



Speech by

Lawrence Springborg

MEMBER FOR SOUTHERN DOWNS

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TERRORISM (COMMUNITY SAFETY) AMENDMENT BILL

Mr SPRINGBORG (Southern Downs—NPA) (Leader of the Opposition) (2.28 p.m.): The Terrorism (Community Safety) Amendment Bill forms part of an Australian government approach to the dangers claimed to exist as a result of a heightened terrorism threat. When I talk about Australian governments, I talk about all Australian governments working in unison. Given the real nature of this threat and the concern felt in the community about this posed threat, the opposition supports the bill. This bill does, however, contain some matters about which there are some concerns, and I will raise those during the course of my contribution to the second reading debate.

This bill is just one of a raft of pieces of legislation that this parliament has considered and passed in the past two years. As I recollect, at no stage has the opposition offered any real concerns to the passage of almost half a dozen of them, because we believe that it is extremely important to have a comprehensive and very real response to any potential terrorism threat.

It is hard for any of us in this place, and also out in the community, to ascertain the extent to which we are threatened by terrorism. Certainly, in a psychological context, many people, if not the majority of Queenslanders and Australians, feel somewhat more vulnerable to the threat of terrorist attack than what they did, say, prior to 2001. It is yet to be seen whether any terrorist attacks manifest themselves on our shores. We certainly hope that that never happens, but vigilance is an extremely important weapon to have in our fight against terrorism.

I think that we all remember the extraordinary events of 2001—September 11—because it was a parliamentary sitting day. That morning, those of us in this place who did not see the events the night before on television woke and were quite staggered, quite stunned and quite distraught at what we saw unfolding before us with regard to the attacks on the World Trade Centre, its subsequent collapse, the subsequent collapse of other buildings around them, the death and destruction, the enormous amount of remorse and outpouring of grief that was associated with that and the vulnerability that I believe we all felt as a consequence. But not only did that terrorist act impact upon those people who were killed or wounded or those people who lost their loved ones but also it impacted far more broadly throughout the world. I understand that some 300,000 jobs or thereabouts in the United States airline industry were lost as a consequence of the downturn in people travelling. Immediately, hundreds of millions, if not billions of dollars, were wiped off the value of stocks throughout the world. The world went into an interesting stage of how to respond to this threat, which although it had been around for some time, had manifested itself in the most extraordinarily graphic way. I think that in itself, although that terrorist act was sophisticated, it was still terribly base. As a consequence, it made us all feel more concerned and vulnerable. So it was appropriate that we learned how to respond to that threat and become more vigilant. People themselves did that in their own way.

Subsequently, about 14 months later on 12 October 2002, we saw those tragic bombings in Bali and, in recent times, we saw the events in Madrid. I note the recent bombings at the Olympic site in Athens. The authorities there are indicating that in no way is that linked to some form of global terrorism network or operation. I certainly hope that that is the case, because today people feel very, very cynical,

very sceptical and very concerned when any terrorism act manifests itself in the world. Immediately people believe that it is linked in some way to a calculated and coordinated global terrorism plan.

As I said, not only are the Australian state and territory governments and the Commonwealth government coming together but also most nations are coming together in order to respond to this terrorism threat. How effective our response can be is really subjective rather than objective. But if we do nothing, there is no hope whatsoever of being able to detect and deter a potential terrorist threat. If we at least attempt to do something, there is a far greater chance that we are going to detect and deter a terrorist act. In actual fact, it should be an infinitely greater opportunity for us to be able to respond to it.

The other thing that causes us to be as concerned as we are is that, in this day and age, for each and every one of us there is a far more immediate response and knowledge of terrorist acts and a far more graphic description of them. From time to time, as would many other people, my wife says to me, 'The whole world is going crazy. We are all under threat and we are going to blow ourselves up.' I say to her that it is very difficult to qualify if we are under any greater threat today as an individual than what we may have been in the 1300s, the 1400s, the 1500s, the 1800s, or the 1900s. There is no doubt that, in the history of mankind, some pretty terrible things have gone on. But at that time there were no human rights monitors, there was no satellite television, there were no reporters, there was no way of getting information out. If information came out, it was by way of a runner, by way of a carrier pigeon, or by way of a bit of folklore

Mr Beattie: Word of mouth.

Mr SPRINGBORG: As the Premier said, word of mouth. Basically, people would hear that some terrible massacre had happened or something dreadful had happened, but the accuracy was always to some degree debatable. It may have been weeks, months, if not years after it happened that that information came out. But today, we see what happens in our lounge rooms as it happens. Does that make us more insecure than we have been at any other time? In reality, we will never know, but I just say that I am not convinced that our basic human nature and inhumanity is any different from what it was 1,000 years ago. In actual fact, I think that the majority of people and the majority of civilisations are far more humane today and far more focused on human rights and the protection of life than what they may have been at any other time in our history. Nevertheless, there are people who seek to attack us where it hurts us most, that is, our families, the public utilities that we use every day, our basic feeling of security—the symbolism of the World Trade Centre, the nightclub in Bali, the concerns that we have over our essential infrastructure, whether they be power or water facilities. They are things with which we are vitally concerned every day. I ask members to imagine the impact of a terrorist attack or an attempted sabotage on one of those public utilities or one of our iconic facilities that we see every day. Therefore, we must do everything that we possibly can to avoid that. It is claimed that this legislation tries to do that.

We will not be opposing the bill in any way, but we have some concerns and we want to raise some issues. I note that the Premier in his second reading speech stated that, for a range of reasons, the appropriate body to oversee this new regime is the Crime and Misconduct Commission. One of those reasons is that it has an overarching approach to dealing with organised crime. Over a period, a whole range of powers and responsibilities have been given by this parliament to the CMC in its various manifestations—the CJC, then the CJC being split in two with the formation of the Crime and Misconduct Commission, and then the reformation of those two bodies with the creation of the Crime and Misconduct Commission. To my way of thinking, traditionally I believe that the Queensland Police Service would have been the appropriate body to handle the powers and the responsibilities that have been given to the CMC by this bill that we are debating today. I note that the Crime and Misconduct Commission has extraordinary powers with regard to interrogation. We accept that. I think it is right to have those particular coercive powers or so-called star chamber powers.

Mr Beattie interjected.

Mr SPRINGBORG: On balance, I accept what the Premier is saying. But I am just saying that there is a traditional view in the community that, as the Police Service deals with many of those sorts of matters, maybe the Police Service should have the bulk of the enhanced powers, or have the responsibility. But on balance I accept what the Premier said.

We have to ensure that the appropriate level of oversight and dynamism exists with regard to the Crime and Misconduct Commission for it to be able to undertake the role which will be given to it as this Terrorism (Community Safety) Amendment Bill passes through the parliament. It does need to be appropriately resourced. I would imagine that, given the concern that exists with terrorism, those resources will be made available to the Crime and Misconduct Commission.

It is very difficult for me, as just another member of parliament and just another member of the public, to properly gauge the success of the Crime and Misconduct Commission in its current role and charter in dealing with organised criminal activity in this state. That organised criminal activity has so many different manifestations, whether it be elaborate drug production and distribution networks, paedophilia or other organised crime, including prostitution. I can only be assured that it is doing its job to the best of its ability and there is some increasing effect. I am not a member of the parliamentary committee which

oversees the operations of the CMC, so it is very difficult for me to gauge the effect of it. Obviously the Premier is somewhat more aware as he is the minister who has primary responsibility for the Crime and Misconduct Commission. But it may be possible for somebody like me, being the shadow minister for the Crime and Misconduct Commission, to be made aware of some of those things on a statistical basis without knowing what is going on operationally. I think we do need those assurances from time to time.

If we are going to respond to the threat of terrorism, which strikes at the heart of our population in general, and we are seeking bipartisan support for the response, which we are happy to give, I believe there is also an opportunity for bipartisanship in the preparation of a response to terrorism. That is, the opposition or certain shadow ministers in the opposition should be a bit more involved in the preparation of these things. I am not talking about dictating government policy, but if this approach is something that is supposed to transcend politics and governments in Australia then I believe it is appropriate to instill a sense of bipartisanship in a practical way—not just in this parliamentary chamber but also by way of the development of the policy, the responses and the justification, because it allows us to be involved in the process and maybe make some practical suggestions from day one in the preparation of the parliament's ultimate response to the threat of terrorism.

There are a couple of issues which further concern us. I will raise them because I have raised them previously. One is to do with the planting of telephone tapping devices. I have a view. The Premier has a different view. He has his view no doubt for what he believes is a good reason. I have my view for what I believe is a good reason. I think any appropriate response from us in battling organised crime, terrorism or whatever the case may be requires our law enforcement authorities to have telephone tapping powers.

I note that the Premier says that our Police Service can, if need be, go to the Australian Federal Police or the Australian Crime Commission and seek to use its authority under joint operations. My concern is that that process is a little more turgid than it needs to be. New South Wales and other jurisdictions saw the need more than a decade ago to give their law enforcement authorities the capacity to intercept telephone conversations. I am not convinced that a suitable and sustainable civil libertarian or other argument exists against the provision of telephone tapping powers to the Queensland Police Service or the Crime and Misconduct Commission. I do not believe the joint operations aspect provides those organisations with the robustness and the capacity they may need from time to time to respond to a particular threat, whether it is organised crime or terrorism, as will happen and be built on after the passage of this legislation. I do not believe we can seriously rally against that any longer.

What we seek to do in some aspects of this legislation is give our law enforcement authorities powers that arguably exist with federal authorities. The reason is that there is a first responder need, as the Premier outlined in his second reading speech and as is justified through the legislation. I am prepared to accept that. But the same sort of imperative exists in my mind for telephone tapping or telephone listening devices. That is, we need to have that independent capacity here in Queensland. In no way am I suggesting that we give the Crime and Misconduct Commission or the Queensland Police Service an absolute free-for-all in relation to any telephone tapping powers that may come about. I am not suggesting that in any way, and I never have suggested that.

I remember the debate, in this place and in the public arena, with regard to the planting of listening devices. I think it was in 1997. Concerns were raised about how we protect the basic rights of individuals against the potentially excessive intrusion into their lives by those who would wish to plant listening devices. I remember Russell Cooper, who was the Police Minister at the time, seeking to address this issue. Terry O'Gorman was a part of the process which sought to address the issue. A Public Interest Monitor was put in place to ensure that the public interest was maintained. I believe we do need to take that whole process one step further. We do need to go towards telephone interception. That means you can have an oversight provision such as a Public Interest Monitor. If there is a certificate to tap a telephone or intercept a telephone or an authorisation, it needs to go through an appropriate authority such as the Supreme Court. There are ways of dealing with this to ensure that the public interest is properly reflected and properly respected.

I encourage the Premier and the government to again consider this. I understand that this matter has been looked at by a parliamentary committee in the past and that there was some bipartisan consideration in that area. I think it needs to go to the next step. If there has not been a manifestly obvious problem with telephone interception powers in New South Wales in a decade or more, I do not believe we can argue that there will be a problem here in Queensland. In actual fact, we can build on the experiences of the likes of New South Wales.

We recently quite properly gave our law enforcement authorities the power to intercept electronic mail or data. That is to crack down and tap into those predators—those paedophiles, those pieces of scum—who want to use the Internet to force their way into young Queenslanders' lives; that is, get themselves into a situation where they will abuse or sexually abuse those minors. It was appropriate that we do that, because we know that that is a way these predators actually prey on young people. I would say that with the uptake of telephone technology, particularly mobile telephone technology, a similar risk exists for minors. If we look at the way SMS is being used almost routinely—

Mr Beattie: They are a pain.

Mr SPRINGBORG: I agree. I would not have sent anymore than 20 of them in my life.

Mr Beattie: My kids are sending me broke as a result.

Mr SPRINGBORG: Maybe the Premier should give them the handset and make them buy the phone card.

Mr Beattie interjected.

Mr SPRINGBORG: Good thinking. They are responsible for actually filling the thing up.

I am just saying that I think the dynamic is changing. The Premier has a reason. He believes in his reason. I have little doubt about that. I believe in what I am saying. I just think it will be a transitional step. I believe it will happen one day and, quite frankly, the sooner the better.

There are two other aspects of this bill I have concerns about. One is the broader capacity for exempting matters under the Freedom of Information Act. I note that the Attorney-General has indicated there would need to be certain further protections or exemptions from the Freedom of Information Act to make sure that matters of particular sensitivity or of a secretive nature are not generally released to the community.

I am very concerned about this, given the way that some FOI matters have been exempted in the past by this government, and the use of the cabinet exemption process. The capacity for a ministerial certificate to keep hidden anything on the grounds that it was hostile to the interests of the state of Queensland is something which is of very broad concern to me. I agree there may be matters of particular sensitivity that we should never know about. I understand that. There might be matters that are of a secretive nature that maybe I and other people should not know about. But once we start to give broader capacities to exempt people's access to information, then we create a further situation where that might be able to be abused. We are relying upon people using that exemption process for the right reason.

It is also possible, even in a modern liberal western democracy, for some people to seek to abuse those provisions in order to cover up the failing of a process, in order to cover up an authority that has overstepped its particular legislative power or statutory authority. I am very concerned about that. I would like to hear what the Premier has to say about how that may be able to be addressed.

Mr Beattie: Let me just make a point on this. I respect the member's view. This is actually something we have worked out with the Commonwealth. This is not an initiative either for me or my government. We have sought to do this in cooperation with the Commonwealth based on the Victorian experience. I just want to assure the member—and I am happy to respond in more detail later—that there is nothing half smart about this. This is actually what the Commonwealth wanted us to do in terms of protecting various measures. It was not something we have initiated on our own behalf.

Mr SPRINGBORG: I note that from the briefing note which I have and from the Premier's second reading speech. Whilst I might have some particular concerns in other areas about the government and FOI, my concern is more generic than that. We have had issues even at a Commonwealth level recently with regards to the Defence service intelligence, ASIS and ASIO and about the effectiveness and efficiency and concerns about the oversight position. My concern is more generic. Is this the right thing for us to be doing in such a blanket way, not just here in Queensland but Australia-wide? I have some concerns about it. It might surprise the Premier and others that I have a bit of a civil libertarian heart beating away in here.

Mr Beattie: It does not surprise me; it stuns me.

Mr SPRINGBORG: It may stun the Premier. I do not have much time for criminals once convicted, but I do have a very strong concern that the processes which ensure that people are appropriately dealt with from the moment that they are interrogated and taken through the court process are absolutely right. Because if you are going to pin somebody you want to make sure that the regime used to charge them in the first place does not in any way contravene their rights and liberties, that it is appropriate, that there is oversight and that it is totally transparent or as transparent as possible.

My issue has always been what to do with people at the other end who have gone through that process. So I have some very real concerns about the way that we may be applying these sorts of exemptions. Look at the situation in Iraq at the moment. I note that the President of the United States says that because they are a democracy that stuff is able to come out and they can deal with it. We can debate all those sorts of issues but I can argue what if the photos were not leaked? I know that is a little different but people do have concerns and I have concerns. I am not in any way suggesting those sorts of things are going to happen here in Australia when we are dealing with these terrorist issues, but once we in any way seek to curtail the release of information then we provide an opportunity for people with ulterior motives or those seeking to cover their own backside or to cover their trail to potentially abuse that.

I recognise and understand there are matters of state secret investigations that I should not know about, but there needs to be some form of independent oversight of what may be granted by such a ministerial exemption certificate. I think that is how we can fix the whole FOI issue in the state. Let us have somebody who sits independently; an independent statutory officer who does not go around blabbing but who sits there at arm's length and looks at it and says that it fulfils and sustains all the legislative provisions which were laid down by the government when it was put through. Yes, it appropriately should be exempt but maybe there is something else here that may not be exempt. That is all I am saying.

Mr Beattie: Can I make a suggestion to the member? Based on what the Leader of the Opposition has said, I am happy when this bill is passed to write to the federal Attorney-General and send him his comments and mine and ask him to have a look at these issues to be sure whether the safeguards we have put in place are, one, those which he wants and, two, those which are necessary to protect national security. I am happy to do that and I will give the member that undertaking in parliament now.

Mr SPRINGBORG: I appreciate that because these are real issues. Extraordinary circumstances require an extraordinary response, and we may with this legislation and the precursor legislation which is passed through this place be prepared to in some way curtail the rights of citizens and the release of information to the extent that we may not automatically or otherwise do. We accept that. But we always have to be extremely vigilant about it because we do not want to go 10 or 15 years down the track and find that there has been something happening—

Mr Beattie: And nor do I.

Mr SPRINGBORG: I am not saying that the Premier does. We do not want something happening which infringes all of our sensitivities, our basic understanding and appreciation of human rights, of human dignity, of the rights and access to natural justice, et cetera. We do not want to give authorities any greater curtains to hide behind than we necessarily need to give them. I am just saying that maybe the curtains are one shade darker for them to be able to hide behind than we should be giving them.

Mr Beattie: I will do what I can. There are no games in this place. It was part of a national strategy and I will make sure that you get a copy of the letter.

Mr SPRINGBORG: I appreciate that. If I can go back to something I said earlier: sometimes legislation, particularly when it deals with terrorism and particularly when it is going to go beyond the term of any government—this government might be in office for another two terms or three terms; it might not be, who knows—is put in place which is meant to protect our citizens for a long time. I believe, therefore, it is the type of legislation that we can be more practically involved in and have a chance to contribute to from its genesis as an opposition, because I think with some of those points we could have a chance to contribute.

The last issue that I seek to raise deals with the issue of the definition of 'sabotage' and 'attempted sabotage'. I note that industrial sabotage, which we may not necessarily consider to be terrorism, seems to be exempted. I do not know whether that was a sensitivity to do with what might happen on a building site or whatever the case may be when industrial action is taken, but many people would say that what may happen on a work site, what may happen on a building site when powerlines are cut or something else is destroyed, is sabotage nevertheless. I do note that there is a way on the surface at least of addressing it, and that is if the Crown Solicitor or Crown Law indicates that that particular type of sabotage may be dealt with under the provisions of this legislation, if I am reading that correctly. The Premier can respond later on.

Mr Beattie: Yes, I will later.

Mr SPRINGBORG: Once again I think that that is a concern. Industrial sabotage can take many shapes and sizes. When there is a workplace dispute things get destroyed from time to time; there is no doubt about it. I am not saying that is right. There are workplace disputes; there is industrial sabotage. Some unions have been involved in those sorts of things. If you give what appears to be a broader exemption from the provisions of the definition of sabotage or attempted sabotage, then I think we have to be careful that that does not send a signal that you can get away with certain things.

Mr Beattie: As I understand it from my memory, any prosecution here is discretionary and requires either the tick off of the AG or the DPP. That is my recollection. I will double check it, but that is my recollection.

Mr SPRINGBORG: I understand that is the case. I do not want to have this broad exemption that may exist for industrial or other action if it is considered broadly that no individual was at threat; nevertheless sabotage or industrial sabotage or sabotage against somebody's equipment or public utility may bring with it some enormous damage. As long as there continues to be that discretion to prosecute and there is no broad exemption for some reason against particular types of industrial sabotage—

Mr Beattie: There is a discretion—in terms of prosecution. It has to be either the AG or DPP.

Mr SPRINGBORG: Okay. In conclusion, the opposition will be supporting this legislation. We have raised a couple of concerns. We will, of course, be continuing to pursue the issue of telephone interception

because we think that that is an important issue, but we look forward to what the Premier has to say in response in his summing up. It may necessitate some further questions during the process of committee. We are happy to act in as bipartisan a way as we possibly can on this. It is an important community issue; there is no doubt about it. It transcends government and it should transcend politics. One of the most effective ways to ensure that we can address some of these issues and concerns we have, maybe not necessarily the philosophical issues of telephone tapping but other issues of protection of people's rights and liberties, is to be involved more in the process from the start. I encourage the Premier as the minister responsible for the CMC to provide me with some statistical overview of the success of the CMC insofar as its organised crime fighting capacity to date.

Mr Beattie: Just before the Leader of the Opposition completes his speech, I am happy to give an undertaking to do that. In relation to the phone tapping powers, I will have more to say about that later, but we have asked the Police Commissioner to make a submission to cabinet on this matter and cabinet will actually be considering it again based on his submission.

Mr SPRINGBORG: I encourage the Premier to do so.