



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
Page 20594
Questioner
Speaker Abetz, Sen Eric

Source Senate
Proof No
Responder
Question No.

Senator ABETZ (Tasmania—Special Minister of State) (6.40 pm)—I indicate that the government are willing to accept Democrat amendment (6). The government note that some perjury offences contain the qualification referred to by Senator Murray and that others do not. The government maintain that there is no excuse for giving any false evidence to the commission. However, we are prepared to accept the qualification in order to ensure that there are appropriate offences for committing perjury in commission proceedings, so we are willing to accept amendment (6).

We will be opposing Democrat amendment (7). The Democrats are seeking to insert a note in the act after the false evidence offence referring to the availability of the duress defence in the Criminal Code. It is not quite clear why we would single out the particular defence of duress. There are, as I understand it, a number of defences set out in the Criminal Code that apply to all Commonwealth offences, and the government consider that it is not sensible or even good drafting to refer to just one of the range of possible defences that may be available to somebody who is charged with that offence. We are prepared to accept Democrat amendment (8). I will not delay the chamber any further on that. Similarly, we do not see any harm in the clarification in Democrat amendment (9).

We will oppose amendments (10) and (11). They are directed at the application provisions of the offence-creating amendments. The amendments seem predicated on some apprehension about retrospectivity, but that apprehension is misplaced as the conduct has to occur after the amendments commence for that conduct to be caught by the new offences. These amendments would make the application provisions at best unclear and at worst inoperative. The effect of the amendments would be that the application of the offences would be to the giving of false evidence after the commencement and the inducement after the commencement. This begs the question: after the commencement of what? The provisions of the bill will commence at various times. Some parts of the bill will commence on royal assent and some parts will commence later. Application provisions are meant to reduce doubt about how and when legislation applies and these amendments, with respect, will increase that doubt. As a result, the government will not support amendments (10) and (11).

The TEMPORARY CHAIRMAN (Senator Knowles)—The question is that amendments (6), (8) and (9) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—I now put the question that amendments (7), (10) and (11) be agreed to.

Question negatived.