



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

Date Tuesday, 2 March 2004
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Questioner
Speaker Abetz, Sen Eric

Source Senate
Proof No
Responder
Question No.

Senator ABETZ (Tasmania—Special Minister of State) (6.36 pm)—Just quickly, the Democrats have moved a raft of amendments, so the Democrats are not left in this terribly helpless position of being confronted with what is before them. They have clearly shown that it is within their power to move amendments, and it is interesting that they have not done so in relation to the issue of penalty. It is good to see that there is common ground between us. I have a funny feeling that this bill may well be going back to the House of Representatives and then possibly coming back here. That may well give us the opportunity to tease out this issue a bit more, if the only issue that divides us is the issue of penalty.

In the Crimes Act, as I understand it, the maximum penalty for giving false sworn evidence is five years. To take up Senator Murray's point, the government did consider that the punishment should fit the crime. That is a reasonable and longstanding proposition that has withstood the test of time. I think every reasonable person would accept that as a fundamental proposition. That is why the Crimes Act has a provision in it for a penalty of a maximum of five years imprisonment for giving false sworn evidence. The proposal here is that, given that the evidence is unsworn, the maximum penalty be only 12 months. There is a substantial reduction in the proposed penalty for unsworn evidence. The basic situation remains that this is not a situation of giving wrong evidence, where sometimes people can be honestly mistaken; this is about lying and giving false evidence—albeit unsworn. For that to be a crime, you have to have the appropriate mens rea, the appropriate intent.

In effect, a person would be setting out deliberately to mislead or lie to the commission and we believe that it is not okay to lie in those circumstances and that there should be a penalty. The maximum penalty we have suggested is 12 months, and that is in contradistinction to the maximum of five years in a circumstance of false evidence being given in the sworn context. We believe that the penalty has been reduced so that it would fit the crime or the offence, but this area of penalty may be appropriate for further discussion between us when the bill undoubtedly bounces from the House of Representatives back here again.

Question negatived.