



Speech by  
**Jeff Seeney**

**MEMBER FOR CALLIDE**

Hansard Tuesday, 21 August 2007

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## **TERRORISM LEGISLATION AMENDMENT BILL**

**Mr SEENEY** (Callide—NPA) (Leader of the Opposition) (2.44 pm): I rise to make a contribution to the debate on the Terrorism Legislation Amendment Bill 2007, and I thank my colleague the member for Burnett for taking the lead in the opposition's response to this legislation. I was unable to get into the House at the beginning of the debate, and I thank my colleague for standing in for me. I think he has made some very pertinent points regarding the importance of the police force in any state in its response to terrorism. While we sometimes in these debates talk about the theory to a sometimes prolonged extent, it is the practice on the ground—it is the reality on the ground—that is important. The reality in Queensland is that it is the police officers—the serving men and women of our Police Service—who are our front-line defence against terrorism and who will succeed or fail based on the legislative tools that we in this House give them. The bill that we are considering today is one of those legislative tools.

As my colleague has indicated, the Queensland coalition will be supporting this bill. Terrorism remains a very real danger to democratic governments across the world, including Australia. Since the September 11 bombings in New York, the threat of terrorism has become something that is in the forefront of the minds of millions of people in most countries across the world. It is a well-worn cliché if you like, but the world changed on that day of the terrorism attacks in New York and many democratic countries across the world had to change the way we responded. We had to change the way we responded in a whole range of ways. We had to make some compromises in respect of what were previously considered to be civil rights and the rights that we all had, but we had to make those changes in response to what was a very new and real threat which confronted us all.

Because of the secretive nature of terrorists and their capacity to plan in secret, democratic societies across the world have had to confront the necessity to adopt measures that treat suspected terrorists in a manner different from the treatment of persons suspected of criminal activity. We have needed to make that differentiation between people who are involved in terrorism and people who are involved in criminal activity. Our legal systems, our law systems and our law enforcement systems have been generally built around the need to respond to criminal activity. We have needed to adjust those responses, and this bill before the House today is part of that response.

As part of that new regime, all Australian governments through a COAG agreement have agreed on the introduction of a regime for preventative detention of suspected terrorists which applies even if there is insufficient evidence that would justify arresting individuals and bringing charges under the general criminal law. Australian governments through the COAG agreement have agreed that there needs to be a differentiation between the treatment that is considered appropriate and allowable for suspected terrorists and the treatment that would be considered appropriate and allowable for individuals arrested and charged under the general criminal law.

In Queensland the legislation that introduced the principle of preventative detention is the Terrorism (Preventative Detention) Act 2005. When this act was first enacted, the government promised to undertake a process of review in order to satisfy concerns raised by a number of quarters, including the coalition. At that stage we raised a number of concerns, because it was very much breaking new ground. There were a

lot of areas that were new and strange and uncomfortable for many of us as we contemplated how we were going to couch our response to the new threat that threatened our democratic society. We did have concerns about specific provisions of that legislation and we welcome the fact that that review has been carried out and that this bill is the result. That is an appropriate way to deal with something that is new and emerging, as the threat of terrorism was in 2005.

It is not reasonable to expect that any government or legislative body would get the response totally right the first time. It needs to be a process that puts in place an initial response and then reviews that response and modifies that response with the emergence of new information and with the accumulation of experience.

The bill before the House today amends the Terrorism (Preventative Detention) Act 2005 in a number of ways. It amends it to allow the issuing authority for final preventative detention orders to order Legal Aid assistance for the duration of the detention of a detainee without legal representation. So it ensures one of our basic legal rights, if you like, even for those people who are detained under the preventative detention orders. It ensures that those people are represented, that they have legal representation. The bill also amends the act to provide that an issuing authority for final orders can direct the applicant to provide further information to a detainee where the issuing authority is not reasonably satisfied that the written summary fairly and accurately informs the detainee of the nature and cause of the application. Once again, that is a move to ensure that anybody detained under the terrorism legislation is treated fairly, is provided with information and is treated as fairly as can be appropriate in the particular circumstances.

The bill also provides that contact between a detainee and a security-cleared lawyer is not monitored unless the issuing authority orders that contact to be monitored. That particular amendment ensures that there can be confidential conferences, confidential discussions between the detainee and a security-cleared lawyer. The bill also provides that a detainee is entitled to contact a lawyer on any matter. It requires that a police officer who is detaining a person must apply for the revocation of the preventative detention order or a prohibited contact order as soon as practicable when satisfied that the grounds on which the order was made no longer exist. It provides that police questioning of a detainee must be electronically recorded except under limited prescribed circumstances and it allows police to undertake a search including the removal of clothing of a person taken into custody under a preventative detention order where police suspect the person of carrying an item that may result in loss of life or serious physical harm. Those amendments, I believe, strike the balance that we have been striving to strike: the balance between our rights as a democratic society to protect ourselves against terrorism and the rights of people who are caught up in that defence, people who may find themselves the subject of preventative detention orders. The bill also excludes records or activities done under the Terrorism (Preventative Detention) Act 2005 from the operation of the Freedom of Information Act 1992.

As my colleague the member for Burnett has indicated, the Queensland coalition will be supporting these amendments to the act. We believe that all of those amendments that I have just listed are a step in the right direction; they have stemmed from a necessary review of the operation of the act. An act which does limit the civil rights of suspected terrorists is, however, necessary to protect the community. These amendments generally will enhance the rights of suspected terrorists by giving them access to appropriate legal advice without running the risk that the legal advisers giving that advice are themselves accused of supporting the terrorists. Lawyers advising suspected terrorists in the USA have been charged with actively assisting the terrorists for whom they are providing legal advice. The amendments contained in the bill before the House ensure that people who may be detained under preventative detention orders do receive what all of us would consider to be an appropriate level of legal representation—an appropriate level of protection of their rights—without making it more difficult for the people who must protect us from terrorism to do their job.

The bill also amends a number of other acts. It amends the Public Safety Preservation Act 1986 in that it allows a senior police officer to declare a terrorist emergency situation under the Public Safety Preservation Act 1986. The declaration of a terrorist emergency situation can only be made under the act by the commissioner or deputy commissioner of the Queensland Police Service. This is consistent with the national counter-terrorism arrangements and the Queensland Police Service's operating procedures. The special powers that are available in a terrorist emergency situation include the power to move persons to another location within the declared area for the safety of any person, to conduct an ordinary search of any person in the declared area, to require a person to state the person's correct name and address and to give officers of government agencies directions with respect to the exercise of the powers and functions of the agency. The bill also amends the Disaster Management Act 2003 in that the bill ensures that directions given under the Disaster Management Act 2003 do not impact upon the exercise of terrorist emergency powers under the Public Safety Preservation Act 1986.

The bill also amends the Police Powers and Responsibilities Act 2000 in that the bill clarifies the relationship in definitions of an 'explosives detection dog' and 'enforcement act' under the act. All of those

changes are about clarifying the operation of the act. They are all about ensuring that the original response that all Australian governments agreed to at a COAG meeting is a practical one, is a real one and does not unnecessarily take away the rights of people who may be suspects under that particular act. As I said at the beginning of this consideration, it does of course provide more powers than have been traditionally available for the exercise by the law enforcement agencies for people who are charged under ordinary criminal law. But everybody in this parliament would agree that is a necessary response to the threat of terrorism which has emerged for us in Queensland and for all of us in democratic societies in recent years.

The bill before the House is one that the opposition will support and we will continue to support the government's attempt to put in place this sort of legislative approach, especially when it is one that has been agreed to at a national level through COAG meetings.

I conclude by expressing the hope for all Queenslanders that the provisions of this legislation should never be needed, that we should never have to use this legislation to respond to a major terrorist threat. However, our role as legislators is to ensure that the legislative framework is there so that our policemen and women and our security forces have the powers that they need to make an appropriate response if they ever need to do so. We all hope that that time will never come.