



NSW Legislative Assembly Hansard

Law Enforcement Legislation Amendment (Public Safety) Bill

Extract from NSW Legislative Assembly Hansard and Papers Thursday 15 December 2005.

Second Reading

Mr MORRIS IEMMA (Lakemba—Premier, Treasurer, and Minister for Citizenship) [10.39 a.m.]: I move:

That this bill be now read a second time.

I thank all honourable members for gathering today to show our united resolve in the face of thuggery, intimidation and violence. I have recalled Parliament for one simple reason: new powers to uphold public order. We are here to make sure that the police get the powers they need. Louts and criminals have effectively declared war on our society and we are not going to let them undermine our way of life. They will face tough new powers, which I will now detail to the House.

Schedule 1 amends the Law Enforcement (Powers and Responsibilities) Act 2002. Firstly, the bill inserts a new part 6A into the Law Enforcement (Powers and Responsibilities) Act 2002 to create a range of new powers to prevent or defuse a large-scale public disorder. These powers are not intended to be used in respect of peaceful protests, union demonstrations and the like. One of the most central parts of this bill is the lockdown powers. These will enable police to declare an area on the basis that a large-scale public disorder is occurring or threatens to occur and then employ roadblocks and stop and search powers in or around that area. The disorder need not be constituted by one big incident, but can be constituted by several smaller incidents in different locations. This gives police freedom to nip a developing situation in the bud.

Under proposed section 87D the Commissioner, Deputy Commissioner of Police or Assistant Commissioner will be able to authorise a lockdown. The lockdown can last for up to 48 hours or longer if extended by the Supreme Court. Proposed section 87E provides that the target area for a lockdown can be either the place where the riot is actually occurring or a road that may be used by people travelling to participate in the riot or both. Obviously, we cannot define in legislation the maximum size for a lockdown area. The senior police who authorise a lockdown will exercise commonsense in keeping the lockdown area as small as necessary to do the job.

The powers available to police in a locked-down area are the following: proposed section 87I, the power to set up a cordon or roadblock; proposed section 87J, the power to stop and search vehicles without warrant; proposed section 87K, the power to stop and search persons without warrant and anything in the person's possession; proposed section 87L, the power to request that persons identify themselves—it is an offence to refuse to do so or to supply a false identity; proposed section 87M, the power to seize and detain for up to seven days any vehicle, mobile phone or similar device if this would substantially assist in preventing or controlling the public disorder; and, finally, proposed section 87N, which allows any police officer to stop a vehicle on a road without an authorisation being in force providing the officer has reasonable grounds to believe a large-scale public disorder is occurring or threatening to occur in the near future and that the use of the powers is reasonably necessary for preventing or controlling the disorder. Proposed section 87N is there as a back-up power for urgent circumstances. It is a prudent measure allowing front-line police to deal with a brewing riot while formal authorisation is sought.

Another important element of the bill is the oversight powers. Proposed section 87O provides for monitoring and reporting on the powers by the Ombudsman. The Ombudsman is to keep the use of the powers under scrutiny for two years and to report after 18 months to the Attorney General and the Minister for Police. The Attorney will then table the report in the Parliament. Proposed section 87P places a two-year sunset clause on these powers, with the Government then able to review, in light of the Ombudsman's report, whether the powers need to be continued in the same or another form, or at all.

The final set of amendments to the Law Enforcement (Powers and Responsibilities) Act 2002 gives police more powers in relation to the criminal use of motor vehicles. Items [2] to [7] of schedule 1 ensure that all occupants of a vehicle stopped in connection with the commission of an indictable offence may be identified. This addresses a current loophole by which people who may have been involved in certain indictable offences could avoid being identified. Occupants will now be required to identify other occupants in the vehicle at the time of being stopped by police or identify those who may have left the vehicle shortly before being stopped. Items [8] and [9] of schedule 1 make it clear that police have powers to direct a vehicle to stop in certain circumstances. These provisions convey a strong message that failing to stop a vehicle after a direction is made is unacceptable and that non-compliance will have serious consequences. This power will apply where a police officer has reasonable grounds to suspect that the vehicle or its occupants had been involved in the commission of an offence.

Proposed sections 87B and 87C relate to liquor restrictions. These provisions give police of the rank of superintendent or above the authority to close licensed premises where he or she has reasonable grounds for believing a large-scale public disorder is occurring or is threatened in the vicinity of the licensed premises and the closure would reasonably assist in preventing or controlling the disorder. The closure of licensed premises cannot exceed 48 hours unless the closure is extended by the Licensing Court or by an order of an authorised officer under the Liquor Act. A breach of this provision will incur a maximum fine of \$5,500 or 12 months gaol. In addition, a senior police officer of the rank of superintendent or above will be able to declare an emergency alcohol-free zone for a period of 48 hours or less. Police can warn people possessing or drinking alcohol that drinking in the zone is prohibited and that any liquor in their possession may be confiscated. If the warning is ignored, penalties of up to \$2,200 may be applied.

Schedule 2 amends the Crimes Act 1900. Proposed section 59A creates a new offence of assault during a public disorder with a higher penalty than that for general assault. Assault during a public disorder that does not cause actual bodily harm will now have a penalty of five years gaol. Where the assault does cause actual bodily harm the sentence will be seven years. Actual bodily harm includes any hurt or injury that interferes with the health or comfort of a victim. Proposed sections 93B and 93C increase the penalty for riot from 10 years to 15 years and from 5 years to 10 years for affray. These tough new sentences send a clear message to would-be thugs and hooligans: If you tear up the fabric of our society, you will pay the price—a price that as of today just got a whole lot heavier.

The final measure I want to address is changes to the Bail Act 1978. Twenty-three rioters charged over Sunday's riots have been granted bail, one of whom had been granted bail days earlier for assault and destroying property. It is unacceptable that such thugs and morons are automatically granted bail, just to be given the chance to wreak further havoc. This bill will help shut that revolving door by creating a presumption against bail for riot and for any other offence that is punishable by imprisonment for two years or more, where that offence is committed in the course of the person participating in a large-scale public disorder, or in connection with the exercise of police powers to prevent or control such a disorder or the threat of such a disorder. That way the police can do their jobs knowing that they will be backed up.

That is an important point—backing the police. The police can be assured that they have our full support to use these new laws to rid our streets of the violence, the thugs, the hooligans and the criminals who have been responsible for the actions we have seen. Front-line police should not need to look over their shoulder wondering if sound policing decisions will be second-guessed. They will not be. Police will be free to use these powers as intended by this Parliament. Good, firm, effective policing will be rewarded, not questioned. Ideally, these new laws will not need to be used often. It would be great if they were never used at all. But as long as thugs, hooligans, hotheads and criminals disrespect the law and as long as they refuse to show respect and responsibility, these powers will be used to the fullest extent. Order will be upheld. Our streets and suburbs will be kept safe. Our police will be backed to the hilt. This House can play its part by giving these laws speedy and unanimous consent. Law enforcement is the first and biggest step but it is only a beginning.

Hardworking, responsible Australians of every background have been appalled at what has happened. It is not the Australia that we want our kids to see and it is not the way we want the world to see us. That is why, once law and order is firmly re-established, we must look to the next step. We must ensure that the best of Australia comes through, that we continue to be a society based on respect, responsibility and a fair go for all. That means there must be no first-class or second-class citizens—just Australians united by common values, united by the responsibilities of citizenship and united in their respect for the law, the police and one another. Together we can build a peaceful and prosperous Australia. If those goals seemed far away this week it is only because a small minority of thugs, hooligans, hoons and criminals have lost track of what it means to be Australian. The vast silent, law-abiding majority have not. Their hopes and aspirations are what we are here to protect. In their name I commend the bill to the House.