees suspected of serious misconduct or corruption remain within the organisation and may seek to jeopardise investigations, thereby potentially compromising the security of the ACC's operations.

In its 2008 submission to the Parliamentary Joint Committee on the Australian Crime Commission, ACLEI noted that in the context of its own establishment:

... there was no perception of a significant or systemic problem with corruption in either the ACC or the AFP. The possibility that corruption could develop is ever present particularly if sufficient deterrents and detection measures were not in place.

This bill addresses these important concerns and therefore has the support of the coalition.

It is always difficult to deal with matters of suspected corruption within law enforcement agencies in the same way that you might deal with other criminal offences because, clearly, it is very difficult to apply the rights that people enjoy through the court system, for instance, to policing agencies if there has been suspected corruption of officials within those agencies.

As has been noted in the submissions to the parliamentary joint committee, it is clear that there was some concern about some difficulties within the existing regime as to how officers within the ACC might be dealt with if they were suspected of corruption. Clearly, that is an important area to address. I am pleased this bill does that and it therefore enjoys the support of the opposition.