



Terrorism (Commonwealth Powers) Bill

Second Reading

Corrected
Copy
13/11/2002

TERRORISM (COMMONWEALTH POWERS) BILL

Page: 6696

Bill introduced and read a first time.

Second Reading

Mr CARR (Maroubra—Premier, Minister for the Arts, and Minister for Citizenship) [4.36 p.m.]: I move:

That this bill be now read a second time.

It is clear from 11 September and the tragic events in Bali that Australia is not immune from terrorism. We must prepare calmly and coolly for the possibility of a terrorist outrage on our homeland. The Government's response to this threat has been decisive. Last month I announced the formation of the NSW Police Counter Terrorism Co-ordination Command. This 70-strong unit began operation on 1 November. Furthermore, a standing reference is being drafted to enable the New South Wales Crime Commission to work with New South Wales and Commonwealth agencies to investigate terrorist activity. The New South Wales State Emergency Management Committee is conducting a review of all critical State infrastructure to assess the level of protection needed. Honourable members know that I have also proposed a national counter terrorism strategy for consideration by States, Territories and the Commonwealth.

One of my major concerns is that we develop a new, higher degree of co-operation between the Commonwealth, States and Territories. One of the great lessons from 11 September is that relevant information collected by the Central Intelligence Agency was not passed on to the Federal Bureau of Investigation. We must ensure that after Bali, intelligence gained by law enforcement and national security organisations is quickly shared. That means ensuring our Federal structure does not impede intelligence and information sharing. The consequences of getting it wrong are too high.

The Leaders Summit on Transnational Crime and Terrorism in April this year saw the beginning of a new culture of co-operation. This was followed by the signing of the inter-governmental agreement on counter terrorism arrangements on 24 October. We now need to ensure that the Commonwealth has all the power it needs to outlaw terrorist activities. The Commonwealth has already passed laws establishing new offences, including engaging in, providing training for, supporting and financing terrorist acts.

A terrorist act is an act intended to advance a political, religious or ideological cause and to intimidate and cause serious harm. It does not include legitimate protest or industrial action that is not intended to cause serious harm. The offences also prevent participation in groups declared to be terrorist organisations such as al-Qaeda and Jemaah Islamiah. The Commonwealth's existing constitutional powers provide the legal basis for many aspects of the terrorist offences. However, there may be unforeseen gaps in the legal basis of the Commonwealth offences. We must fill those gaps so that suspects do not exploit legal loopholes to frustrate prosecutions. That is the central purpose of this legislation.

This is a short bill so I will not detain the House long in explaining its provisions; they are straightforward. The main provision is clause 4, which refers power to the Commonwealth to make

laws with respect to terrorist acts or actions relating to terrorist acts as set out in the Commonwealth legislation annexed to the bill. Clause 5 provides that the referral is to continue indefinitely unless it is terminated by proclamation of the Governor. New South Wales' interests are protected by the provisions of the Commonwealth legislation, which is the subject of the referral.

Clause 100.6 of the legislation maximises the scope for both State and Commonwealth criminal laws to apply in New South Wales at the same time. Clause 100.9 of the Commonwealth legislation provides that the Commonwealth may not amend the legislation without the agreement of a majority of the States and Territories, including at least four referring States. I note that there is still debate between the Commonwealth and other States as to whether this amendment provision should be enacted by legislation or by an intergovernmental agreement. New South Wales has decided to go ahead with this bill on the assumption that it will be done by way of an intergovernmental agreement. However, if the Commonwealth and other States agree that it must be done by legislation, we will amend this bill at a later stage.

I am introducing the bill today because I do not want to delay this important legislation over one technicality. We cannot afford to leave the Commonwealth without the powers it needs to protect our people. This sort of measure could make a difference; it could give us that extra level of protection that will prevent the possibility of more stricken Australian families such as those that suffered as a result of the terrible and foul act in Bali. This bill is only the first step in the legislative reforms needed to confront the menace of terrorism. We are currently preparing a bill to complement the Commonwealth's Australian Crime Commission legislation. The New South Wales Police Force is also looking at the adequacy of its current powers to deal with terrorist threats. In summary, this is a bill to ensure there are no gaps in the constitutional basis of the new Commonwealth terrorism laws. It minimises the risk of legal technicalities standing in the way of justice. Any suspected terrorist will have a fair trial, but the community would be justly horrified if such people evaded justice because of legal or constitutional technicalities. With that purpose in mind, I commend the bill to the House.

Debate adjourned on motion by Mr R. H. L. Smith.

Bill Name: Terrorism (Commonwealth Powers) Bill
Stage: Second Reading
Business Type: Bill, Debate
Keywords: 1R, 2R
Speakers: Carr, Mr
Database: LA Hansard Extracts - 52nd Parliament of NSW / 523pa059 / 26

[Next Page](#)
[Previous Page](#)