

ACTS AMENDMENT (CRIMINAL INVESTIGATION) BILL 2001

Second Reading

Resumed from 6 November.

MRS EDWARDES (Kingsley) [8.02 pm]: This Bill is essentially not consequential on the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001, which the House has been discussing today. This Bill seeks to amend the Coroners Act 1996, and the Surveillance Devices Act 1998. I will deal first with the amendments to the Surveillance Devices Act. An arrangement exists between the Western Australian Police Service and the National Crime Authority. This House has dealt with a number of pieces of legislation which have arisen as a result of the Hughes case, and this is one such example. This amendment will ensure that any action taken by the Western Australia Police Service for the National Crime Authority, is able to be recognised.

The amendment to the Coroners Act will repeal the current section 46(3), which reads -

A person must obey a summons, order or direction under subsection (1).

Subsection (1) reads -

If a coroner reasonably believes it is necessary for the purpose of an inquest, the coroner may -

- (a) summon a person to attend as a witness or to produce any document or other materials;
- (b) inspect, copy and keep for a reasonable period any thing produced at the inquest;
- (c) order a witness to answer questions;
- (d) order a witness to take an oath or affirmation to answer questions; and
- (e) give any other directions and do anything else the coroner believes necessary.

The person must obey such an order. However, the penalty for non-compliance was only \$2 000, and no power was given to the coroner to enforce any of those requirements. The Attorney General, in his second reading speech refers to a particular example. That instance dealt with one of the bikie gangs. The new section creates a crime of disobeying the coroner, and increases the penalty to imprisonment for five years and a fine of up to \$100 000. If dealt with summarily, the offence carries a penalty of imprisonment for two years and a fine of \$40 000.

In the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001 that the House was dealing with previously, which essentially dealt with organised crime, the penalties were insufficient to encourage people to break their silence and comply with the special commissioner's request. The instance the Attorney General referred to was also dealing with a bikie gang, which brought home that the coroner lacked the strong enforcement powers to compel people to produce, or to attend as witnesses. These penalties again are not very strong. This legislation does not deal only with organised crime. If the penalties were increased because of the instance the Attorney General was talking about, the scope is far wider to take in anyone required to come before the coroner. He has strong powers to compel people to appear, but the enforcement capability is rather lax.

I have indicated to the Attorney General that I would like to discuss this further in the consideration in detail stage tomorrow, without making any amendments at this stage for those penalties, because this Bill is different in that it does not just deal with organised crime. If it were dealing only with organised crime, and the coroner were not able to obtain the answers he wanted, there may be an opportunity to bring that person before the special commissioner under the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001. I would like to see how the interaction between the two pieces of legislation would occur. Although this Bill was not consequential on the other, a connection obviously exists. The Opposition does not want to increase the penalty excessively, because we are not just talking about organised crime, and it may very well be that if a person did not respond to the coroner's request, that person could be brought before the special commissioner. I do not see that there is any restriction in the Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001 that places limits while a matter is before the coroner, because the person has not been charged. Although there is a restriction that prevents the special commissioner from dealing with matters on a person charged, this would not prevent them from doing so while the coroner has a matter before him.

Mr McGinty: That is provided that there are two other serious matters.

Mrs EDWARDES: Yes, provided that it was dealing with organised crime. We are talking about the organised crime elements of this legislation. If the coroner is dealing with a death related to organised crime, if the powers contained in this legislation were not sufficient to require and compel the evidence or production of documents, those power exist through the special commissioner. As such we would not need to increase those penalties. That is something I would like to explore a little tomorrow during the consideration in detail stage. The Opposition supports the Bill.

MR McGINTY (Fremantle - Attorney General) [8.08 pm]: I thank the member for Kingsley for the indication of support. This legislation deals with the problem I mentioned during the discussion of the last Bill. It arose, in particular, out of the very unsavoury circumstances in which members of a bikie gang refused to give evidence to a coronial inquiry into the death of a woman who had been pack raped by them some days earlier. Members of the community were angry that the bikies could, for a relatively minor penalty, refuse to tell their story. The maximum penalty at the moment is, in my view completely inadequate, and this legislation seeks to increase that penalty along the lines explained to the House in the second reading speech and also by the member for Kingsley. I thanks members opposite for their indication of support for this legislation.

Question put and passed.

Bill read a second time.