Motor Accidents Compensation Further Amendment (Terrorism) Bill
Workers Compensation Amendment (Terrorism Insurance Arrangements) Bill
Terrorism (Commonwealth Powers) Bill
Terrorism (Police Powers) Bill

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Second Reading

MOTOR ACCIDENTS COMPENSATION FURTHER AMENDMENT (TERRORISM) BILL
WORKERS COMPENSATION AMENDMENT (TERRORISM INSURANCE ARRANGEMENTS) BILL
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Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [8.20 p.m.]: I move:

That these bills be now read a second time.

I seek leave to incorporate the second reading speeches in *Hansard*.

Leave granted.

MOTOR ACCIDENTS COMPENSATION FURTHER AMENDMENT (TERRORISM) BILL

As members will recall, the *Motor Accidents Compensation Amendment (Terrorism) Act 2002* was passed during the Budget session of Parliament. The Act amended the *Motor Accidents Compensation Act 1999* to temporarily exclude liability arising from a terrorist act involving a motor vehicle, from the Compulsory Third Party (CTP) motor accidents insurance scheme. The exclusion of terrorist acts currently applies from 1 January 2002 until 1 January 2003.

After the 11 September 2001 terrorist attacks in the United States, international reinsurers withdrew unlimited liability cover for terrorist related losses. The motor accident scheme terrorist exclusion was introduced in response to these changes in the international reinsurance market.

In introducing the amendments last session the Government indicated that the action of reinsurers had serious potential to impact on the viability of the NSW Green Slip scheme as it left CTP insurers exposed to a potential liability that could not be covered by reinsurance.

The Government also indicated that should no viable alternatives develop during the remainder of this year then it would be necessary to extend the terrorism exclusion further into the future.

The NSW Motor Accidents Authority (MAA) has been closely monitoring the reinsurance position and assessing the requirements for further action.

Following the withdrawal of terrorism cover on all lines of insurance business post September 11, the market is slowly reintroducing cover for domestic lines of insurance, such as motor and home insurance. However the market is not offering cover at an affordable price for commercial lines or third party liability lines such as CTP or personal injury insurance.

Arising from discussions with re-insurers and information available from international sources, the MAA is of the view that terrorism cover for CTP reinsurance will remain unavailable for the foreseeable future. Indeed, following the terrorist bombings in Bali, terrorist acts, as with acts of war, may become completely uninsurable.

On 25 October 2002 the Commonwealth announced its proposal for a national scheme for replacement terrorism insurance, to commence from 1 July 2003. Whilst State statutory schemes are not at this stage part of the Commonwealth's planned national scheme, the Commonwealth has indicated that subject to discussions with State and Territory Governments the national scheme may be extended to include State workers' compensation and CTP schemes.

The Government will take up the Commonwealth's offer to discuss the inclusion of the NSW CTP and workers' compensation schemes within the national scheme.

The reinsurance market conditions which necessitated the introduction of the terrorism exclusion for the motor accidents scheme remain unchanged. There will be no alternative national scheme in place before 1 July 2003 at the earliest.

The terrorism exclusion approved by this Parliament in the last session is only in place until 1 January 2003. Accordingly, it is necessary to extend the terrorism exclusion for a further period.

The Motor Accidents Compensation Further Amendment (Terrorism) Bill 2002 proposes to extend the terrorism exclusion until 1 January 2004.

I commend the Bill to the House.

WORKERS COMPENSATION AMENDMENT (TERRORISM INSURANCE ARRANGEMENTS) BILL

Following the terrorist attacks in the US on 11 September 2001, reinsurers worldwide indicated that unlimited cover in relation to claims arising from acts of terrorism may no longer be available.

This lack of availability of re-insurance for terrorism-related losses has serious implications for insurers underwriting a range of insurance business across Australia. It is compounded by requirements on insurers to comply with the regulatory requirements of Federal authorities such as the Australian Prudential Regulation Authority in relation to re-insurance and capital adequacy.

Specialised workers compensation insurers are required to hold an authority to carry on insurance business under the Commonwealth Insurance Act 1973. In order to obtain an authority, it is necessary to have re-insurance arrangements that have been approved by the Australian Prudential Regulation Authority.

On 27 June 2002, I announced the Government's intention to introduce arrangements to establish a Workers Compensation Terrorism Re-insurance Fund.

I am pleased to introduce the Workers Compensation Amendment (Terrorism Insurance Arrangements) Bill 2002. The Bill aims to address the potential impact of the lack of availability of re-insurance for terrorism related losses.

The Bill represents the outcome of consultation with Scheme stakeholders, including licensed workers compensation insurers, specialised insurers and self-insurers.

The Bill enables the establishment of a Workers Compensation Terrorism Re-insurance Fund in the event of a significant terrorism related loss. The Bill will assist workers compensation insurers to meet licensing requirements and will ensure that individual insurers are not exposed to the full cost of workers compensation losses in the event of an act of terrorism in New South Wales.

The Bill provides for the activation of the Fund upon declaration by the Minister that a "significant

terrorism related loss" had been incurred. The purpose of the Bill is to offer insurers a "safety net" in the event of significant workers compensation losses caused by an act of terrorism after 30 June 2002.

The intention of the arrangements is to ensure that no individual insurer or employer will be exposed to the full cost of any workers compensation losses arising out of acts of terrorism but rather to spread any such losses across the broadest base available.

The purpose of the Fund must be considered in determining the monetary value of a "significant terrorism related loss". In addition, the threshold must be set at a level that encourages insurers to obtain appropriate re-insurance, where available.

Therefore, the Bill provides that a declaration can only be made if the loss incurred by the insurer or insurers exceeded or was expected to exceed $1 million. An insurer with re-insurance would be required firstly to make a claim against that re-insurance, and would only be able to make a claim on the Fund for any amount not covered by the re-insurance and in excess of their portion of the $1 million threshold.

The Bill provides for contributions to the Fund by all licensed insurers, self-insurers and specialised insurers in the event of a significant terrorism related loss. A total figure to be contributed to the Fund would be determined by WorkCover, based on the cost of claims not covered by re-insurance and above the $1 million threshold. This figure would then be apportioned according to the wages on which an insurer's premium is assessed.

During consultation on the Bill, a number of concerns have been raised. For the information of Honourable Members, I will detail these concerns and provide an indication of the Government's position with regard to them.

The first concern relates to the wording of subsection (2) of proposed section 239AG. This deals with the amount that is to be contributed to the Terrorism Re-insurance Fund. The effect of subsection (2) is to provide that the total amount to be contributed by insurers is that amount necessary to satisfy all workers compensation claims in respect of the act of terrorism **less the greater of:**

- the $1 million threshold); **or**
- the reinsurance entitlements of the insurers who are subject to claims arising from the act of terrorism.

There was a suggestion that the amount to be deducted in calculating contributions to the fund in respect of re-insurance was the total amount of reinsurance held by all insurers irrespective of whether those insurers had claims arising from the act of terrorism.

This is not the case.

A further concern was the wording of proposed section 239AH. Clause 239AH (2) states that the Authority "may" reimburse an insurer who makes an application under subsection 1. The reason for this qualification is because of the necessity of satisfying all of the requirements of the section before payments can be made. In particular, there must have been a declaration that an act of terrorism has given rise to significant terrorism-related liabilities under clause 239AD.

Then the requirements of subclause (4) of proposed section 239AH must be satisfied. These are that:

(a) insurer has made the payments specified in the application for reimbursement;

(b) the payments were made in respect of claims arising from the act of terrorism; and

(c) the amount to be reimbursed is no more than the total amount paid by the insurer less the

insurer's excess.

Once these conditions have been satisfied, the WorkCover Authority will reimburse from the Terrorism Re-insurance Fund the amount of the claims, less the insurer's excess.

Proposed section 239AG of the Bill, provides for the Authority to make a determination of the amount to be paid to the Terrorism Re-insurance Fund and for the amount to be contributed by each insurer. If an act of terrorism occurs that results in a declaration being made that it has given rise to significant terrorism-related liabilities, it may take some considerable time for the total of all claims arising from the Act to be known. Accordingly, proposed section 239AG (6) enables further or additional determinations to be made from time to time.

Once the amount to be contributed has been determined, the Authority is to give written notice to each insurer of the amount to be paid under clause 239AG (4). There is concern that as clause 239AG (4) is worded, there is no capacity for an appropriate staging of contributions.

I have noted these concerns and indicate that I will be introducing in Committee an amendment that will clearly give a power for the payment of contributions by instalments to meet the cash flow needs of the workers claims.

The measures contained in this Bill will provide an interim solution for New South Wales to what is a serious national problem until such time as a truly national approach can be adopted.

The Bill provides for a review of the Workers Compensation Terrorism Re-insurance Fund provisions as of May 2003. Any decision to continue or discontinue provisions for the Fund will be based on the availability of terrorism re-insurance at that time. It will also provide two specialised insurers who have taken a particular interest, the Catholic Church Insurance and Guild Insurance, an opportunity to further consult with Government and explore what further arrangements may be necessary.

In view of the Commonwealth Government's recent announcement of its intention to establish a scheme for replacement terrorism insurance from 1 July 2003, this review can also consider that would be needed if acceptable arrangements for a national scheme that includes covering workers compensation insurances can be developed.

I have recently written to the Federal Treasurer expressing a desire to commence discussions about the possible extension of the Commonwealth scheme to enable those specialised and self insurers involved in the NSW workers compensation scheme who so elect to be covered by the Commonwealth's replacement terrorism insurance.

I am pleased to advise the House that the Commonwealth Treasurer has advised the New South Wales Treasurer of the following:

Referring to the proposed scheme to provide reinsurance cover, the Hon Peter Costello states:

> The Scheme will operate form 1 July 2003 and will be structured with the potential to accommodate the state and territory statutory classes of insurance of workers compensation and compulsory third party motor vehicle insurance.

I commend the Bill to the House.

TERRORISM (COMMONWEALTH POWERS) BILL 2002

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.

TERRORISM (POLICE POWERS) BILL

The events of the last 14 months have caused us to change our views about our safety as a nation.

The terrorist attacks in New York and Bali show a new preparedness amongst terrorist organisations to strike at civilians with the aim of causing mass casualties.

The Bali bombing has brought terrorism to our doorstep and the specific reference to Australians as a target, that intelligence analysts believe came from Osama bin Laden himself, means that we have no option but to respond to the reality of a possible terrorist attack in our State.

At the time this Bill was introduced in another place, the Commonwealth Government upgraded its assessment of the domestic terrorist threat. We have since seen specific warnings in respect of our Embassy in the Philippines.

This Government has already taken several important steps in responding to the increased terrorist threat.

We have created a new seventy-member Counter-Terrorism Command in the Police Force, under the command of Superintendent Norm Hazard, and have increased funding to NSW police counter-terrorism programs to provide new and better equipment to operational and support units.

We have also reviewed Commonwealth anti-terrorism legislation, and legislation in the United Kingdom and the United States to determine the additional powers needed by police to respond to terrorist threats and incidents.

This Bill is the result of that review.

The Government has carefully balanced two very important considerations in formulating this bill.

Firstly, the need to be able to react effectively at short notice to a terrorist threat or in the immediate aftermath of an attack.

Secondly, the need to remain calm in the face of terrorism and not sacrifice the important principles and rights on which our society is founded.

I would rather these laws were not necessary—but they are.

The new powers given to police are confined to limited circumstances and are balanced by appropriate accountability provisions.

The new powers may only be triggered

- Where the Commissioner of Police or a Deputy Commissioner is satisfied that there are reasonable grounds for believing there is an imminent threat of a terrorist attack and the use of the new powers would substantially assist in preventing that act; or

- Immediately after a terrorist act, where the Commissioner or a Deputy believe the powers would substantially assist in apprehending those responsible or protecting the public from the attack's impact.

The new powers given to police are not intended for general use. In ordinary circumstances we rely on standard police investigations and the cooperation of Australian and international law enforcement and intelligence agencies.

However, when an attack is imminent, all resources must be able to be mobilised with maximum

efficiency.

Similarly, when an attack has just occurred, there is an increased chance of catching the terrorists, and this chance must be taken.

I will now address key provisions of the bill.

Clause 3 defines "a terrorist act". We have adopted the definition used by the Commonwealth in the model criminal code.

This is essential to permit the maximum possible cooperation between NSW Police and Commonwealth law enforcement and intelligence personnel. Everyone must be operating under the one definition.

As defined, terrorism are those acts intended to intimidate the government or the public and involving serious injury or danger to people, serious damage to property, or serious interference with an electronic system. Legitimate, non-violent protest cannot trigger the proposed powers.

Clauses 5 and 6 provide for the limited circumstances in which the new powers may be invoked, which I outlined earlier.

Clause 8 gives the Commissioner of Police and the two Deputy Commissioners the capacity to authorise the use of the new powers.

In cases where none of these officers are available, an officer above the rank of superintendent, being a police senior executive position, may authorise the use of the powers. This succession planning will guard against a situation where the terrorist attack targets or isolates the most senior ranks of NSW police.

Clause 9 provides a key safeguard. An authorisation must be approved or ratified by the Minister for Police.

If the Minister for Police is not available at the time, then ratification must occur within 48 hours or else authorisation is terminated. The Minister for Police may also revoke the authorisation at any time.

Clause 11 sets out the duration of the authorisation.

An authorisation to prevent a future terrorist act lasts for a maximum of 7 days, extendable with Ministerial agreement by another 7 days.

This reflects the fact that while information available may suggest an attack is about to occur, it need not mean it will occur today. We see an imminent threat as one that could last for up to 14 days.

An authorisation after an attack lasts for a maximum of 24 hours, extendable with Ministerial agreement by another 24 hours.

Clause 13 makes it clear the decisions of senior police are reviewable by the Police Integrity Commission. The Ombudsman's jurisdiction to oversight complaints about the inappropriate exercise of the powers under the Bill is not affected.

The information on which authorisations are made is likely to be highly sensitive intelligence material, quite possibly provided by cooperating Australian or foreign agencies. This information must be protected to ensure the continuing supply of this intelligence.

I will now describe the new powers granted to police.

Clause 7 sets out what the powers are for. They are to permit police to:

- Find a particular person—a target person;
- Find a particular vehicle or a vehicle of a particular kind—a target vehicle, and
- To prevent a terrorist act in a particular area—a target area.

They may also be used to target specific premises, when a person or place authorisation permits.

These different purposes recognise the range of possible scenarios.

Police might receive a warning that a particular type of vehicle will be involved in a terrorist attack.

Or the information may be that a particular area is the target, without telling us who or how it will be attacked.

The authorisation provisions are sufficiently flexible to allow persons to be described—a photo or a drawing may be used for this purpose.

The target area provisions extend to persons or vehicles about to enter the target area, or persons and vehicles that have recently left the area.

Part 3 of the Act sets out the new powers.

Clause 16 permits a police officer to direct someone to identify themselves if the officer suspects on reasonable grounds the person is a target person, or a vehicle is a target vehicle or if the person is in a target area.

It will be an offence not to comply without reasonable excuse or to provide false answers. The maximum penalty is 50 penalty units or 12 months imprisonment or both.

Clause 17 gives officers the power to stop and search a person if the officer suspects on reasonable grounds the person is a target person, the person is in a target vehicle or is in a target area.

Search powers may also be used in connection with persons found in suspicious circumstances in the company of a target person.

The search may be a frisk search (running the hands over the outside of a person's clothing), an ordinary search (jackets, hats, gloves, shoes may be removed and examined) or it may be a strip search in very limited circumstances.

Frisk searches and ordinary searches will generally be enough to determine if the person is carrying a bomb or a gun for example.

A strip search is much more intrusive and will only be permitted if the person is suspected of being a target person.

Clause 18 permits a police officer to stop and search a vehicle, and anything in or on the vehicle, if the officer suspects on reasonable grounds the vehicle is the target of the authorisation, a person in the vehicle is a target, or the vehicle is in a target area.

Clause 19 permits an officer to enter and search premises if the officer suspects on reasonable grounds a target person is inside, a target vehicle is inside or if the premises are in a target area.

Clause 20 permits an officer to seize and detain any item the officer suspects could be used or could have been used to commit a terrorist act.

The Government acknowledges the range of items seized could be broad. This is because a terrorist attack could be made in many ways—with firearms, explosives, gases or liquids.

It is appropriate that any article that an officer suspects should be able to be seized for further assessment.

An officer may also find things that are evidence of general offences (such as drugs offences)—the officer may seize these things if he or she reasonably suspects there may be evidence of a serious indictable offence. This threshold has been chosen in recognition of the intrusive nature of the new powers.

Clause 22 makes it an offence without reasonable excuse to hinder an officer exercising these powers—the maximum penalty is 100 penalty units or 2 years imprisonment, or both.

Clause 23 requires officers to identify themselves and give the reason why they are exercising one of these powers, as soon as is reasonably practical before or after exercising a power under the Act. The reasonably practical test is an important one—if police are trying to manage hundreds of people after a terrorist incident, they may not be able to provide this information in every case.

If a person, or their vehicle or premises, has been searched, he or she may also apply to the Commissioner for Police for a written statement that the powers were exercised under an authorisation. This arrangement has been adopted from United Kingdom legislation.

Part 4 of the Bill permits members of law enforcement agencies of other Australian jurisdictions to be authorised to use the powers.

This recognises that in an emergency situation, we want to maximise our capacity to respond to a terrorist incident, especially in the area of scarce resources such as specialist search units. Such an officer ultimately remains under the command and control of his or her home law enforcement agency.

Part 5 of the Bill contains important additional safeguards.

Clause 26 requires a report to be provided to the Minister for Police and the Attorney General by the Commissioner as soon as practicable after the expiry of an authorisation.

Clauses 27 and 28 provide for the return or disposal of property seized under the powers.

Clause 36 provides for annual reviews of the Act.

Schedule 2 of the Bill contains amendments to the State Emergency and Rescue Management Act 1989.

These new powers are not exercised as part of the authorisation system I have already described. They are separate powers.

These new powers deal with the reality of chemical, biological and radiological weapons.

When these weapons are used, persons exposed to these agents may unintentionally expose others to them. This is what happened in Tokyo in 1995 when sarin nerve gas was released in the subway.

Many casualties occurred, not through direct exposure to the gas as it circulated in the air, but through persons touching the skin or clothing of others who were already exposed.

The Bill creates a power for a senior police officer who is satisfied there are reasonable grounds to authorise that persons who may have been contaminated can be kept in a particular area, quarantined and decontaminated.

Schedule 2 also permits police officers to remove a vehicle or object from a danger area and to direct persons not to interfere with such an object. The latter power is necessary to maintain the integrity of possible crime scene evidence, the importance of which was highlighted in the Bali investigation.

These powers have been designed to complement existing Commonwealth powers and are necessary to maximise the ability of New South Wales to protect our people.

I commend this Bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [8.21 p.m.]: I am pleased to lead on behalf of the Opposition on the four terrorism bills. I commend the Government for the mature way in which it has endeavoured to address these individually important bills that we are considering together. The Opposition does not oppose the Motor Accidents Compensation Further Amendment (Terrorism) Bill, and our position is consistent with the contribution made on this bill in the Legislative Assembly.

The Coalition is happy to support the Government in passing the Workers Compensation Amendment (Terrorism Insurance Arrangements) Bill through Parliament. I understand from the Minister's second reading speech that the Workers Compensation Terrorism Re-insurance Fund would be activated only in the event of a terrorist attack and upon the Minister's declaration that a "significant terrorism-related loss" had occurred. As representatives of the New South Wales community, we all hope and pray that our citizens will never be the victims of such a terrorist attack, either in this country or while travelling overseas. Tragically, the world has changed in the past 15 months and we cannot ignore the risk of terrorism and the need to plan for worst-case scenarios. This legislation is a recognition of what must be done in New South Wales, and I understand that it is consistent with what is happening in various other jurisdictions.

The Opposition is also pleased to support the Terrorism (Commonwealth Powers) Bill, which will transfer to the Commonwealth a number of powers that are currently State administered. Several bills before the House and others that were passed recently aim to extend and enhance the powers of governments and law enforcement authorities to ensure the safety of New South Wales residents. This bill will refer powers to the Commonwealth to make laws with respect to terrorist acts or actions relating to terrorist acts. This referral will last indefinitely unless it is specifically terminated.

The Opposition supports the Terrorism (Police Powers) Bill but we have several concerns about its limitations. I foreshadow that I will move two amendments in Committee. I will also raise other issues without seeking to amend the bill so as not to delay unnecessarily its passage through the House. In another place the Coalition raised a number of concerns about the scope of the bill and the way in which the Government has approached the threat of a terrorist attack in this State. I do not intend to reiterate those concerns in detail, but they remain to this day. It is now up to the Government to do the right thing and to address each of them in detail. This bill does not live up to the Premier's claims as reported in the London *Sunday Times*, which stated:

Where we get a credible warning from our allies or from Canberra about a heightened risk of terrorism, I want us to be able … to trigger an increased police capacity to act to save Australian lives," Mr Carr said. "If we get a serious warning of a terrorist strike, I don't want there to be people out there who have links to JI or al-Qaeda … I want them detained.

The Premier indicated clearly that he wants police to be able to detain people who have links with Jemaah Islamiah or Al Qaeda. The Coalition also believes police must have the power to detain terrorists but, in what we believe is a major failing, the bill does not provide for such a power. The bill states that police have the power to obtain disclosure of identity, to search persons, to search vehicles, to enter and search premises and to seize and detain items. It also deals with the use of

force generally by police officers, offences and the supply of a police officer's details. However, the words "detention" and "arrest" do not appear in the bill. One would think that police who receive reasonable information that a terrorist act is about to be committed should be able to detain and interrogate the people who are involved. However, that will not happen under this bill. This bill affords police no extra powers: the powers that police will use to arrest or detain a terrorist or suspected terrorist already exist in the Crimes Act or will exist shortly as a result of changes in the recently passed Law Enforcement (Powers and Responsibilities) Bill.

The original power to arrest was created in section 352 of the Crimes Act, which provided three powers for arrest without warrant when a crime is being committed or has been committed or when there is a reasonable belief that a serious crime is about to be committed. Those three powers in the Crimes Act have been reduced to two in the police powers legislation: the powers to arrest during the commission of a crime and after the commission of a crime. The Coalition wants police to have the power to arrest a person when a police officer forms a reasonable belief that that person is about to commit a serious indictable offence, particularly if the officer has a reasonable suspicion that a terrorist act is about to be committed. I am pleased to see the Minister for Police in the Chamber during consideration of this important legislation.

I turn now to the amendments, of which I am sure the Minister is well and truly aware. They are consistent with the Opposition's position on this bill. At this point I think it is important to read onto the record a letter from the Leader of the Opposition, John Brogden, to the Premier of New South Wales, Bob Carr, dated 3 December. Mr Brogden writes:

Dear Premier

I write to seek an urgent meeting with you to assure the smooth passage of special police powers in response to recent terrorism events.

We support the Government's anti-terrorism Bill and want to do everything we can to help this legislation pass as quickly as possible. However, I believe we can make the Bill better and tougher and wish to discuss two vital amendments with you.

Firstly, I believe an amendment allowing special police powers to be extended for up to 14 days past any clear terrorist act would make the Bill stronger. It will give Police the powers they need to conduct full and comprehensive investigations. The Coalition is of the view that having granted police special powers for just 24 to 48 hours after a terrorist attack is not long enough.

Secondly, we wish to move an amendment ensuring the Police Minister is subject to the powers of ICAC whilst discharging his or her duties in relation to the Act. Today on radio you said that Michael Costa would be subject to the scrutiny of ICAC if this Bill were to become law, however, our oral advice from the Parliamentary Counsel's Office is that this would not be the case.

The Coalition believes the Police Minister must be subject to the same scrutiny as Police when exercising powers under the Act. If you can produce Solicitor General's advice to back your public position we can happily agree to your legislative position.

The Leader of the Opposition is extremely emphatic about the position of the Coalition with regard to this legislation. Government members who suggest that the Opposition is watering down the legislation or endeavouring to dilute its effectiveness for operational policing matters are quite simply wrong. The Leader of the Opposition sent that letter to the Premier of New South Wales indicating the Opposition's preparedness to work with the Government to assist police in the event or suspected event of a terrorist attack in this State to ensure that the police have the power not only to act prior to such an offence but have the continuing power to act after it.

I understand the requirements of operational policing, and the Minister purports to have an understanding of the needs of policing. He must recognise that the Opposition is seeking to extend the period of authorisation to assist police. Any suggestion that that would hinder police is without any foundation whatsoever. As the shadow Minister has already flagged, members of the Coalition

will go to the election promising to restore to police the power to detain people who they believe on reasonable grounds are about to commit a serious indictable offence. I cannot believe that the Minister for Police has allowed that very important tool—an expression he used earlier—within the legislation to be removed. Between now and the State election campaign, the Coalition will strongly pursue the reinstatement of that very important tool to enable police officers to arrest people who they reasonably suspect are about to commit a serious indictable offence.

The Hon. HELEN SHAM-HO [8.32 p.m.]: The Terrorism (Police Powers) Bill confers special powers on police in situations of an actual or imminent terrorist attack. As honourable members would no doubt agree, this bill comes at a very unhappy point in the history of this State and, indeed, the nation. It is the Government's response to growing fears that terrorism—something that only ever happened overseas, in some politically volatile or unstable country—might now strike at home. The changes the Government intends to introduce are designed to deal with such a problem, either before a terrorist attack takes place and therefore as a means of thwarting it, or afterwards, as a means to quickly and efficiently find the perpetrators so they might be brought to justice as soon as possible.

Perhaps two months ago, before the Bali bombing, I, and other members of the public, might not have thought that these sorts of measures would be necessary in this nation. After all, Australia has traditionally been a very secure and safe country. By international standards we have quite literally been the lucky country. Sadly, I believe those days have gone. With terrorists acts such as last year's September 11 attack in America and the bombing in Bali in October this year, we have to face the reality that terrorists may well reach Australian soil. Since its introduction, public debate around this bill has gathered momentum, with many individuals expressing their opposition to it.

On Wednesday 27 November an article in the *Sydney Morning Herald* entitled "Backlash building over anti-terror laws" reported that Justice Dowd, the Australian President of the International Commission of Jurists—a former member of the Legislative Assembly, a former Attorney General and a highly respected person—condemned both the New South Wales Government's proposed anti-terrorism measures and the Federal Government's plans to extend the powers of the Australian Security Intelligence Organisation. Justice Dowd was quoted as saying that an "atmosphere of hysteria" was emerging which would almost certainly cause members of the Australian Muslim community to be unfairly victimised. I empathise with the concerns of Justice Dowd and sincerely hope that these new police powers do not result in the persecution of innocent members of the community.

Having said that, this bill is extraordinary for the very reason that we are now living in different and more dangerous times. Only last week, on 28 November, a tourist hotel in Mombasa, Kenya, was targeted in an attack which killed 16 people, including the three suicide bombers. There was also an attempted surface-to-air missile strike at an Israeli jet, which thankfully failed. Back home, on 20 November, the Federal Justice Minister, Chris Ellison, took the very serious step of issuing a national security alert. Apparently, the Federal Government has received credible information of an impending attack against Australia.

Interestingly, Professor Ross Babbage—an expert defence analyst from the Australian National University's Centre of Strategic and Defence Studies—was quoted in the *Sydney Morning Herald* on 20 November as saying that he was "not surprised by the Government's latest warning" and added that "we're in a situation where it [a terrorist attack] could happen tomorrow, Christmas Eve or Christmas Day". Certainly, there are many people who believe it is not a question of if a terrorist attack will take place in Australia but rather a question of when. I will now address certain key aspects of this bill. The bill proposes to give police greater powers to stop and search suspects, enter suspected premises without a warrant, and stop and investigate vehicles in response to a terrorist attack. That concerns me.

I know that some members of the public are worried about what constitutes a terrorist act for the purposes of this bill. For example, a number of people are worried that events such as peaceful political marches or rallies will fall within the definition. The definition of "terrorist act" in clause 3 of the bill is very similar to that adopted by the Commonwealth Criminal Code. It provides that a

terrorist act occurs when:

(b) the action is done with the intention of advancing a political, religious or ideological cause,

(c) the action is done with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or part … or

(ii) intimidating the public or a section of the public.

Clause 3 outlines in more detail the kinds of undertakings that will fall within this definition. To briefly summarise, they are acts which are specifically designed to kill or inflict serious physical harm to a single person, section of the community or the public generally. They may also be acts which endanger the public's health or safety, or cause serious harm to property. Threats or damage to key elements of infrastructure, such as transport, electronic and financial systems, are also covered. While part 5.3 of the Commonwealth Criminal Code specifically excludes non-violent political protests, demonstrations, marches, strikes and other forms of industrial action from the meaning of a "terrorist act", this aspect of the bill still concerns me.

What does the bill mean by an "action done with the intention of advancing a political, religious or ideological cause"? Who will decide when valid political advocacy falls within this meaning? I hope that the Minister in reply will answer that question. What constitutes "violence" remains ambiguous in my view. We all know that political protests sometimes involve scuffles, or even assaults between protesters and police. Though I do not condone physical aggression, I still think there is a difference between those confrontations and acts of terrorism. I certainly hope the definition of "terrorist act" will not encompass genuinely low-level acts of civil disobedience. I say that because I believe that expressions of political dissent are very much a part of any healthy democratic system. Australia is a politically robust and diverse community and we must always be free to express our views. Sometimes marches or protests become heated, and we all know that clashes between individuals and police are not uncommon. Indeed, sometimes they are unavoidable. To rule out acts of legitimate democratic dissent on the basis that they are acts of terrorism would simply be another attack on the Australian way of life.

What is important about this bill is that the extra police capabilities will operate during a restricted time frame, and then only after proper authorisation has been given. First, there must be reasonable grounds for believing that an attack is imminent and that extraordinary policing functions would be of substantial use in preventing it from occurring. If a terrorist act has already taken place there must be reasonable grounds for believing that the extra capabilities would help find and catch those responsible. When authorisation has been obtained to prevent a terrorist attack, members of the Police Force may exercise the extra powers and functions for seven days. When a terrorist act has already taken place and police officers are charged with the job of apprehending the perpetrators, they will last for two days.

That aspect of the bill is crucial, because it guarantees that the extended capabilities of the police are not permanent. This should go some way to allay fears that New South Wales would become a police State under the bill. Over and above that, the bill provides a clear-cut process which must be followed before the special powers may be put into practice. The scheme depends on ministerial concurrence. That means that either the Commissioner of Police or a deputy commissioner must first obtain consent from the Minister for Police for the additional powers to be triggered. The strict procedural framework which the bill sets up is a good one. It will function as a system of checks and balances, ensuring that no member of the Police Force, no matter how high ranking, including the commissioner, could unilaterally or arbitrarily issue the extraordinary police powers without good reason, not to mention the considered agreement of the Minister for Police.

However, many in the community think that this process is flawed. For example, journalist Margo Kingston wrote in an article in the *Sydney Morning Herald* of Friday 22 November that at the very least consent should come from an independent source of authority. She suggested a number

of other people, such as the Chief Justice of the New South Wales Supreme Court, Justice James Spigelman; the New South Wales Governor, Professor Marie Bashir; or the former New South Wales Chief Justice, Sir Laurence Street. I share her view. Basically, she and other members of the public are worried that these new powers may be used by the Government to crack down on any acts of political advocacy or protest.

Other peak legal organisations have also expressed concern about the Terrorism (Police Powers) Bill. For example, I received correspondence from the Law Society of New South Wales dated 20 November. The Law Society is particularly troubled by the lack of judicial review under the bill, and referred to clause 13, which effectively states that an authorisation "may not be challenged, reviewed, quashed or called into question
… before any court, tribunal, body or person in any legal proceedings". The Law Society argues that immunity from judicial review is anti-democratic and strikes at the fundamental principle that the Government's actions should always be subject to judicial review. I strongly support the Law Society's objection to this clause.

As it stands, clause 13 would vest entire and unfettered authority with the Government. This goes against the most basic tenets of our legal system, namely, the separation of powers doctrine. Without an avenue for judicial review, members of the Police Force will essentially be answerable only to themselves. I cannot accept that, particularly considering the enormous impact these new police powers will have on the civil liberties of the people of this State. As I have said many times in this House, courts are the people's greatest watchdog over government. The judiciary must have an oversight role over these new police powers. Because I feel so strongly about this issue, I will move an amendment to remove clause 13 from the bill.

The New South Wales Young Lawyers Human Rights Committee sent me an email on 21 November. The committee pointed out that there is no hard evidence to suggest that existing police capabilities in this State are inadequate in dealing with a terrorist attack. It also noted that the Federal Government is already trying to extend the powers of the Australian Security Intelligence Organisation [ASIO] to give ASIO agents greater capabilities to search, interrogate and detain individuals. As such, the New South Wales Young Lawyers Human Rights Committee takes the view that the extra police powers are at best premature and at worst potentially oppressive and open to abuse. I agree.

I understand that there are times in life when we must balance the freedom of the individual against the rights of the community generally. In times of emergency or crisis civil liberties will sometimes have to be curtailed. In its present form, the bill places far too much power with the Government. I hope that my amendment will address this problem in some way. I urge all honourable members to support my amendment. I support the spirit of the Terrorism (Police Powers) Bill, and I will not oppose it.

Ms LEE RHIANNON [8.45 p.m.]: The Greens support measures aimed at bringing to justice those responsible for acts of terrorism. Nobody can dispute the challenge facing this State and this nation. It is both serious and real. One of the four principles underpinning the Greens is peace and non-violence, and we abhor the use of violence in political, ethnic or religious conflicts. Violence only begets violence, and as such precludes paths to peace. The horror of the Bali bombing deeply affected us all and touched many of us personally. The period of grief and mourning has not yet come to an end, and the rawness of the emotions in the community are there for us all to see. At such times of national tragedy it is our role as political leaders to provide both an appropriate political response and whatever comfort we can. It is our role to support the community in its grief, to seek answers to what has happened and why, and to do what we can to ensure that such a tragedy never occurs again.

Many Australians tragically lost their lives in the Bali bombing. Those deaths were totally unjustified, and whoever perpetrated the bombing certainly has not succeeded in advancing whatever cause he or she was pursuing. The perpetrators clearly must be brought to justice. However, the Greens believe that it does no honour to those who died to turn a debate that should be about justice and prevention into a debate about revenge and the suppression of democratic rights.

Australians share certain values, and one of those values is a commitment to an open, free and democratic society. No matter what terrorist outrages may occur, we must never abandon that value. As political leaders we are entrusted with the protection of our open, free and democratic values. We must never allow them to be lost.

We cannot defend our democracy by dismantling our democratic structures and processes. We cannot protect our open, free and democratic society by making our society less open, less free and less democratic. Yet, sadly, this is the path that the Howard and Carr governments are seeking to take us down. Both Premier Carr and Prime Minister Howard sail close to the wind when they use the tragic events of Bali and of New York to justify new laws which wind back our democratic freedoms. Both of those governments have a history of scaremongering over law and order issues. We talk, particularly prior to an election, of border protection and ethnic descriptors, which fuel uncertainty, insecurity and divisions within our community. There is a fine line between seeking to reassure the community and seeking to exploit its new fears and insecurities. The Greens believe that both the Prime Minister and the Premier have at times overstepped that line. It is a cheap political tactic and one that a cynical populace is capable of seeing through.

The Greens believe the Terrorism (Police Powers) Bill is unnecessary. The police in New South Wales already have a wide array of powers that allow them to deal with suspected or actual terrorist incidents. The Olympics came and went with fears voiced of terrorist incidents, yet no mention was made about the need for these laws. New South Wales has a well-equipped Police Force which is empowered by a wide range of laws and is more than capable of dealing with any security threat. Legal advice the Greens have received is that the courts will be willing to grant police extensive search powers in the light of a terrorist threat because the nature of the threat is so profound and so dangerous. Police have substantial powers of arrest on reasonable suspicion in respect of any potential terrorist offences such as conspiracy to murder or attempt to plant explosive devices.

The Greens also believe that the bill unacceptably erodes our democratic freedoms. It runs counter to our commitment to an open, free and democratic society. It blurs the separation of powers by dangerously removing power from the judiciary and giving it to the Executive. Allowing Ministers to approve warrants and prohibiting any judicial oversight of the new powers are unacceptable erosions of our democratic freedoms. We do not believe it is valid to defend democracy by dismantling it in this way. We should defend democracy by reaffirming our democratic values, not by chipping away at them. The role of the judiciary is to act as a check of Executive power. At times in this State one feels that the decision makers have forgotten that. This is the cornerstone of our democracy and there is no basis for thinking that this check would be unwieldy or dangerous. It is impossible to conceive of a court denying police powers in the face of a genuine terrorist incident. However, the court would safeguard against any possible abuse or arbitrary exercise of State power.

The Greens are also disturbed by the undemocratic way that the Carr Labor Government is conducting itself with regard to this bill. One of the questions relevant to this debate is why the Government is rushing this legislation through. The Premier has said that this is one of the most important bills ever to come before this Parliament. If that is so one would expect that it would need a greater degree of community consultation and adequate time for members of Parliament to analyse it. Yet the opposite is the case. In one of the Premier's media interviews he had the arrogance to boast "Parliamentarians will have an opportunity to debate this important bill." That is an extraordinarily revealing statement: the Premier sees fit to announce that Parliament will get to debate a bill! Obviously, that is Labor's idea of proper consultation. It must also be the ultimate in spin.

Considering the far-reaching implications of this bill for civil society, greater parliamentary and public scrutiny are needed. While I am not holding up the Federal Coalition Government as providing a model on how to consult on controversial legislation, it is interesting to note that members of Parliament had months to consider the Federal legislation that responds to terrorism, and there have been three separate Senate inquiries. Those inquiries have led to significant improvements to the bill and have removed several sections that undermine democratic freedoms. That is how Parliament should work, and it contrasts sharply with the bullying tactics of the Premier today when he

threatened that he would not tolerate any amendments by this House.

The Terrorism (Police Powers) Bill is similar in form to the United Kingdom's Terrorism Act, so it would seem reasonable to ask how the British emergency powers have worked. One of the major complaints from lawyers and civil rights campaigners in Britain and Ireland has been that because emergency legislation introduced to deal with terrorism bypassed the normal checks and balances of the legal system, it fuelled alienation and extremism. The Irish community, which is clearly the target of the United Kingdom legislation, had a novel quip when British police were given special powers: "Innocent until proven Irish." One wonders whether we will end up with the slogans "Innocent until proven Muslim", "Innocent until proven picketer" or "Innocent until proven protestor".

We need to ask whether the New South Wales legislation makes our society a safer place, because that is its stated purpose. Neither the Premier nor the Minister for Police has been able to demonstrate that that will be the case. The Greens believe that the legislation is being rushed through to suit the Carr Labor Government's electoral agenda. The Government has not demonstrated that the bill is necessary. This is where the incredible weakness of the Opposition is evident. The Opposition could have jumped over the Government on this issue, addressed the lack of necessity for the bill and pointed out some of the omissions, but it has been wedged into a narrow space and is showing its irrelevance in another area.

The Federal Government has already introduced a raft of regulations since the September 11, 2001 attack in New York. Apart from the recent laws that give ASIO powers to apprehend and detain terrorist suspects, we have had three significant developments. One is the Criminal Code Amendment (Offences Against Australians) Act, which includes the offence of murdering or harming Australians outside Australia. The State and Territory Attorneys General then agreed to pass legislation to refer constitutional counter-terrorism power to the Commonwealth to strengthen the validity of the Federal laws in that area, and on 27 October Jamaah Islamiah was outlawed, an act that could easily be repeated for other suspected terrorist organisations. With all that, why does the Carr Government think that the New South Wales community is not adequately protected? No reasonable arguments have yet been presented.

This debate should also involve a consideration of the diverse nature of terrorism today. Terrorists are not merely confined to secret sects. They can be found operating in official military forces. That aspect of the debate is relevant as it should obviously influence our response to terrorism and what overseas military forces we co-operate with. In early November the *Washington Post* reported that the highest levels of the Indonesian armed forces, including General Soeharto, were involved in the 31 August ambush of employees of the Freeport McMoRan mine in West Papua. That was a terrorist attack. Two citizens from the United States of America and one from Indonesia were killed and another 12 wounded. At first a local West Papuan group was blamed but it is now widely accepted that the Indonesian military conducted that terrorist attack. People died in that terrorist attack, and it was conducted with the approval of the higher echelons of the Indonesian military.

The *Washington Post* article made it clear that intelligence sources in Washington and Canberra had known for weeks about the involvement of the upper echelons of the Indonesian military in the attack but kept silent so as not to compromise efforts by the United States and Australian governments to forge closer links with Indonesia. The Indonesian Kopassus special forces are effectively operating as terrorists in West Papua and other parts of Indonesia, as they did in East Timor. But in Australia, the Minister for Defence, Robert Hill, is advocating that our military and intelligence forces work with Kopassus. He told Channel 10 in a recent interview that Kopassus' wrongdoings in East Timor and Papua and any associations with terror groups should be put to one side because Kopassus was Indonesia's front-line counter-terror agency. The Minister stated:

There is a good argument for it in terms of protecting Australians.

He said Australia had not dealt with Kopassus in recent years because of its human rights record. The Minister said:

We now have to, in the light of the Bali bombing, in the light of the Bali terrorist threats, I think

we need to debate that issue seriously. I know some have simply been dismissive, but Kopassus is the counter-terrorism capability in Indonesia.

I understand that members of Kopassus in the past have been trained in Australia using this country's military aid budget. Hill's move to again tie Australia to this State terrorist organisation is deeply worrying, and further highlights why our response to terrorism warrants a detailed debate. It is deeply disturbing that sections of the government in this country are willing to associate with state terrorism—and not just associate with, but use taxpayers' money to support it. This involvement undermines any attempts we might make to counter terrorism and certainly undermines any moral imperative that the Government thinks it might have.

It is not the first time that conservative Australian governments have promoted dubious causes to serve sectional interests. In the 1950s then external affairs Minister Dick Casey arranged for Australia to support the CIA in its work in helping Islamic fundamentalists in Sumatra and Sulawesi who were in armed rebellion against the then Indonesian Government. If we are to be successful in building a world free of terrorism, we need to have integrity in our own political process. Clearly, addressing the issue of what military forces Australia is supporting has to be part of that debate. Any debate about terrorism needs to consider the causes of this phenomenon. Waging war on the terrorists will not stop the terror unless we also admit and correct our blatant double standards in maintaining world order. Mr Scott Burchill, a lecturer in international relations at Deakin University, has written in detail about this approach. The following comments come from a moving speech he gave for a work colleague of his who was killed in the Bali bombings on 12 October, together with her husband and her husband's brother. Mr Burchill stated in his tribute:

Comparing standards of behaviour is unavoidable. How do we think the non-Western world reacts to claims in Canberra, London and Washington that the future of the UN Security Council is in doubt if it fails to do the bidding of the US with respect to Iraqi, but not when it fails the people of Srebrenica, Rwanda or East Timor? How do we think the Arab world responds to Canberra's insistence on Iraqi's compliance with UN Security Council resolutions while making ridiculous excuses for Israel's non-compliance?

The Western world urgently needs a more accurate sense of how its own behaviour is interpreted outside of metropolitan centres in Europe, North America and Australasia, before it can begin to thwart further dangers.

The whole human race has a common interest in the apprehension and punishment of those who commit terrible acts of violence such as the Bali bombings. These were crimes against humanity. This view should direct the way individual states most directly affected by acts of terror form their responses.

Portraying this tragedy as part of a war between civilisation and evil may initially galvanise support for a new front in the war against terrorism, but it only divides the world into friends and foes, with no possibility of neutral ground. This seems to be precisely how those responsible for the bombings think. It's a mindset that won't take us very far towards understanding events which would be better seen as part of a longstanding revolt against the West, and it represents an enormous disservice to the innocent victims of such a despicable crime.

Mr Burchill's speech was indeed very moving. His poignant tribute to a lost colleague certainly puts this bill into perspective. In order to ensure that terrorism does not claim the lives of more Australians, we must be brave enough to look through the grief, to look beyond the nationalism which is an automatic response to such a horror, and confront the big issues of global politics, the hypocrisy of the wealthy nations and the deprivation and alienation of the poor nations, which give rise to terrorist impulses. We must treat not only the symptoms but also the underlying causes of violence.

The Greens amendment will address the most obvious shortcomings of the bill. We will move to amend the bill so that the initial decision for an authorisation of the special powers will have to be made in writing. This is simply logical. If a superintendent or commissioner is not able to send an

email, or handwrite a note triggering these extraordinary special powers, then the police would presumably be in such disarray that one would question the value of their intelligence reports and the effectiveness of their response operations. The Greens will move to amend the unnecessary protection against challenge to special powers authorisations. No court in the land would be so irresponsible as to deny the police the right to invoke special powers in the rare cases they may be needed, so it is unnecessary to protect an authorisation from challenge. Officers need to act explicitly in accordance with the authorisation. The current clause is unclear, and unnecessary at best, and should be removed.

The Greens believe the bill should require police to provide information to persons subject to the special powers. Under Federal law written in the lead-up to the Olympics authorising the Army to act against terrorism, the Army was required to explain the exercise of its extraordinary powers. There is no reason that the police should need to keep secret why they are searching, moving on, identifying or detaining a person, or implementing post-attack emergency procedures.

The involvement of the Minister for Police in operational police matters is unacceptable. Our amendment will make the Parliament the arbiter, not the Minister for Police. Surely, all honourable members should be able to support this amendment. The enormous powers being given to police require a commensurate increase in the power of scrutiny by courts and parliaments over the exercise of these police powers. This amendment will make sure that democracy keeps up with the terrorism response and is not left behind. Without this amendment, abuse could go unchecked. Without this amendment, politicisation of the Police Force could go unchecked. Our amendment requires reports about the use of special powers to be made to the Parliament. Our amendment would still allow the Minister for Police and the Attorney General to hide certain facts from the Parliament on the basis of security, thereby striking an appropriate balance between the demands of security and democracy.

This bill in part goes much further than similar Federal legislation. It is not necessary to provide that children as young as 10 years of age can be searched. The Commonwealth provisions set a minimum age of 14 years. We will move to prevent the bill from undercutting by four years the Commonwealth powers to search children—that is, down to 10 years of age. It is absurd that 10-year-olds would be routinely searched under the exercise of special powers, away from proper court review. Our amendment takes very seriously the terrorist threat and does allow extraordinary searches in a situation where an explosive device is present or a court agrees and approves the search.

We are also considering the Terrorism (Commonwealth Powers) Bill. The Greens have no problem with transferring to the Commonwealth powers with respect to terrorism. However, the Greens do not support the legislation. Our colleagues in the Senate, Senator Bob Brown and Senator Kerry Nettle, opposed similar legislation when it was considered by the Senate. The Greens' opposition to this law is already on the record, but I will quote briefly from Senator Bob Brown's speech:

The existing criminal law, with offences such as murder, criminal damage, conspiracy, and aiding and abetting, can and should be used to prosecute and penalise anything that can sensibly be described as terrorism.

Senator Brown described in a nutshell why the Commonwealth Government's legislation is not needed. It is also relevant to this debate to note that at the Australian Labor Party [ALP] State Conference, members of the Labor Party expressed great concern about the Commonwealth Government's legislation. But tragically, as we see time and time again, ALP policy does not relate to the activities of Labor members in Parliament.

Because we must all be optimistic that the terrorist threat will not be a permanent fixture of our national life, all terrorist laws should have a sunset clause. There is no inconvenience or security risk associated with reviewing terror laws and, indeed, rewriting them on the basis of experience; rather, that would be a responsible approach to take. After a period of seeing the bill in operation, we should come back and decide at that time which police powers are necessary. We were all

devastated by the horror of Bali and the September 11 attack in New York and I believe that the memories of those incidents will stay with us forever. We shared the shock and outrage of the Australian people, and we acknowledge the tremendous grief being suffered by the families and friends of those who lost their lives. Although it is the role of parliamentary representatives to bring comfort at times of tragedy, sadly, there is very little that a politician can say or do to alleviate the pain of the loss of loved ones. It is in this context that the Greens cannot support this bill.

The Greens will support any lawful measure to bring the perpetrators to justice, but we cannot support a bill that dramatically reduces the democratic freedoms of the people of New South Wales without any substantial justification. The Government has failed completely to demonstrate that the new police powers are necessary and has not presented a credible argument to justify defending democracy by reducing democratic freedoms. We do not believe that undermining the very qualities of openness, freedom and democracy, which makes Australia such a special place in which to live, honours those who lost their lives.

The Hon. RICHARD JONES [9.12 p.m.]: Indeed, we are moving inexorably towards a police state, and the New South Wales Minister for Police would be very happy if that were to happen. He is the worst Minister for Police that I have encountered in more than 15 years in this Parliament. He is a very aggressive man who should not be in the position of Minister for Police. His appointment shows the danger of appointing somebody from Sussex Street straight into the Ministry. Clearly, it has not worked at all. The Terrorism (Police Powers) Bill gives police immense powers and undoubtedly takes New South Wales one step closer to being a total police state. I guess that that is the direction in which the Government wants to head. Fortunately, I will not be here when it happens. The Commissioner of Police or any other senior police officer may, with the concurrence or confirmation of the Minister for Police, give an authorisation for the exercise of special powers for the purpose of finding a target person, a target vehicle, or preventing or responding to a terrorist act in a target area. An authorisation enables a police officer to demand that a person give his or her name and address if the officer reasonably suspects that the person is the target person or is in the target person's company, or that the person is in a target vehicle or is in a target area. Any person or any vehicle can also be searched without a warrant.

A police officer can enter and search, without warrant, any premises, and seize and detain anything. The bill was introduced only two weeks ago. There was no consultation. The Government is pushing this legislation through before the election. The Law Society's criminal law committee conducted an urgent review of the bill and has expressed concerns. Part 3 gives police special powers with respect to people who are suspected on reasonable grounds of being the target of an authorisation, or who are in or on a vehicle that is suspected on reasonable grounds to be the target of an authorisation.. The powers require disclosure of identity by virtue of clause 16, although without warrant, and empower police to stop and search a person by virtue of clause 17, a vehicle by virtue of clause 18, or premises by virtue of clause 19. These powers will be available to be exercised whether or not the officer has been provided with or notified of the terms of the authorisation, in accordance with clause 14 in part 2. The question I wish to have answered is this: How can a police officer act under an authorisation, or form a suspicion based on reasonable grounds, if he or she does not even know the terms of the authorisation?

It is of even greater concern that the powers under part 3 can be triggered merely by a person's presence in a target area, by a person being about to enter the area or by having recently left the area. There is no need for police to suspect on reasonable grounds that a person is, was, or will be involved in suspected terrorist activity. Furthermore, by virtue of clause 21 police will be allowed to use "such force as is reasonably necessary" in exercising these powers. The application of the powers to people or vehicles which are not the target of an authorisation should be predicated on police forming a suspicion on reasonable grounds that the powers must be exercised to prevent a terrorist attack or to apprehend the persons who are responsible for committing a terrorist attack. It is unacceptable that people who happen to be in a target area can be subjected to searches on the basis of where they are, not who they are or what they may have done. The bill effectively gives police a loophole in the requirement for authorisation because it will be sufficient to obtain authorisation for an area, as opposed to authorisation relating to a person or vehicle, as the current warrant regime requires. Clause 13 means that an authorisation is not subject to any form of judicial

review. The clause, which relates to "Authorisation not open to challenge", states:

(1) An authorisation (and any decision of the Police Minister—

believe it or not, that means the current New South Wales Minister for Police—

under this Part with respect to the authorisation) may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition or mandamus.

(2) For the purposes of subsection (1), ***legal proceedings*** includes an investigation into police or other conduct under any Act (other than the *Police Integrity Commission Act 1996*).

Those provisions clearly show that the Minister for Police has total powers that may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, nor can the Minister for Police be restrained, removed or otherwise affected by proceedings in the nature of prohibition or mandamus. These are quite extraordinary powers. We must remember that many Australians died for freedom in this country, yet it is proposed that in an instant we should allow that freedom to be frittered away in this House.

The limitation of clause 13 is exacerbated by clause 29, which provides that if the proceedings are brought against any police officer for acts done pursuant to an authorisation the officer cannot be convicted or held liable "merely because … the person who gave the authorisation lacked the jurisdiction to do so". In other words, the authorisation cannot be contested except by the Police Integrity Commission, and if the authorisation has been given by someone who had no power to do so an officer acting on it cannot be held liable. Thus the citizens of New South Wales are at the whim of police officers, who effectively answer to no-one. This unacceptable and extraordinary state of affairs is more akin to a regime of Soviet Russia than to life in New South Wales.

Police officers who purport to act under the auspices of this legislation should be able to have their actions reviewed if it becomes known that they were abusing their powers or were acting incorrectly. It is insufficient to leave the exercise of such powers to be reviewed by the Police Integrity Commission alone. At the very least clause 13 should be removed from the bill, and I shall vote against it at the Committee stage. Clause 17 (3) and clause 18 (2) relate to powers to search people and vehicles and are inconsistent with the provisions of the Law Enforcement (Powers and Responsibilities) Bill. They should be amended to be consistent with clause 204 of that bill; that is to say, a police officer who detains a person or a vehicle for a search must not detain the person or vehicle any longer than is reasonably necessary for the purpose. Clause 23, which relates to supplying a police officer's details and other information, provides that an officer exercising powers under the bill does not have to provide evidence that he or she is a police officer and the reason for the exercise of power unless they are asked.

This provision is inconsistent with clause 201 of the Law Enforcement (Powers and Responsibilities) Bill. In Committee I will endeavour to amend this provision to provide that, rather than providing the information "if requested to do so", a police officer should supply details and other information "unless the urgency of the circumstances would make it unreasonable to do so". I am aware of the security implications of the tragic events of September 11 last year and the tragic Bali bombing this year. I am mindful also of the obligation of this Parliament to ensure that our laws are adequate to deter and to pursue terrorists. But the Terrorism (Police Powers) Bill is not balanced, fair or transparent in any way. It proposes a quite extraordinary set of measures that are generally not consistent with core civil rights and the rule of law. Community concern about possible terrorist threats should not be used as an excuse to enact unwarranted, unnecessary and undemocratic legislation.

The New South Wales Young Lawyers Human Rights Committee contends that the bill is riddled with problems and is hopelessly open to abuse, owing mainly to its protection from review or

scrutiny. It says that the bill "will allow police to go beyond the limits of their current powers in that they will be able to act without warrant, which is a situation that is untenable to the committee for a number of reasons." Firstly the committee notes that there is no evidence that this kind of legislation is required. The Minister has not presented any proof to the public that NSW Police is in any way capable of protecting New South Wales from the threats of terrorism. There have been no reported instances of prospective terrorists having slipped through the net. In addition, the absence of any review of the bill is unacceptable. It is an unnecessary step in light of recent developments at a Federal level in relation to the strengthening of the powers of the Australian Security Intelligence Organisation. It is also inappropriate considering that sufficient powers currently exist to allow police officers to protect the citizens of New South Wales. I will propose amendments in Committee to at the very least provide some desperately necessary balance. Without some balance the Minister has effectively turned New South Wales into a complete police state.

Barrister and New South Wales Council for Civil Liberties Vice-President David Bernie wrote in the *Sydney Morning Herald* that the problem is made even worse because the authorisation need not always be in writing—leading to doubt with both the police and the public as to what an individual's rights will be. The bill takes away the rights of any member of the public to sue police who are acting pursuant to a purported authorisation, even if it turns out later that this authorisation did not exist.

Comparisons will be made with laws in the United States, Canada and Britain, but in all those countries there are now Bill of Rights provisions that provide for some review of the legislation, in a more sober setting at a later date. Australia is now alone among comparable democracies by not having a bill of rights structure. The question remains: Can anyone in the Government provide examples of the laws already in place being inadequate to address the terrorism problem? Instead of looking seriously at the causes of terrorism the Government is asking us to weaken essential safeguards, the right to a fair trial and civil liberties.

The Terrorism (Police Powers) Bill will do little to protect us against the threat of an attack. But the hysteria will help to create a climate conducive both to getting the bill through and preparing for war. It is a terrible shame that the Premier's response to the threat of acts "involving serious injury or danger to people, serious damage to property, or serious interference with an electronic system" should lead in the end to such simplistic, reactionary and counter-productive legislation.

The Hon. MALCOLM JONES [9.23 p.m.]: Terrorism is a new phenomenon in modern Australia. Whilst world events are loudly heralded on television and other media, we failed to appreciate the impact until the Bali bombings brought issues so much closer to home during October. The lifestyle enjoyed in this country is almost invariably taken for granted. Perhaps now it is time to consider the message of the Returned Services League that "the price of peace is eternal vigilance".

We have to accept that we are threatened—whether we like it or not. Not accepting this vulnerability is both irresponsible and a dereliction of duty to society. Terrorism is a specific type of warfare—I do not care what the causes are—but to achieve political goals by using terror is totally unacceptable in any circumstances. Whether we feel that we should be obliged to the United States of America for past services to Australia or that John Howard should desert our proven ally, terrorism is a real threat. People, indeed many people, will probably die if terrorism commences in Australia.

I lived in the United Kingdom during the early 1970s when the Provisional IRA was actively bombing the major cities. I was in London when a bomb went off about a quarter of a mile away, in the Prudential building. The fear and sense of vulnerability were just dreadful. At the time, special powers were given to the police. Members of the public did not mind; they understood that it was for their protection. The Terrorism (Police Powers) Bill is the first in what I believe may be a series of powers which, if terrorism commences, will be granted to police. They possibly will form paramilitary units. There may also be an extension to the military powers.

Australians are not used to the military taking an active, visible role on our streets. However, in the light of terrorist threats it may become inevitable. We are potentially on the threshold of big problems. By using special powers, technology and perhaps small restrictions limiting freedom we

can begin to commence fighting terrorist activities. Only by fighting terrorism can we address the risk. We cannot address the causes of terrorism in other parts of the world. We cannot remedy what goes on elsewhere in the short time available. We cannot remedy the religious differences and social inequalities in the very short term, which potentially is all we have. We can only prepare to protect our people.

Ms Lee Rhiannon questioned whether the legislation was necessary. We have already been threatened by Al Qaeda. It or people associated with it perpetrated an outrage against Australians and others in Bali. What constitutes necessity? Or do we have to wait until after the next disaster to determine what is necessity? I have not heard too much in the debate tonight about the civil rights of the victims of terrorism or the civil rights of the public to feel safe. I have heard a lot of inexperienced statements about how we may have our rights infringed upon in some way or another. But if terrorism starts—and we might argue that it has already started—the problems we will face are far greater than a few civil rights activists getting their noses out of joint. I support the bill.

Reverend the Hon. FRED NILE [9.27 p.m.]: The Christian Democratic Party supports the four bills that we are considering, particularly the Terrorism (Police Powers) Bill. The second bill is the Terrorism (Commonwealth Powers) Bill. We also support the related bills, which deal with terrorism's effects on motor accidents and workers compensation: the Motor Accidents Compensation Further Amendment (Terrorism) Bill and the Workers Compensation Amendment (Terrorism Insurance Arrangements) Bill. In criticising the legislation some members have spoken as if the bills are simply a response to what happened on 11 September 2001 in New York with the attack on the twin towers and the attack on the Pentagon. That was a great shock not only to the United States but to all the free nations around the world. Then there was the more recent attack in Bali.

But I do not see the bills as a response to those two attacks. I understand that the bills have been introduced into the State and Federal parliaments because real threats have now been made against Australia. We are not sure of the nature or source of the threats, but the Prime Minister and other Federal Ministers and the Premier of New South Wales have said that we are now in a high state of alert—I think level 3—because of threats against Australia made in the past weeks. So the bills do not relate to what happened in Bali, horrific though that was. There are now direct threats against Australia and we would be fools if we did not put into place legislation to deal with them. Such threats are unprecedented: there is no comparison with any previous happening. The closest would be during World War I and World War II, but in times of war special emergency powers and laws are implemented.

We are now dealing with a war on terrorism, or, conversely, a war of terrorism is being waged on Australia and its citizens. Neither the Prime Minister nor the Premier are experts on security. When they appeared on television and were asked what Australians should do, they spoke generally about people remaining alert. The media attempted to ridicule them for saying that people should be on the lookout for suspicious individuals or people with video cameras. Thousands of people carry video cameras in tourist locations throughout Australia, particularly around Sydney Harbour and the Opera House. Obviously, not everyone carrying a video camera could be arrested. But both the Prime Minister and the Premier were trying to get the message across that all citizens should be involved in trying to identify or anticipate an attack.

It is not easy, when living in a free and open democratic society, to ring up the police to report a panel van parked outside a building when it could be either a courier delivering a package or a van full of explosives. Australia has never had to face these types of situations. Nevertheless, we cannot avoid dealing with them, which is exactly what these bills seek to do. The Premier referred to potential targets in Sydney. If there were an attack on Australia it seems that Sydney would be a high priority. Within Sydney, icons such as the Opera House or the Sydney Harbour Bridge—symbolic buildings—would be targeted in the same way that the twin towers were targeted in New York to achieve maximum damage and maximum impact on the nation and its psyche. Other targets mentioned were the nuclear reactor at Lucas Heights, power plants, the Burragorang catchment, the airport at Mascot, the port development at Botany, and the naval vessels in Sydney Harbour.

Because of safety precautions to protect those working in the High Commission in Singapore and security developments in East Timor it appears that terrorists have moved away from what they call hard targets to focus on soft targets, where they will not have to deal with security or military guards. The nightclubs in Bali were soft targets. Some Islamic fanatics believed that the people in the nightclubs deserved to die because they were indulging in immoral activity. If that is so, our authorities should remain vigilant at similar soft targets in Sydney—sporting events, the Entertainment Centre, Kings Cross and Oxford Street—where large crowds gather to enjoy themselves. Even as I list those places it seems unreal to think of them as places of possible danger for the general public.

The most recent taped message by Osama bin Laden—which has been confirmed as genuine by the American authorities, who I would think have the technology to prove that it is his voice; although a recent report questions that—threatened Australia for the first time. We have moved up the scale of targets. In the past week Kenya was targeted. It is interesting to note that in the taped message Osama bin Laden linked the recent terrorist attacks and took responsibility for inspiring them. We do not know whether he planned each one himself. The taped message said:

> From the worshipper of Allah, Osama bin Laden, to the people of the countries that are allied with the unjust American Government: the road to safety starts with stopping aggression and it is only fair to establish equal treatment.
>
> The events since the New York and Washington raids until today, such as the killing of Germans in Tunisia and the French in Karachi, the blowing up of the French supertanker in Yemen, the killing of marines in the [Kuwaiti] island of Faylakah, the killing of the British and Australians in Bali, the recent [hostage-taking] operation in Moscow, and other operations here and there, were only reactions based on equal treatment.

He is justifying those attacks in his mind—but there is no justification. He continued:

> They were carried out by pious Muslims defending their religion and heeding Allah's orders and those of his prophet.

He attacked George W. Bush and called him "the Pharaoh of the time". He continued:

> We had warned Australia about its participation in Afghanistan … it ignored the warning until it woke up to the sound of explosions in Bali.

In his mind we made ourselves a target because we assisted in peacekeeping efforts in East Timor, an action that received unified support throughout the country and joint party support. The result of those peacekeeping efforts was the establishment of a democratic, independent nation. Apparently, in the minds of Osama bin Laden and his supporters, the action taken by Australia took East Timor out of their sphere of influence. They hoped to make East Timor some sort of Islamic empire. But its independence will make it more difficult to do that, particularly when a large percentage of its population is Catholic, which has very strong Christian churches, bishops and other clergy.

It would be irresponsible of the Government not to respond to warnings. The Federal and State governments have other information that justifies issuing the most recent alert. We do not know the details, and perhaps for security reasons that information cannot be revealed. Perhaps agents working on behalf of Australia or other nations, such as Indonesia, who are seeking to counter terrorism have been able to infiltrate some of the cells, which would be very difficult because of the way in which the cells are organised. It would take a very committed Australian agent to survive in one of those three- or four-person cells and not be identified.

When honourable members took part in the Day of Remembrance for victims of the Bali bombing, we acknowledged and shared in the horror of the terrorism and indiscriminate murder, maiming and subsequent suffering of so many Australian citizens, and its effects on their families. Unfortunately, those who have survived terrific burns are still struggling to recover their health. Sadly,

in recent days some have passed away although it was hoped they might recover fully. All honourable members were shocked by the attack in Moscow and the complete willingness of the terrorists to kill 700 or 800 innocent civilians—families, women and children from all parts of the world, including Australia—enjoying a musical program. We cannot say there are no signs of danger in Australia. A Perth resident and convert to Islam, Mr Roach, has been charged with conspiring to bomb the Israeli Embassy in Canberra and the consulate in Sydney. He indicated that he had been given orders to recruit other non-Arabic Australian converts to be involved in terrorist activities. Their appearance would not alert security forces because, unlike people from the Middle East, men who look like Australian wharfies would not worry security guards.

I experienced a fear of terrorism early this year on a Sunday afternoon during a Celebration of Life march from Circular Quay to Martin Place. A musical program and speeches were being conducted in Martin Place. The gathering was scheduled to move to Parliament House for a prayer session and then to conclude its journey at St Mary's Cathedral. While hundreds of people, primarily mothers with children, some in strollers, were enjoying the musical program in Martin Place—which was held with police and council approval—I was approached by a very worried police inspector who told me to move everyone very quickly out of Martin Place to the top of Macquarie Street. I told him that that was our next destination and that we would then move to St Mary's Cathedral but that we had not finished the musical program. He repeated that we should move immediately because we were in the path of a very aggressive group of people, many of Arabic appearance, that was heading to Martin Place protesting about the situation in Palestine and many other issues.

Apparently the marchers intended to attack the Israeli Consulate. I remember the officer saying that the 20 or 30 men leading the march had covered their faces with scarves like those traditionally worn by terrorists in the Middle East. They looked as though they were going to cause trouble, and they did. They tried to smash glass doors and roughed up police officers, who were wearing summer uniforms, not riot gear. I understand that a number of officers, including one or two female officers, were injured trying to protect the consulate, which I understand has now been closed. It is a disgrace that the Israeli Government feels its Sydney consulate is not safe. Along with others, I received a memorandum from consulate staff advising that the consulate has been closed.

I assume the embassy in Canberra will remain open. I hope the closure is not the result of security concerns, but I suspect that it may be. Rather than implement security arrangements, the Israeli Government has decided to close the consulate. It is a poor reflection on our authorities if that has happened because the Israeli Government does not believe we can guarantee protection. We have heard much about the Jemaah Islamiah [JI] group that is operating in Indonesia and other parts of Asia. The leader of that organisation, Abu Bakar Bashir, a Moslem cleric, has made a number of visits to Australia. The suspicion is that he has been establishing JI cells in Sydney, Perth and elsewhere. I hope that is not true. All those events justify this legislation.

Some honourable members have attacked the Terrorism (Police Powers) Bill. They are exaggerating its impact in saying that we will have a police state. This bill is a reasonable response to the terrorist threat. It simply provides that the Commissioner of Police or a deputy commissioner—or a police officer above the rank of superintendent if those officers cannot be contacted—may, with the concurrence of the Minister for Police, authorise the use of additional powers to respond to a terrorist act. A "terrorist act" is defined in accordance with the Commonwealth Criminal Code. It requires that authorisation may be given only when the authorising officer reasonably suspects a terrorist act is imminent or a terrorist act has just occurred, and the exercise of the power will substantially assist in preventing the act or in apprehending a terrorist offender.

These powers are not permanent; they have time frames. The bill also provides that the authorisation to prevent a terrorist act lasts for seven days, and it can be extended to 14 days. The authorisation to respond to a terrorist act lasts for 24 hours and can be extended to 48 hours. How can that be regarded as creating a police state in Sydney? Some honourable members compared the situation that will exist in this State with the Soviet Union and other places. There is no comparison. The bill also provides that the Police Integrity Commission can review those authorisations, and that is included in the proposed framework for matters involving the New South

Wales Police Force. I do not believe it requires the involvement of the Independent Commission Against Corruption or any other body.

The bill provides that additional powers can be used in respect of a specified person, specified vehicle or class of vehicles or a specified area. Those additional powers are to obtain disclosure of identity, to search a person, to stop and search a vehicle, to enter and search a place, and to seize things found. I do not see how that can be interpreted as establishing a police state in New South Wales. Members who are critical of the bill should look more closely at its provisions. It is a reasonable response to what is now a genuine terrorist alert in Australia, and particularly in Sydney. We must take urgent action to combat terrorism. That is the purpose of this legislation and that is why the Christian Democrats support it.

The Hon. Dr PETER WONG [9.47 p.m.]: The Terrorism (Police Powers) Bill and the related bills are important. I do not think any honourable member condones acts of tourism. What lies at the heart of the bill is the troubling and tumultuous times in which we live. For many Australians the events of September 11 and the Bali bombing have come as a complete surprise and their world has been shattered. However, many democratic countries have lived for a long time with the reality we now face. Despite experiencing terrorist activities on their shores, they have balanced with considerable success the competing values of liberty and security. We must ensure that our legislative efforts to deal with this new and difficult problem also balance concerns for individual and social liberty, and individual and public security. This is a most important consideration, because to sacrifice one for the other in many respects sends a terrible message to those who seek to harm our way of life that their actions have been successful and that even the threat of terrorist activity has had a substantial impact.

Despite Premier Bob Carr's rhetoric in the other House about the new police powers, we must carefully monitor the police and their behaviour, and ensure that they are subject to the oversight of the Police Integrity Commission and the Ombudsman. We want accountability to apply even when police are responding to a terrorist incident.

I do not believe that this can happen once the horse has bolted. We often pay attention to laws of the United Kingdom, where, until the latest legislative changes, independent oversight on behalf of the public has been paramount. The review provisions of the Anti-terrorism, Crime and Security Act 2001, section 122, ensure that the Secretary of State shall appoint a committee to conduct a review of the Act, that the Secretary of State must seek to secure that at any time there are no fewer than seven members of the committee and that a person may be a member of the committee only if he is a member of the Privy Council. I will not continue to cite that section further, other than to note that the Privy Council is the last avenue of appeal in the legal system in the United Kingdom. Until recent times, the Privy Council was the last avenue of appeal from our High Court.

Recent changes in the United Kingdom have dropped that traditional oversight mechanism on the grounds that the United Kingdom has enshrined, through its Human Rights Act, the European human rights laws. This is considered an appropriate safeguard for the public. As New South Wales does not have that type of legislation nor, as is common amongst Westminster-style democracies, a bill of rights, we must ensure that our legislation seeks to reflect the level of oversight traditionally prescribed by the United Kingdom Parliament. The Premier stated that, "The bill has been properly crafted. We have created the balance that people would expect. It will be followed by other States around Australia." I am not sure whether we have created the balance that people would expect. As the Premier noted, other States will follow our Act. Therefore, we have a responsibility not only to the citizens of New South Wales but to all citizens of Australia that we get it right. Today I issued a media release that stated:

The passing of Terrorism (Police Powers) Bill 2002 will deal a heavy blow to democracy and human rights in the state of New South Wales.

The reason that such a draconian law can be passed is because there is no effective opposition to this bill. Indeed, Bob Carr has out flanked the Opposition from the right …

This Bill has attacked the fundamental basis of Westminster democracy of an independent judicial system. The role of the judiciary is being undermined by both major political parties in the "Law and Order" bidding war …

Bob Carr's agenda is for all to see, by playing the game of "terrorists", he instils fears into the citizens of New South Wales and creates his own "Tampa" …

As stated by Benjamin Franklin "They that can give up the essential liberty to obtain a little temporary safety deserve neither liberty nor safety".

Like John Howard, Bob Carr will be remembered as a cynical political manipulator who risks the democratic fabric of our society for his ever thirsty political ambition of winning at all cost …

The Bill has caused grave fears among the lawyers, civil libertarians, parliamentarians, various ethnic communities and especially members of the Islamic community.

Silma Ihram, spokesperson for the Unity Party says "The Muslim community will be vilified and victimised even further as a result of the passing of this legislation. I fear for the safety of our women and children".

With so much fear, one cannot help but wonder, who is it that is terrorising the citizens of New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.54 p.m.]: The Democrats do not support the Terrorism (Commonwealth Powers) Bill. The Federal Government has said that we need education on how to recognise a terrorist. I say that we need education on how to recognise a decent foreign policy. If we strut about, slavishly following the United States of America and basically blockading, with the Australian Navy, a country half a world away that had been buying our wheat we will get a reaction. We will identify ourselves as a country that is totally committed to whatever the United States of America does with its foreign policy, and we will get a response of terrorism such as only the United States and Israel seem to elicit.

We do not need to be involved in this fight. We have been foolish when we have fought the wars of other countries without any real benefits to our country. This is but another example. The United States of America stands at the crossroads of a global world. Its foolish foreign policy states that this is a global world and it will try to fix the problems of inequality, poverty and disease or else, having achieved a military dominance, it will grab the resources and relish its position of unprecedented power. Sadly, fanned by the military lobby, which needs an enemy in order to keep its large share of the American gross domestic product, and the oil industry, which sees Iraq as one of the few countries still able to increase its oil output, it is grabbing all resources.

Its policy is cloaked in fine rhetoric, and that is what it is all about. The Americans may gain something out of this, although I believe that in this global world military might is not the answer. Terrorism at a citizen level can compete with military might and seriously damage even the most powerful country. The Americans may think that they can benefit, but I believe they will not and are making a serious error. They are condemning the world to a far more extreme reaction, possibly for the next couple of generations. The Americans are at the crossroads and they are taking the wrong turn. It is foolish for the United States of America to do so. It is extremely foolish for us to do so—we do not even have the benefit of economic exploitation of the Middle East.

While we have folly at a Federal level, sadly we also now have folly at a State level. I hope it is folly, but it may be simply cynicism. If you instil fear you get votes. The net result of this fear, which is then heightened by all the talk of terrorism—and the word "terrorism" is included in the name of the bill—will make people scared of terrorism and have them accept a reduction in civil liberties. The bill also entails a fear of people who are not like us. If governments encourage that fear, life becomes more difficult for those who are not like us in appearance—often that means the Muslim community—and they will suffer vilification. Just as Hitler rose to power vilifying the Jews, the net result of this bill is that the Muslim community or people who wear headscarves will suffer from a

reduction in the racial tolerance and harmony that we have built up over a long time.

Our place in the world is suffering, appallingly, from our public image. The Australian public has been somewhat shielded from articles that appear in the major editorials in Britain and Europe about our callous attitude to our refugees and our gung-ho attitude to following the Americans through their foreign policies and foolish forays. The Terrorism (Commonwealth Powers) Bill and the Terrorism (Police Powers) Bill are intended to protect the citizens of New South Wales from terrorist violence. However, in reality the two bills are a concession to terrorists. It is foolish to give up our civil liberties. We are believers in liberal democracy, but it seems that the Government is diminishing our democracy because of the potential threats made by people who want to destroy it.

Our faith in plurality has been shaken and we are now giving in to terrorists. The police bill itself is loosely drafted; it is rife with loopholes and inconsistencies with other legislation, such that it is inappropriate to attempt to rush it through Parliament without adequate consultation and feedback from appropriately qualified experts. There is no evidence that this kind of legislation is required. The Government has not presented to the public any proof that the New South Wales police service is in any way incapable of protecting New South Wales from the threat of terrorism. There have been no reported instances of prospective terrorists having slipped through the net. Moreover, the Federal Government is at present trying to strengthen the powers of ASIO, which traditionally watches over terrorism.

My Federal colleagues have spoken about that bill and produced a minority dissenting report on the conclusions of the committee. ASIO itself has recently broken down the doors of people who attended the Dee Why mosque, though they had offered to speak to ASIO about what they knew about the visit to their mosque by an imam from Indonesia. Rather than talk to them, ASIO broke down the doors and threatened the families, frightening them terribly, particularly the children. What was the purpose of this, and why give people more power when they are doing such silly things?

The best way to ensure that New South Wales is adequately protected from terrorist threats is to ingrain a culture of co-operation between ASIO, the Australian Federal police and the New South Wales police service, rather than try to beat each other to the title of police state enforcer. There is a lack of empirical evidence suggesting that increased powers will lead to, or have in the past led to, greater protection of citizens against terrorist threats, or indeed lead to any decrease in terrorist activity. In the United Kingdom, following the 1974 amendments there was no tangible reduction in terrorist activity—evidence that such an increase was not effective in achieving the aims of legislation that weakens civil liberties.

Under the new legislation, people within a target area can be searched, without necessarily being a target themselves. This effectively gives police a loophole in the requirement for authorisation, it being sufficient to obtain authorisation for an area only. It is unacceptable that people who happen to be in a target area can be subjected to searches on the basis of where they are, and not who they are or what they may have done. The suspicion does not even have to be based on reasonable grounds, and can be relied on even if it exists as a result of rumour, prejudice or speculation. Furthermore, the area stipulated as coming under the scope of an authority under the bill can be as general as "the State of New South Wales". Potentially, every home in the State could be searched without warrant if a non-specific terrorist threat is identified through intelligence reports.

The bill takes away an individual's right to silence. Ordinary people can be forced to answer certain questions and provide proof of their identity, merely because they were in a particular area at a given time, or drove a particular type of vehicle, or fitted a particular description. It should be noted that in 1974 the United Kingdom Parliament legislated to remove the right to silence in situations involving potential terrorism, in response to IRA attacks—what the United Kingdom now sees as a complete removal of the right to silence for suspected criminals. The Government has offered no evidence as to why such a sacrosanct right should be eroded here.

Police investigations are more open to political interference as the police Minister can veto an authorisation without having to give reasons, and as such a veto is unable to be challenged. This will

compromise the work of the New South Wales Police Force. Furthermore, the concern over political influence on police action is increased when one notes that the very wide definition of "terrorist act", which includes intentional damage to property, could result in the activities of groups such as trade unions—which may not fit into traditional categories of industrial action or protest—being targeted by these powers. In its practical application, the inclusion in the definition of "terrorist act" of actions taken with the intention of advancing a religious cause clearly targets people of a particular religion. This opens the way for unfair targeting of religious groups, an unsatisfactory situation given the current anti-Islamic climate in this State.

The authorisation to use such special powers is not open to scrutiny as it cannot be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court. In order to safeguard the New South Wales population from improper use of such far-reaching powers, authorisations ought to be able to be challenged in the New South Wales Supreme Court, in the same way that powers proposed by the recent ASIO amendments can be challenged in the Federal Court. This lack of accountability is potentially worrying when one considers that such authorisation can be grounded on a rumour, or speculation by an officer. Such invasive powers should only be authorised on reasonably certain grounds and should also be open to scrutiny.

As a member of the International Commission of Jurists, I support the comments made by former High Court Judge and President of the International Commission of Jurists, Justice Dowd, reported in the *Sydney Morning Herald* of 27 November 2002. Justice Dowd is quoted as saying that the anti-terrorism measures "eroded citizens' fundamental rights and gave encouragement to oppressive overseas regimes". Justice Dowd said in evidence before the Senate committee inquiry into the Federal ASIO powers bill that the proposed anti-terrorism measures eroded citizens' fundamental rights in "an atmosphere of hysteria". The Law Society of New South Wales expressed its concerns about the bill as follows:

There has been no public consultation about the terms of this Bill, and Standing Orders have been suspended to allow its passage to be expedited.

The Law Society's Criminal Law Committee has conducted an urgent review of the *Terrorism (Police Powers) Bill* and highlights the following matters:

Wide-ranging Powers

Part 3 gives police special powers with respect to people who are suspected on reasonable grounds of being the target of an authorisation or who are in or on a vehicle that is suspected on reasonable grounds to be the target of an authorisation. The powers require disclosure of identity (clause 16) or, without warrant, empower police to stop and search a person (clause 17), a vehicle (clause 18) or premises (clause 19).

The Law Society is concerned that these powers will be available to be exercised "whether or not the officer has been provided with or notified of the terms of the authorisation" (clause 14). The Law Society does not understand how a police officer can act under an authorisation, or form a suspicion based on reasonable grounds, if he or she does not know the terms of the authorisation.

It is of even greater concern to the Law Society that the powers under this Part can be triggered merely by presence in a "target area", by being about to enter an area or having recently left the area. There is no need for police to "suspect on reasonable grounds" that a person is, was or will be involved in suspected terrorist activity. Further, police are allowed to use "such force as is reasonably necessary" in exercising these powers (clause 21).

The application of the powers in the Bill to people or vehicles who are not the target of an authorisation should be predicated on police forming a suspicion on reasonable grounds that the powers must be exercised to prevent a terrorist attack or to apprehend the persons responsible for committing a terrorist attack.

Clauses 16 (1) (c), 17 (1) (c) and 18 (1) (c) should be amended accordingly.

Lack of Judicial Review

Clause 13 means that an authorisation is not subject to any form of judicial review. This limitation is exacerbated by clause 29, which provides that, if proceedings are brought against a police officer for acts done pursuant to an authorisation, the officer cannot be convicted or held liable "merely" because "the person who gave the authorisation lacked the jurisdiction to do so".

In other words, the authorisation cannot be contested (except by the Police Integrity Commission) and, if the authorisation was given by someone who had no power to do so, an officer acting on it cannot be held liable.

Clause 13 should be deleted from the Bill.

Provisions relating to personal searches

Schedule 1 Conduct of personal searches is consistent with Part 4 Division 4 of the *Law Enforcement (Powers and Responsibilities) Bill 2002*. However, the Law Society has sought amendments to that Part and proposes that the following amendments should also be made to the *Terrorism (Police Powers) Bill*:

Remove:

- current clause 6(2) (presence of parent/guardian/personal representative if practicable), and
- clause 6(3) (obligations re same if strip search of a child 10-18 years, person with impaired intellectual functioning)

and insert those provisions in clause 5 (Preservation of privacy and dignity during search), so that the provisions will apply to all searches, not just strip searches.

Clause 5(5), which provides that police must conduct the least invasive kind of search practicable in the circumstances, should be a separate section in its own right, and be given greater prominence earlier in the Schedule.

Inconsistencies with Law Enforcement (Powers and Responsibilities) Bill 2002

Clauses 17(3) and 18(2) (Powers to search people and vehicles) should be amended to be consistent with section 204 *Law Enforcement (Powers and Responsibilities) Bill*. That is, a police officer who detains a person or a vehicle for a search must not detain the person or vehicle any longer than is reasonably necessary for the purpose.

Clause 23 (Supplying officers details) should be amended by deleting the words "if requested to do so" to be consistent with section 201 Law Enforcement (Powers and Responsibilities) Bill.

So the Law Society is experiencing many problems in relation to this draconian bill. Unfortunately, if it is experiencing problems how much more ostracised will Australian citizens who are followers of Islam be under this legislation? On 2 December the Islamic Women's Welfare organisation sent me a facsimile in which it said that the last two weeks had seen an unprecedented attack on the civil rights and liberties of Muslims, and Muslim women in particular, in Australia. It stated:

It comes as some surprise to us to find that legislation is being introduced in New South Wales to give powers to police officers that severely curtail people's personal freedoms. This comes on top of the Federal ASIO bill that is currently under review.

It is the Muslim community who will bear the brunt of these pieces of legislation. In fact, in giving an example, Michael Costa, the Police Minister, even discussed the example of someone of "middle Eastern appearance", and the level of specificity of the description. Yet the focus remains: this is legislation, as Justice John Dowd has pointed out, targeted directly at Muslims.

Many people wrongly associate the actions of a vile few with all Muslims. This bill has the potential to make it "official"—and for this kind of suspicion of all Muslims, especially Muslim women, to be sanctioned legally.

The laws give powers for police to search anyone once an act of terrorism has been declared, meeting certain criteria. This criteria will inevitably include "middle Eastern people in appearance", thus targeting Muslims specifically. To many people, anyone wearing Muslim dress, even if they are Anglo-Australians, are considered of "middle Eastern appearance". Furthermore, the legislation takes away certain rights of review. For example, the police minister under the legislation is not accountable to anyone under the legislation. Section 13 of the act says:

> "An authorisation (and any decision of the Police Minister under this part with respect to the authorisation) may not be challenged, reviewed quashed or called into question on any grounds whatsoever before any court, tribunal, body or person in any legal proceedings, or restrained, removed, or otherwise affected by proceedings in the nature of prohibition or mandamus."

This is a massive licence that is incredibly open to abuse. This allows the police to frisk search or strip search Muslim women—an issue of particular concern to us.

If this legislation is absolutely necessary because of the current situation and it is, as Bob Carr says, an "emergency bill", then why not introduce a sunset clause to ensure that it is properly reviewed.

The Australian Democrats also oppose the Terrorism (Commonwealth Powers) Bill. The Senate Constitutional and Legal Affairs Committee report on the Security Legislation Amendment (Terrorism) Bill found many loopholes in that bill. Australian Democrat Senator Brian Greig wrote a dissenting report to that committee's report, which concludes as follows:

The Australian Democrats oppose this legislation.

The proposed definition of terrorism is incredibly broad, and could catch a range of political activities not remotely connected to terrorism.

The exceptions for advocacy, protest, dissent and industrial action are totally inadequate. It is dangerous to assume that no future government will use these excessively broad powers to suppress opposition and dissent.

The very broad proposed power of the Attorney-General to ban organisations is entirely inappropriate. It is reminiscent of the failed Communist Party Dissolution Act and has no place in a democratic nation.

The bill also takes the unprecedented and unjustified step of imposing absolute liability in relation to offences carrying life imprisonment.

The proposed changes to the privacy of e-mail and other forms of digital communication are deeply concerning.

These bills are an attack on some fundamental democratic principles and should not be enacted. It is vital that in defending democracy, we do not compromise the very ideals we are seeking to preserve.

The Australian Democrats ran a campaign against that Commonwealth legislation. Now we are fighting against a conservative Government in New South Wales. This conservative Government, which pretends to be a Labor Government, is introducing its own legislation to coincide with Commonwealth legislation. I believe that this Government is also trading on fear, just as John Howard traded on fear in Canberra. The Premier saw how John Howard won the last Federal election

by exploiting fear and uncertainty. He appears to be taking a leaf out of John Howard's book and is utilising that fear for his purposes. The Motor Accidents Compensation Further Amendment (Terrorism) Bill will just extend the temporary exclusion of acts of terrorism from compulsory third party from the current date of 1 January 2003 to 1 January 2004.

Earlier this year when the first bill was debated I said that if people in Zurich did not want to provide reinsurance the New South Wales Government would quickly fix the definition so that if someone was hit by a car driven by a terrorist it would just be tough luck. That is another example of the Government backing out of a problem rather than solving it. It could conceivably come up with an alternative solution without a great deal of thought. We might be small fish—a State Government in a relatively small country—but it would not have been impossible to make WorkCover the reinsurer for acts of terrorism and to have made a small change along those lines for temporary reinsurance cover. I am disappointed that the Government has not been more brave and adventurous. It blames other governments for flogging off the GIO and for not providing a reinsurance company that assesses rates irrespective of fluctuations on the world market after September 11.

WorkCover could potentially play that role, a fact that has been pointed out to the Government. The Government capitulated by taking away insurance cover. If Australian citizens are killed their families will be expected to manage as best as they can, presumably with the help of some sort of pension. The Australian Democrats support the Workers Compensation Amendment (Terrorism Insurance Arrangements) Bill, which is an attempt by this Government to establish a reinsurance fund. Overall, the Government has a conservative and timid view of terrorism. It has not made out a case for its draconian changes and it is discarding our civil liberties without so much as a whimper.

The Hon. DAVID OLDFIELD [10.16 p.m.]: In general I support the Terrorism (Police Powers) Bill. To some the bill might appear to be harsh. I note the usual raft of amendments from those in this place who regard themselves as the guardians of all perceived rights. The fact is that security cannot be assured without some loss of privacy and without security forces being able to act with immediacy against a possible threat. Muslim terrorists do not wait for due process. Those of us who acknowledge the danger that our country faces understand the need to have intrusion into areas of our lives that had previously been untouchable. The bill is appropriate in that it provides the necessary powers for police to act in the overall interests of the people of New South Wales.

The tragedies that we have witnessed around the globe will soon make their way to our shores. We face a new era in Australia: one of uncertainty, indeed, one of terror and one of changes that in many respects we can only imagine at this time. We saw the commencement of those changes on September 11 last year. For those not fully paying attention the Bali murders should have been the final wake-up call. We have Muslim terrorists in our midst. They await the signal to strike what, for all we know, may already be designated targets. They plan that their attacks should succeed in murdering as many of us as possible and strike fear into the hearts of those who will be left wondering when their turn will come. We are not dealing with people like ourselves; they do not act or think as we do. They are alien to us. If we are to combat their terror we must accept tactics that have, until now, been foreign to our way of life.

We see our icons under guard now as never before. Most recently the Sydney Harbour Bridge was the subject of much-publicised foot patrols by unarmed personnel wearing fluorescent vests. The new guards on the bridge have been described as the eyes and ears of the police. Let's get serious! Those well-meaning souls are defenceless targets wearing glow-in-the-dark bullseyes. It is entirely inappropriate that those human security alarms are not armed. Be assured that any terrorists they meet will be armed. They will not think twice about gunning down anyone who interferes or who may raise the alarm. If Muslim terrorists wish to be more silent about getting rid of the fluorescent vest-wearing foot patrols on the bridge, they will simply kill them with knives. The fact that the guards are not armed is, of course, ridiculous. The lack of weapons is not in their interests from a self-defence point of view and it is not in the interests of those who expect the people who are now guarding the bridge to raise an alarm or to secure the bridge in any way.

While this bill is an example of the sort of measures necessary for our security, the Government's new bridge watchers are an example of a tokenistic approach that does not fully

appreciate the need for such personnel to at least be able to defend themselves. Given the need for our security forces to be appropriately expanded and properly trained in the use of weapons and tactics for general security, self-defence and counter-terrorism, I submit for the record an issue relating to those needs as generally put to me by a former member of this House, Lloyd Coleman.

I bring to the attention of the Parliament an important issue, one that, if overlooked, could affect the security of many people in Sydney, and even those who will in the years to come sit in this Parliament. The issue of which I speak is the long-term future of the Anzac Rifle Range, which is situated on a headland in the Premier's electorate of Maroubra. Those not familiar with the Anzac range would be unaware that after September 11 hardly a day went by without at least one, and often two or more, of either the State and/or Federal security services or forces using the range for training directly related to the security of the people of Sydney or those visiting. One service, whose duty includes airport security, has increased its training schedule at the range by over three times that prior to September 11.

In spite of the size and diversity of the Anzac Rifle Range, to guarantee access to the range it is now essential to forward book range time and requirements. That was not so before September 11. Those out on the range the day after the terrorist attacks on New York and Washington would have thought we were already under attack as members of many different arms of our security services were doing additional training. The use of the Anzac range at Malabar has increased greatly and a constant stream of people are undertaking a broad range of security and anti-terrorist training, both on the range and in the large auditorium of the New South Wales Rifle Association.

Activities include accreditation for the use of Styer—the military service rifle—and police marksmen and members of Australian Protective Services, NSW Police special services, New South Wales Corrective Services, State security and protective services all undertaking various forms of anti-terrorist and upgraded guard duty training. Recently the new Special Air Service [SAS] unit assigned to protect Sydney spent a number of days on the range. Given those needs, the State, in conjunction with the Federal Government, must reassess the future of Malabar. A great deal has been made of the preparedness of Sydney to handle possible terrorist attacks during the Olympic Games but do not forget that we had the additional services of some 5,000 army troops, Black Hawk helicopters, a number of heavy-lift helicopters with troops at a minute's call and security guards and personnel drawn from as far away as Western Australia.

The Parliament must look closely at tomorrow's requirements and plan for those needs today. As the Malabar range is a Commonwealth facility, at present many State organisations may be unaware that its future is uncertain. Because of its size and position, once the Malabar range is lost it cannot be replaced. Strategically the range is well placed for any anti-terrorist training facility and firearms accreditation venue as it is within 15 minutes drive from the central business district and 10 minutes drive from the airport. In addition, it is situated between Sydney Harbour and Botany Bay. The range is being used by the army, the SAS and New South Wales police helicopters for anti-terrorist training.

Serious consideration must be given by both State and Federal governments to retaining the Malabar range and developing it as an area for a range of police, security and military firearms and anti-terrorist training facilities. That can be done without detracting from its present sporting and recreational use. We need to develop the best training facilities possible under the most desirable conditions for things such as close support, driver training, security training, marksmanship, tactical response, specialist weapons use and helicopter support, to name only a few. Like a top sports professional, anyone aspiring to attain a high standard of proficiency in anti-terrorist and security measures needs good equipment, modern facilities, time and regular practice to maintain proficiency.

I ask this Parliament and those with a direct responsibility for developing future safeguards and maintaining Sydney as a secure terrorist-free region to note what I have said and to give the future redevelopment of the Anzac range at Malabar appropriate attention. I do not want to sound alarmist but, with the exception of a small number of our security forces, the standard of shooting training and the ability to shoot accurately under pressure leave a great deal to be desired. Compared to a

few years ago there are now few active members of the security industry who are not armed when on guard duty—apparently, of course, with the exception of those on the Sydney Harbour Bridge.

Unfortunately, firearms training has not kept pace with the increased use of firearms by the security forces. Given the present circumstances, it is wrong that the future of Malabar range is under a cloud. The range is the headquarters for the New South Wales Rifle Association. It is owned by the Federal Government, which has tried to close it since about 1986. At present the Federal Government is looking at a number of proposals for the future of the shooting venue of the New South Wales Rifle Association. If the Federal Government relocates the New South Wales Rifle Association's shooting facilities to Holsworthy or another site, the Anzac range will be redeveloped for other usage and/or handed over to the State Government for recreational use. Either way the Sydney metropolitan area will lose its last significant outdoor range. If the Malabar range closes only a 12-target range at Hornsby—compared with 130 targets at Malabar—will be left for the training of police and other tactical response groups.

Like the Australian Army before Timor, most of our security services are underresourced and undertrained in the use of the firearms necessary to deal with Sydney's future security and anti-terrorist requirements. In spite of the many warnings over the past decade by experienced personnel, it took Timor and over 100 accidental discharges—or unauthorised discharges—in the first few months of the Timor campaign to get the army to understand the importance of regular training with live ammunition and the need for complete firearm familiarity when on active service. That is not a criticism of the present training by the many and varied State and Federal security services. Rather, it is a timely warning that yesterday's standards will be either inadequate or unacceptable to tomorrow's public and the security they rightfully expect and, indeed, demand.

I agree with the concerns raised by Lloyd Coleman and I thank him for taking the time to record those matters for my use here this evening. We are being dragged forward into the consequences of world events that are not of our making. In some respects it is clear we are preparing for the many changes ahead. When it comes to guns, not only are many of Australia's security services unprepared, including those who guard us here, but our irrational Prime Minister is hell-bent on disarming every law-abiding citizen in the country. The agenda of the Prime Minister on guns will leave us in a state where, apart from some members of our security services, only terrorists and other criminals will own guns. Who will be helped by that? Certainly not law-abiding Australians.

This is not a debate on guns as such so I will go no further on John Howard's dishonest and irresponsible nonsense, except to say that as terrorism strikes at our homeland and such actions grow from that first act, the more law-abiding Australians who own guns the better off we will be. I will add that, given the way things are going in relation to guns, I hope and pray that when the day comes for this nation to once again defend itself from the growing threat to its existence, there will still be some of us who own and know how to use guns. I regret the necessity for the Terrorism (Police Powers) Bill, but I recognise that such times call for us to give up elements of the freedoms we have blissfully enjoyed. Unfortunately, the more freedom we give ourselves the more capacity we extend to Muslim terrorists to succeed in killing us.

The Hon. IAN COHEN [10.27 p.m.]: All of us feel the weight of the recent terrorist acts that have caused loss of lives, particularly when those acts were committed close to home. However, the sense of injustice and concern within our community should not be exploited by governments to erode our fundamental democratic rights. The Greens are strongly opposed to the Terrorism (Police Powers) Bill for a number of reasons. The bill defines a terrorist act in apparently identical terms to the final definition used in the Federal bill, now part 5.3, division 100 of the criminal code Act that came into force earlier this year. It is a long, convoluted and broad definition that appears to exempt advocacy, protest, dissent or industrial action.

Debate adjourned on motion by the Hon. Ian Cohen.

Bill Name: Motor Accidents Compensation Further Amendment (Terrorism) Bill Workers Compensation Amendment

	(Terrorism Insurance Arrangements) Bill Terrorism (Commonwealth Powers) Bill Terrorism (Police Powers) Bill
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