

CRIMES (FOREIGN INCURSIONS AND RECRUITMENT) ACT, 1978 HOSTILE ACTS AGAINST FOREIGN GOVERNMENT.

Crawford v. Pilgrim, Patrick and Greengrove. District Court, Perth, Western Australia. Samuel J. 22 June, 1984. Unreported

The defendants were charged under The Crimes (Foreign Incursions and Recruitment) Act 1978 in relation to acts hostile to the government of the Federal Islamic Republic of the Comoros. Section 6 of the Act proscribes incursions into a foreign country for the purpose of engaging in hostile activities against the government of that country. Section 7 proscribes certain preparation for such incursions. The Act applies to Australian citizens, those "ordinarily resident" in Australia, and any person who, at any time during the period of one year immediately preceeding the doing of the act proscribed, was present in Australia for a purpose connected with that act. "Government" means the government recognized by the government of Australia as the lawful government of the relevant country.

In the course of the case, a certificate was presented to the court in the following terms:-

I, WILLIAM GEORGE HAYDEN, Minister of State for Foreign Affairs, DO HEREBY CERTIFY that the Government of the Commonwealth of Australia recognized the Government of the Federal Islamic Republic of the Comoros as at 1 June 1982 and continues to do so as at the date hereof.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal.

Dated this 31st day of March
One thousand Nine Hundred and Eighty three.

[signed]

Bill Hayden

Minister of State for Foreign Affairs.

The accused were found guilty of the offences charged. Greengrove and Patrick were sentenced to a minimum of eighteen months imprisonment, to serve a minimum of six months, and Pilgrim was sentenced to eighteen months imprisonment, to serve a minimum of eight months. In sentencing Greengrove and Patrick, Samuels J. observed:-

"The offences of which you have been convicted are serious ones and are plainly viewed by the Commonwealth Parliament as serious ones. A maximum of 10 years is imposed with no option of a fine. That the Australian Government and people have been placed in an invidious position by such activities, there can be no doubt. The planning of, preparation for, in this country, or by residents of this country, operations against a recognised foreign government is conduct which cannot be tolerated. It is conduct which merits punishment and the principle of deterrence assumes no little importance and is in my view one which must be served. The only options open to me are to release you without a sentence, with or without a bond, and on conditions, or to impose a prison sentence. In my view the former is entirely inadequate and inappropriate, as I consider there must be punishment and a deterrent to others. However, in respect to the matters personal to you, the significance of the acquittals and the fact that you were not the initiators, I am prepared to impose a lesser sentence than would otherwise be warranted."

Details of the case, and an extract of the transcript, were provided by Mr. Jonathon Brown, of the Department of Foreign Affairs, Canberra.

D.F.