

The Body Snatchers – Peace Officers and the *Peace Officers Act 1925*

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Few episodes in the history of federal policing in Australia are as controversial as the circumstances surrounding the passing of the *Peace Officers Act 1925*.

The Peace Officers legislation was created in haste during an intense political crisis when the NSW Government hindered the Commonwealth Government's attempts to deport radical trade unionists. Due to the rushed nature of the legislation however, the Commonwealth found that after the political crisis had passed its newly recruited 'Peace Officers' were without a clearly defined mandate or function. This article looks at the circumstances surrounding the introduction of the *Peace Officers Act 1925* and how it formed a statutory basis for the Commonwealth's involvement in law enforcement for almost 35 years.

The circumstances leading to the passing of the Act were driven by the ideological conflicts that then dominated Australian politics. The country had emerged from World War I as a nation deeply divided on a range of social and economic issues. The Australian Labor Party for example had been crippled by a split in 1916 over the issue of conscription; the remaining Labor parliamentarians owed their positions to an increasingly radical union movement that was pushing for the socialisation of the entire economy.^a

On the opposite side of Parliament and occupying the Government benches was a broad coalition of liberals, conservatives and former moderate Labor men, led by Prime Minister Stanley Bruce.

Mr Bruce was a wealthy businessman

and decorated former soldier^b to whom socialism (and its links to Bolshevism)^c posed a threat to national security. Indeed, the protection of national security was one of Bruce's three key priorities as Prime Minister,^d the other two being modernising the nation's economy and improving Commonwealth / State relations.^e

The political and ideological struggles of post-war Australia were never more present and intense than at the nation's ports. The debate over balancing employees' and employers' rights, couched within the paradigm of the left/right ideological debate, had created seemingly intractable conflict between the union movement, ship owners and the Government.

The Seamen's Union of Australia initiated and responded to a series of provocations in respect of employment conditions and the outsourcing of jobs to foreign workers. Leading the union's efforts were well-known activists Tom Walsh and Jacob Johnson. Walsh had a long history of activism and in 1920 he had been (along with his activist wife Adela Pankhurst^f) a founding member of the Australian Communist Party.^g Both men were thorns in the side of the Government.

To Prime Minister Bruce and his Cabinet, the maritime strikes challenged the very ability of the nation to function. The 1920s was an era before highways and commercial flights. Australia was totally dependent on shipping for all international trade and passenger movements and for the majority of

interstate trade and transport. Feeling threatened by what it regarded as a serious bolshevist threat, the Bruce Government acted with "ardent fervour"^h by deregistering the union. In 1925 the Government also amended the *Immigration Act* to enable the deportation of foreign-born people who threatened the peace, order or good governance of the Commonwealth. This action targeted Sydney-based Walsh and Johnson, as both had been born overseas.ⁱ The two were ordered before a specially convened Deportation Tribunal. The Commonwealth was initially thwarted by NSW Labor Premier Jack Lang, who refused to allow his police^j to be involved in what he thought to be "one of the most iniquitous measures ever passed in any country, and I will firmly refuse to permit state instrumentalities to be abused for the purpose of deporting political or industrial leaders."^k

Lang's stance meant that the Bruce Government had a national security law it could not enforce. Under intense media and public scrutiny the Prime Minister had to take action against the men he believed to be extremists.^l The *Peace Officers Bill 1925* was rushed into the Federal Parliament in Melbourne within hours of NSW Premier Lang writing that he would not help the Commonwealth.

The three page *Peace Officers Bill*^m enabled the appointment of 'Peace Officers' who would have "all such powers, privileges and immunities and be liable to all such duties and responsibilities as are conferred or imposed upon ... any Constable ... by or under any law of the

Commonwealth ... (or) common law ...".ⁿ The Bill enabled the Attorney-General to appoint as many Peace Officers (and Special Peace Officers) as he saw fit, with the officers required to swear allegiance to the King and to conduct their duties "without favour or affection, malice or ill-will". The impersonation of a Peace Officer was made a criminal offence, as was resigning from the organisation with less than three months notice.^o

Parliament debated the Bill over the weekend of 28 and 29 August 1925. Prime Minister Bruce argued that the Bill was not about the two unionists per-se, rather it was about the breakdown in Commonwealth and State relations - a situation that should give all Federal Parliamentarians "deep cause for thought". Bruce also insisted that irrespective of the argument over the merits of deporting Walsh and Johnson, Premier Lang's refusal to provide police was a failure to adhere to the Constitution's "fundamental principle" that States should enforce Commonwealth laws when required.

This argument did not wash with the opposition, which was enraged by what it regarded as a repressive move against the union movement. Labor Member for Kalgoorlie, Albert Green MP, lamented that the new body would be a "wonderfully patriotic service ... designed for the smashing of trade unionism". Other parliamentarians used parody to underline their concerns. Deputy Labor Leader Arthur Blakeley attacked the "panic legislation", dryly opining "I have no doubt that the Gilbertian police force that will be constituted by the more-or-less Gilbertian

Bill, will very soon pass away, together with the Government responsible for it".

Tasmanian Labor member David O'Keefe even argued that potential Peace Officer recruits lacked "manliness", and future Labor Prime Minister James Scullin laconically commented that "one would think from the inspired articles in the press, that a civil war was pending ...". Frank Brennan, member for the Victorian seat of Batman, infused his vehement criticism with a sardonic twist: "We are considering the passing of new legislation to enable body-snatching to proceed as a regular Commonwealth business ... No doubt some men will become members of this new police force, not as investigators, but as peace officers clad in white raiment, with wands in their hands and halos around their heads, crying 'blessed be peace!'"

The legislation was ultimately passed along party lines and the *Peace Officers Act* received Royal assent on 2 September 1925. Within hours, hastily recruited Peace Officers located the activists Johnson and Walsh and brought them before the tribunal. The tribunal ordered deportation and the two men were remanded in custody at Sydney's Garden Island naval base pending appeal. In December 1925 however, the full bench of the High Court ruled in favour of the unionists, and they were then free to remain in the country.^p The Prime Minister's disappointment at the decision would have been cushioned by the fact that a month earlier, his Government had been re-elected with an increased majority after campaigning almost

exclusively on protecting the nation against strikes and 'foreign agitators'.

Despite the Government's strong law-and-order election campaign, it did not again seek to deport the two unionists. Consequently the 19 men who then constituted the Commonwealth's "Peace Force"^q found themselves without a clearly defined role. Neither the Act nor the Government (when arguing for the legislation) had been clear as to the role of Peace Officers beyond process serving in the deportation dispute. It had been argued that the officers would have a "unique" but vague function. Such assertions were attacked by Labor as being a cover for union smashing. So the Government put the Peace Officers to work investigating breaches of federal tax and electoral laws, examining applications for old-age pensions, and undertaking process serving for the Solicitor-General.^r

Beyond the short-term politics of the situation, the real significance of the Act was that it gave an unprecedented statutory basis for the policing of Commonwealth crime.^s One person who fully understood this was Major Harold Edward Jones, the Director of the Commonwealth's Investigation Branch (an internal security unit that had been quietly formed within the Attorney-General's Department in 1919). While the Branch's primary focus was the monitoring of politically subversive elements, it also conducted sensitive criminal investigations even though its members had no formal police powers. This lack of power was addressed soon after Jones was given the added responsibility of

Superintending Peace Officer on 13 April 1926. The swearing in of Branch investigators as 'specials' would prove very useful in subsequent years.

Although he had initially been given authority to substantially increase the number of peace officers, Major Jones rationalised the Peace Force itself. Some men were relocated from Sydney to other states to join Investigations Branch members, one sailed to Norfolk Island to replace a NSW Police officer and one retired. In September 1927, the majority of the remaining members, ten Peace Officers in total, were relocated to Canberra and reassigned to form the Federal Capital Territory Police.¹ To all intents and purposes, the Peace Force had ceased to exist.

Nonetheless, the statutory powers under the Act, particularly the special Peace Officer powers, continued to be used and conferred on a number of investigators in various Commonwealth departments. While this was a generally satisfactory situation given the Commonwealth's then limited and somewhat reluctant role in policing, it did leave the Government exposed in 1932 when there was the real possibility of armed conflict with the NSW Government. Because of a series of disagreements over financial policies, the NSW Government had refused to pass on taxes to the Commonwealth and instead put the money under armed police guard. Responding to this outrage, the then Prime Minister Joe Lyons examined options to forcefully seize the monies. He would have been concerned to find that there were as few as two dozen special Peace Officers available throughout Australia. This number was quickly raised to around 200⁴ and fortunately violence was avoided when Premier Lang was dismissed by the NSW State Governor.

In the mid-1930s the story of the Act takes an interesting turn, with the creation of a uniformed security force under the auspices of a federal Labor government. In the wake of a strike by civilian watchmen at a government



Above: Peace Officers Jon O'Neil, Ron Charity and Ivor Williams, being sworn in as Commonwealth Police Officers when the Commonwealth Police was established in 1960.

munitions factory in Maribyrnong Victoria, Labor Prime Minister James Scullin sought Major Jones' advice on how to protect Commonwealth interests in the future. Jones' advice was agreed to and on 26 April 1935 the Defence Establishments Guard (DEG) commenced duties, its members having been sworn in under the *Peace Officers Act*. To assuage State police concerns about the creation of a new police force, DEG members were instructed that they had been "appointed for the protection of the property of the Commonwealth and the lives of the employees working in such establishments".^v The officers' jurisdiction was to cease at the perimeters of their assigned factories and they were not to "interfere with the functions or duties of the state police."^w Members were issued with a uniform, wore a 'Commonwealth Peace Officer' badge on their caps and went armed when on duty. From an initial number of 33 men located in a few factories in Victoria and NSW, the number rose to 76 men by 1939, and to 484 (plus 200 specials around Australia) by December 1940.

The impact of World War II is what validated and consolidated the Commonwealth's protective security role, which is a function that the AFP continues to perform to this day. With the outbreak of the war, the Commonwealth looked to Major Jones to provide a

security presence at a range of critical infrastructure sites including munitions factories, wharves, aerodromes, post offices, telephone exchanges and even repatriation hospitals. The demand for services away from munitions factories was such that on 5 May 1942, the DEG was formally abolished and replaced by the Peace Officer Guard (POG). By mid-1945, the POG had 1,745 men and women deployed across Australia - a growth of almost thirty-fold in less than six years. Rapid expansion did not come easily though. Personnel were difficult to come by, while training and good facilities were almost impossible to source. A major review in 1945 found that despite best efforts, the organisation had been "ill-equipped ... to cushion and absorb the stresses and strains of such a rapid expansion".^x

After war's end, although much reduced from its mid-1945 peak, the POG continued to provide guarding services with a staffing level generally above pre-war DEG numbers. In the Cold War era a national protective security/guarding capability was considered essential, particularly at sensitive military sites. Despite this need the POG's organisational effectiveness was hindered by a byzantine command structure. Senior officers were appointed to the role on an ex-officio basis, not because of pertinent skills but because of their primary duties



Above: Peace Officer dog handlers at passing out parade in Canberra with Alsatian guard dogs, c. 1956. In the centre is POG Sergeant C Alcock, the chief instructor. Top right: Peace Officer Charlie Basset on duty at Edinburgh RAAF Base, South Australia, unknown date. During World War II most Officers were issued only one uniform and were required to work 13 days each fortnight.

as senior members of the Commonwealth Investigation Service (CIS), the successor to the Commonwealth Investigations Branch.

The resulting sense of drift was only halted after Ray Whitrod was appointed to head both agencies in 1953. Whitrod became a tireless advocate for a national police force that would combine the roles of the POG and the CIS, and that could subsequently expand its capabilities into a range of areas such as intelligence, training, forensic and terrorism investigations. Whitrod introduced a number of innovations such as the creation of a protection capability for dignitaries and the acquisition of guard dogs. He encouraged POG involvement in payroll and deportee escort duties and even issued special peace officer powers to privately recruited patrolmen who were tasked to maintain law and order at the remote construction camps run by the Snowy Mountains Hydro-Electric Authority.^v

The Commonwealth Government eventually recognised the value of Whitrod's arguments and in 1960 the POG and CIS were dissolved and replaced by a new body - the Commonwealth Police. Peace Officers became Commonwealth Police Officers. With the new organisation came more staff, better training, extra responsibilities and new legislation - the *Commonwealth*

Police Act 1957:

For 35 years the *Peace Officers Act* served as the sole legislative provision for the Commonwealth's presence in civilian law enforcement. Without a doubt, political expediency and ideological dogma drove the Act's creation in 1925. These influences were not conducive to creating a successful long-term national policing body. However, the Act's simplicity and vagueness outlasted the politics of 1925, and for many years provided a robust mechanism that supported the Commonwealth's almost wary expansion into the policing, security and guarding fields. More than 80 years later, many of the tasks and duties undertaken by the early generations of Peace Officers are still performed today by AFP personnel in a range of diplomatic, security and defence establishments, and major airports, across Australia.

(Endnotes)

- a A resolution was passed by the All-Australian Trades Union Congress in 1921 that industry and the production, distribution and exchange of goods should be socialised. The Federal Labor Party formally adopted a similar position the following year.
- b Born in Melbourne, Bruce attended Cambridge for his tertiary education and volunteered to serve in the British Army in 1914, earning a British Military Cross and French Croix de Guerre avec Palme for his actions in the Gallipoli campaign.
- c At this time Communist Russia was actively promoting Bolshevism internationally.^d The concept of 'national security' was within the context of Australia's place within the British Empire. Like most of his generation, Bruce regarded himself as much British as Australian.
- e Australian Dictionary of Biography, Online Edition, <http://www.adb.online>.

anu.edu.au/biogs/A070460b.htm

- f Daughter of prominent British suffragette Emmeline Pankhurst.
- g Both subsequently became disillusioned with the party and left.
- h Keith Bryett, Arch Harrison and John Shaw, *The role and functions of the police in Australia*, Butterworths, 1994, p.112.
- i Walsh had been born in Ireland, Jacobson in Holland.
- j Lang also refused to allow NSW State Judges to be seconded to the Tribunal. The Commonwealth was forced to second Judges from other, more supportive, states.
- k Commonwealth Hansard, 28 August 1925.
- l [ibid](#)
- m In comparison, today's AFP Act is over 200 pages in length.
- n Peace Officers Bill 1925.
- o Penalties were £50 or three months imprisonment.^p The High Court ruled that because Walsh's arrival in 1893 predated Federation, the 1901 Act did not apply. Jacobson had emigrated in 1910, was naturalised in 1913 and had raised a family in Australia. The High Court ruled that his length of stay and level of integration into the Australian community were persuasive arguments, as were issues about the fairness of retrospect legislation. For the full ruling see *Re Yates; Ex parte Walsh* [1925] HCA 53; (1925) 37 CLR 36 (18 December 1925).
- q In a memorandum to the Solicitor General from Jones, dated 6 July 1926, the recorded strength of the Peace Force, which was located solely in NSW, was an Acting District Superintendent, an Inspector and 17 peace officers (all men).
- r David Crawford, *Purpose Expanded: An outline of Commonwealth Policing 1911 - 1987*, AFP, p.10.
- s The Commonwealth Police Force (1917 - 1919) had been created by a wartime regulation, a government proclamation not requiring parliamentary approval and which ceased to have effect six months after the end of hostilities.
- t The men joined Sergeant Cook, a former NSW Police Officer. The Force was the forerunner to the ACT Police.
- u Gerald Stone, 1932, Pan MacMillan Australia, 2005, p.206.
- v Australian Archives, A472(A472/6), W72 Part 2.
- w [ibid](#).
- x Australian Archives, 367 (A367/4), C14000/144
- y Ray Whitrod, *Before I Sleep: Memoirs of a Modern Police Commissioner*, University of Queensland Press, 2001.
- z For reasons unknown, it was almost three years between when the Act was passed in 1957 to when it came into effect.