



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

**WORKPLACE RELATIONS
AMENDMENT (CODIFYING
CONTEMPT OFFENCES) BILL 2003**

In Committee

SPEECH

Tuesday, 2 March 2004

BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Abetz, Sen Eric

Source Senate
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Senator ABETZ (Tasmania—Special Minister of State) (6.19 pm)—I thank Senator Murray for dealing with the items in schedule 1 together, which will of course assist in the time taken by the chamber to deal with them. The government does not support the first two items. Retaining the existing deemed contempt offence in the Workplace Relations Act goes against the entire purpose of the bill. The government is seeking to repeal the existing broad and potentially confusing offence and to convert it into a number of offences that clearly spell out what conduct breaches the law.

As I have said before, accepting this would defeat the entire purpose of the bill and the government's policy that the elements of criminal law offences should be clear. Senator Murray has once again referred to the suggestion that minor or technical matters might get caught up in criminal proceedings. At the end of the day it is not going to be the government's decision; it is going to be the Director of Public Prosecutions, who is an independent statutory office holder, who will have to exercise his mind as to whether or not it is within the public interest to prosecute a matter.

Just as the local police do not necessarily prosecute every speeding offence that is committed, similarly the Director of Public Prosecutions would have a look at each matter referred to him and determine whether it is in the public interest or appropriate to pursue a criminal charge. In those circumstances—I am sure that he would not say it directly—the logic of what Senator Murray is saying by implication is that he does not have confidence in the Director of Public Prosecutions to exercise his mind in an appropriate fashion to ensure that frivolous criminal proceedings would not be brought where there have been simply technical breaches. That is a concern to the government, as we in fact have confidence in the Director of Public Prosecutions.

Removing item 3 of the bill would create new offences. It prohibits contemptuous conduct in relation to the commission. The offences prohibit contravening an order of the commission and publishing a false allegation of misconduct affecting the commission. The government believes it is appropriate that the commission is clearly and adequately protected from this sort of conduct. It is disappointing that the Australian Democrats do not believe that the commission should be protected from that sort of conduct. The government acknowledges that these amendments will be carried in the chamber with the support of the Labor Party.

Item 4 of the bill sets out the application provisions for the new offences. That, of course, is consequential on the other three. Having said that, let me indicate that we, the government, feel very strongly about this legislation. We oppose all the amendments being put forward by the Australian Democrats, but we are realistic enough to know that, if we were to divide the chamber on each and every one of them, or even groups of them, the Labor Party and the Democrat numbers combined would defeat the government. Therefore, we will simply record our opposition to the amendments on the voices. We will not bother dividing the chamber on what would be quite a number of occasions. That would just take up unnecessary time given that, unfortunately, the dye is cast on these amendments. But the mere fact that we are not dividing on them should not give anybody the impression that we are not very strongly supportive of our legislation and vehemently opposed to the amendments being put forward this evening.

The TEMPORARY CHAIRMAN (Senator Knowles)—The question is that items 1 to 4 stand as printed.

Question negatived.