



Speech by

**Hon. PETER BEATTIE**

**MEMBER FOR BRISBANE CENTRAL**

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Hansard 20 April 2004

**TERRORISM (COMMUNITY SAFETY) AMENDMENT BILL**

**Hon. P. D. BEATTIE** (Brisbane Central—ALP) (Premier and Minister for Trade) (2.07 p.m.): I move—

That the bill be now read a second time.

The events of 11 September 2001, and 12 October 2002 in Bali, fundamentally redefined our lives, as indeed did the recent terrorism bombings in Madrid. In the wake of those tragic events, Australia, like many nations world wide, began a process of assessing and fortifying our capability to prevent and respond to such a catastrophic event on home soil. On 5 April 2002 the Prime Minister and state and territory leaders struck an agreement on a national response to terrorism. On behalf of Queensland, I signed up to this capability development strategy. Since then, Queensland has signed the intergovernmental agreement on Australia's national counterterrorism arrangements. Queensland has also been keenly involved in the drafting of the new national counterterrorism plan and supporting handbook. The intergovernmental agreement, plan and handbook set out arrangements for responding to terrorist incidents in Australian states and territories.

Under the plan, the Commonwealth government declares a 'national terrorist situation' in circumstances including multijurisdictional attacks, threats against civil aviation and those involving chemical, biological, radiological and nuclear materials. The Commonwealth does this with the agreement of the affected states and territories and the Commonwealth takes overall responsibility for policy and broad strategy. However, the affected states or territories have the primary responsibility for responding to the incident and determining their operational and emergency services response.

The commissioners of police determine the command and resourcing of the national police response. Criminal investigations into a terrorist incident will be undertaken cooperatively through joint task forces with police commissioners determining investigative arrangements.

Terrorist activity can be prosecuted under a range of Commonwealth and state and territory legislation. Indeed, it is difficult to conceive of a terrorist act which is not an offence under Queensland law. From the perspective of prevention, the Commonwealth has the major role in gathering intelligence, which is augmented by state and territory intelligence gathering.

Since 11 September 2001, the Commonwealth has introduced several pieces of legislation significantly enhancing the powers of federal agencies to prevent and respond to acts of terrorism. Further increases in the powers of ASIO agents are mooted. Some of this legislation has been controversial, sparking much debate on the appropriate balance required to enable the protection of our freedom without eroding the rights on which our democratic system is built.

In April 2002 I and other Australian leaders also agreed to review our jurisdictions' legislation to make sure it is sufficiently strong from a counterterrorism perspective. Accordingly, in 2002 Queensland began a process of reviewing our statute book to assess its adequacy and to consider where the legislation needed to be strengthened. This bill is the culmination of that process.

Before I turn to the bill, I am pleased to say that this bill follows other pieces of legislation that have already been introduced in Queensland in response to the new terrorism threat. Those laws include:

- the Terrorism (Commonwealth Powers) Act 2002, which referred state legislative power to the Commonwealth for terrorism offences;
- the Chemical, Biological and Radiological Emergency Powers Amendment Act 2003, which ensures police and other emergency responders have adequate public safety powers to respond to incidents involving chemical, biological or radiological substances;
- amendments to the Director of Public Prosecutions Act 1984, contained in the Evidence (Protection of Children) Amendment Act 2003, which clarify that the Queensland Director of Public Prosecutions can conduct criminal proceedings for Commonwealth offences, including terrorism offences;
- the Australian Crime Commission (Queensland) Act 2003, providing for the operation of the new commission in Queensland; and
- the Disaster Management Act 2003, providing a comprehensive and modern framework for planning for and responding to disasters, including terrorist incidents.

This Terrorism (Community Safety) Amendment Bill continues the process of strengthening our statute book and particularly seeks to ensure that our law enforcement agencies have the necessary powers to protect Queenslanders at home. A key initiative of the bill is to give the Crime and Misconduct Commission—the CMC—legislative responsibility for the investigation of terrorism related major crime. In effect, this means that the CMC will be able to use its full range of coercive powers to prevent or respond to possible terrorist activity, particularly in emergent or rapidly developing circumstances. The CMC had administratively taken on this function, but this bill makes the function more comprehensive and makes it more transparent because parliament itself will be conferring the terrorism function.

The bill also allows the CMC, when investigating terrorism matters, to inspect and seize financial records, seize passports and to compel a person to provide information on movements of money or assets. The bill enables the Queensland Police Commissioner to enlist the help of police from other jurisdictions seamlessly in the event of an actual or imminent threat of a terrorist act in Queensland. It allows police to seek court approval to conduct secret searches of premises for evidence of terrorism.

In increasing these powers the government has taken care to ensure that an appropriate balance is struck between empowering law enforcement agencies to combat terrorism while maintaining sufficient protection of civil liberties. That balance is an important one and we believe that we have achieved it. Some increases in power have therefore been limited to terrorism related activity. They have also been subjected to additional safeguards. For example, interstate police called in to prevent or respond to a terrorist act in Queensland will be named, subject to the direction of Queensland police officers, and the Queensland Commissioner of Police will include in the police annual report information about these powers being exercised.

In other circumstances, however, a more general increase in the power of law enforcement agencies has been considered justified. For example, if police know that evidence of organised crime or terrorism is not yet at a place but expect it to arrive within the next 72 hours, the bill allows the Supreme Court to grant police a warrant to conduct an undercover search for evidence within that time. This is a power already available to the CMC.

Another extension of law enforcement powers concerns surveillance warrants. Currently, the CMC and police can get warrants from the Supreme Court to conduct surveillance but must generally identify a person to be surveilled. This bill recognises that it is not always possible to identify a person involved in the commission of an offence or terrorist act before surveillance is conducted. It therefore allows surveillance of a place if evidence of an offence is likely to be at that place.

The new offence of sabotage introduces heavy criminal sanctions for offenders who intend to cause major damage or disruption to a public facility even if they only succeed in causing lesser damage. The bill also introduces a new offence of threatening sabotage. These offences would cover, but are not limited to, acts or threatened acts of terrorism. As a safeguard against inappropriate use of these offences—for example, against legitimate protesters or those taking strike action—a person can only be prosecuted with the consent of a Crown Law officer.

Finally, the bill introduces a new exemption to the Freedom of Information Act 1992 to protect matter which, if disclosed, could cause damage to the security of the Commonwealth or a state or territory. The provision is based—with necessary modification—on a security exemption that has always been contained in the Commonwealth FOI legislation and has also recently been incorporated into Victorian FOI legislation.

In March of this year the Parliamentary Crime and Misconduct Committee—the PCMC—tabled its three-year review of the Crime and Misconduct Commission. That report made a number of recommendations for additional powers for terrorism related investigations, in part based on submissions received from the CMC. The CMC made similar submissions to the government during its

review of Queensland legislation. This bill therefore contains the government's response to recommendations 21 to 27 of the PCMC report, and I accordingly report to the parliament.

In two areas the bill and the PCMC are similar in providing extended powers to the CMC for terrorism investigations. However, there are variations in respect of the extent of the enlargement of these powers. The bill also adopts the PCMC recommendation for the extension of powers dealing with assumed identities in the witness protection area.

In some other areas the PCMC made recommendations that the government will consider in the context of national discussions directed towards maximising national uniformity and consistency. There is one PCMC recommendation about emergency covert search powers without a warrant that the government has not adopted on the balance of competing considerations with respect to civil liberties concerns. I have today written to the committee providing further rationale for the government's responses to those recommendations. The government's full response to the PCMC's three-year review will be tabled at a later date.

This bill is part of the government's commitment to enhance community safety in the current environment of threatened security. Following the tragedy of the bombings in Madrid recently, reviews are being conducted of legislation affecting our transport systems in Queensland and nationally to ensure that we are continually vigilant and as prepared as possible for the unthinkable.

One of the difficulties in the current climate is that it is impossible for any government or leader to give an absolute guarantee of safety to the community against acts of terrorism. It is simply impossible. But what we can do is to ensure that the appropriate laws are in place and the appropriate measures are in place to as much as is humanly possible guarantee public safety. That is what we are doing. I commend the bill to the House.