



NSW Legislative Council Hansard

Law Enforcement Legislation Amendment (Public Safety) Bill

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

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-President of the Executive Council) [12.10 p.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. The Parliament has been recalled for one simple reason: police have asked for new powers to uphold public order, and we are here to make sure they get them. Louts and criminals have 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 detail now 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 large-scale public disorder. These powers are not intended for use in respect of peaceful protests, union demonstrations and the like. One of the most central parts of this bill relates to lockdown powers, which will enable police to declare an area on the basis that large-scale public disorder is occurring or threatens to occur, and then to set up roadblocks and employ stop and search powers in or around that area. The disorder need not be constituted by one single incident but can be constituted by several smaller incidents in different locations. This gives police freedom to nip in the bud any developing situation.

Under proposed section 87D the Commissioner, Deputy Commissioner, or Assistant Commissioner of Police 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 contained in the following proposed sections: 87I, which relates to the power to set up a cordon or roadblock; 87J, which relates to the power to stop and search vehicles without warrant; 87K, which relates to the power to, without warrant, stop and search persons and anything in the possession of those persons; 87L, which relates to the power to request that persons identify themselves, and to an offence of refusing to disclose identity and of supplying a false identity; and 87M, which relates to the power to seize and detain for up to seven days any vehicle, mobile phone or similar device if such seizure or detention would substantially assist to prevent or control public disorder. Finally, proposed section 87N allows any police officer to stop a vehicle on a road without an authorisation being in force, provided the officer has reasonable grounds for believing there is large-scale public disorder 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 provides a back-up power for urgent circumstances: a prudent measure that will allow front-line police to deal with a brewing riot while formal authorisation is sought.

The oversight powers are another important element of the bill. Proposed section 87O provides for monitoring and reporting on the powers by the Ombudsman, who is to keep the use of the powers under scrutiny for two years and to then report on them within 18 months to the Attorney General and the Minister for Police. The Attorney General will then table the report in Parliament. Proposed section 87P places a two-year sunset clause on the 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 will 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 whereby people who may have been involved in certain indictable offences can avoid being identified. Occupants will now be required to identify other occupants in the vehicle at the time of being stopped by police or to identify those who may have left the vehicle shortly before being stopped. Items [8] and [9] of schedule 1 make it clear that police will have powers to direct a vehicle to stop in certain circumstances. These provisions convey a strong message that it is unacceptable for a person to fail to stop a vehicle after being directed to stop, and that non-compliance with such a direction will have serious

consequences. This power will apply where a police officer has reasonable grounds for suspecting 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 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. This power would have enabled police to declare Cronulla beach an emergency alcohol-free zone last weekend.

Schedule 2 amends the Crimes Act 1900. Proposed section 59A creates a new offence of "assault during public disorder" with a higher penalty than that for general assault. Assault during public disorder that does not cause actual bodily harm will now carry a penalty of five years gaol. Where the assault does cause actual bodily harm the sentence will be seven years imprisonment. 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 five years to 10 years for affray. These tough new sentences send a clear message to would-be thugs and hooligans that if they tear up the fabric of our society, they will pay the price—a price that, as of today, just got a whole lot heavier.

The final measure I shall address relates to changes to the Bail Act 1978. Twenty-three people charged over Sunday's riots have been granted bail, one of whom had been granted bail days earlier on a charge of assault and destroying property. The bill will help stop that revolving door by creating a presumption against bail for the offence of 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 large-scale public disorder, or in connection with the exercise of police powers to prevent or control such disorder or the threat of such disorder. In that way, police can do their jobs knowing the courts will back them up, not let them down. That is an important point: supporting the police. Police can be assured that they have our full support to use these laws to rid our streets of violent thugs and criminals. Front-line police should not need to look over their shoulders wondering whether sound policing decisions will be second-guessed. They will not be. Police will be free to use these powers as intended by the Parliament. 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 and hotheads disrespect the law, and as long as they refuse to show responsibility, these powers will be used to the fullest extent. Order will be upheld. Our streets and suburbs will be kept safe for families and ordinary Australians. Our police will be backed to the hilt, and the House can play its part by giving these laws speedy, unanimous consent. Law enforcement is the first step—the biggest step—but it is only a beginning. Hardworking, responsible Australians of every ethnic background and of all religious denominations were appalled at what happened in Cronulla, at the attacks on surf lifesavers and at the disgraceful events that followed. It is not the Australia we want for our kids. It is not the way we want the world to see us. Indeed, it is not the way we want to see ourselves. That is why, once law and order is firmly re-established, we have to look at the next steps.

We have to ensure that the best of Australia comes through and that we continue to build a society based on mutual respect, tolerance, responsibility and a fair go for all, regardless of their religious denomination, whether they have a religion at all, or their ethnicity. 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 respect for the law and public order, so that Australians can build a peaceful and prosperous country for our children and our grandchildren. If those goals seem far away this week, it is only because a very small minority of thugs and hoons lost track of what it means to be Australian. The vast, law-abiding silent majority did not, and we are here today to protect their hopes and aspirations. In their name I commend this bill to the House.