



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard Tuesday, 17 April 2007

TERRORISM LEGISLATION AMENDMENT BILL

Second Reading

Hon. PD BEATTIE (Brisbane Central—ALP) (Premier and Minister for Trade) (12.30 pm): I move—
That the bill be now read a second time.

On 2 December 2005 this parliament passed the Terrorism (Preventative Detention) Act 2005. The object of the legislation was to allow for preventative detention for up to 14 days to prevent an imminent terrorist act or to preserve evidence following a recent terrorist act. The Queensland parliament did not enact the preventative detention legislation lightly. However, in serious times like these, individual rights and freedoms must be weighed up against equally important needs—namely, protecting the community from acts of terrorism.

When the legislation was being introduced I acknowledged that locking someone away for up to a fortnight without a charge is a draconian measure and challenges the civil liberties and democracy that we cherish so much in Australia. However, I also made it clear that my government does not flinch from its obligation to protect the community and to put in place measures to prevent terrorism where necessary. My government will do all that it can to protect the community and Queenslanders from acts of terrorism.

Balancing those needs meant that the act also included an unprecedented range of safeguards. In particular, members will recall that I secured the Prime Minister's agreement to the inclusion of a role for Queensland's Public Interest Monitor, or PIM, in both the Commonwealth control order laws and in Queensland's preventative detention laws. When the act was introduced I said it would be reviewed one year after it was passed. That review has now taken place. It included a review of existing legislation about stop, search and question powers; random bag searches; cordoning-off powers; and sedition offences. This was to ensure that they are relevant and effective.

I also gave a commitment that in reviewing the act we would consult not only my caucus colleagues but also the Leader of the Opposition, the Leader of the Liberal Party and the member for Gladstone who had indicated a particular interest in this legislation. The review took into account not only the legislation in other states but also changes proposed by the member for Gladstone as well as groups such as the Bar Association of Queensland, the Queensland Law Society and the Queensland Council for Civil Liberties. I have also considered the views and comments of the Leader of the Opposition, the Leader of the Liberal Party, the member for Gladstone, Legal Aid Queensland, the judiciary and Muslim community leaders. I thank everyone for their contribution.

Apart from preventative detention laws, the review also considered commitments made by COAG on 27 September 2005 and my government's counter-terrorism action plan to safeguard our communities. The review has culminated in the Terrorism Legislation Amendment Bill 2007 which I am introducing into parliament today. The bill forms part of Queensland's strong counter-terrorism framework. It supports Queensland's existing counter-terrorism arrangements to ensure that laws are effective and contain appropriate safeguards.

As a result of the review, this bill amends four pieces of legislation, the first being the Terrorism (Preventative Detention) Act 2005. The bill proposes to improve the operation of the Terrorism (Preventative Detention) Act 2005 by making four substantive amendments. The first amendment involves a person's access to legal representation once they have been detained under the act. Objections were raised to the monitoring of communications between a detained person and their lawyer. The concerns were that the communication between a lawyer and their client should be of a privileged and confidential nature.

The act as it presently stands provides that any contact between a detainee and their lawyer may only take place if the content and meaning of the communication can be effectively monitored by a police officer. This is to ensure that the detainee does not interfere with evidence or information of a terrorist act or alert associates to their detention and in doing so precipitate the commission of a terrorist act. The amendments that I am proposing allow unmonitored contact between a detained person and their lawyer provided their lawyer holds a security clearance—a nice balance, I think. A security clearance is obtained only after a lawyer undergoes extensive criminal history checking and ASIO checks. The amendment also states that the Queensland Police Service can still obtain a monitoring order in relation to a security-cleared lawyer where a judge is convinced that it is necessary to prevent a terrorist act.

The second amendment to the Terrorism (Preventative Detention) Act 2005 also involves issues of legal representation. Currently Legal Aid Queensland's arrangements do not specifically provide legal assistance for persons subject to preventative detention orders. The review of the act considered that a person subject to a preventative detention order should be given the right to legal representation. This is particularly important because of the intrusive nature of the orders and the community expectation that a person detained in these situations should have legal representation. The bill introduces amendments so that when a person held under an initial preventative detention order does not have legal representation the judge must arrange for Legal Aid Queensland to represent the person for the period that the person is held in detention.

A third amendment exempts activities done or records created under the act from the freedom of information laws. The amendment is considered necessary in order to protect sensitive material regarding preventative detention. The fourth and last amendment makes changes to the powers that the police have in dealing with terrorist situations and people in preventative detention. The bill allows a police officer to search a person under preventative detention at the time that they are taken into custody. This search can be done without a warrant and can involve the removal of clothing. At present, this search can only be conducted after the detainee is brought to the place of detention. A strip search in these circumstances will be allowed only if the officer suspects that the person is carrying an item that may cause loss of life or serious physical harm. For example, if a police officer suspects that the detained person may be carrying a device used to detonate explosives they can search the person to locate the device. The conduct of the search is subject to the existing safeguards in the Police Powers and Responsibilities Act 2000.

Aside from changes to the preventative detention legislation, the bill before parliament also allows a senior police officer to declare a terrorist emergency situation under the Public Safety Preservation Act 1986. The declaration can be made if the officer is satisfied that special powers are needed to manage and control a terrorist incident. The amendments have come about because the review found that the existing powers available to police officers should be complemented by specific terrorist emergency powers to ensure that they continue to meet counter-terrorism requirements. The declaration of a terrorist emergency situation can only be made by the commissioner or deputy commissioner of the Queensland Police Service. This is consistent with national counter-terrorism arrangements and the Queensland Police Service's operating procedures.

The new powers ensure that police have comprehensive powers to operationally prevent and respond to a terrorist act. The powers enable police to effectively manage threats and acts of terrorism. The special powers available under a terrorist emergency situation include the power to—

- move persons to another location within the declared area for the safety of any person;
- conduct an ordinary, or frisk, search of any person in the declared area;
- require a person to state the person's correct name and address; and
- give officers of government agencies directions with respect to the exercise of the powers or functions of the agency.

The main focus of the terrorist emergency powers is the safety of the community. This is achieved by powers which assist to prevent a terrorist act occurring and minimising the risk to public health and safety. The power to detain and search persons without warrant may assist police to prevent any further terrorist act. For example, police while evacuating persons from a terrorist emergency site may need to search bags being carried by people to ensure the safety of persons being evacuated. Currently, legislation does not allow police to detain and search a person without a warrant.

Also, the current provisions of the Public Safety Preservation Act 1986, with the exception of some specific emergencies, do not provide a power to require a person to provide their name and address. The ability to require a person's name and address may assist police in identifying people responsible for or implicated in a terrorist act. The final amendment contained in the bill before parliament will ensure that a terrorist declaration is not overridden by any other declarations contained in other legislation.

Before I conclude, I want to stress the importance of the bill I have introduced today. It is impossible to provide an absolute guarantee that the community will be safe against acts of terrorism, but we can try to ensure that we have the best and fairest laws in place to deal with terrorism and threats of terrorism as they arise. Not only does this bill provide further safeguards against terrorist acts by enhancing existing law enforcement responses and giving police new emergency powers, but it also reinforces and retains basic freedoms and liberties as far as possible.

My government is committed to achieving the right balance between individuals' rights and freedoms and the protection of the community from terrorism. Whilst we need to take all measures and precautions that we can in order to protect people, our communities and the state from terrorist activities, it is important that in the fight against terror we do not weaken or abolish fundamental liberties that Queenslanders currently enjoy. In drafting this legislation the government has taken care to ensure that the right balance has been reached between protecting the community and preventing acts of terrorism while upholding and respecting civil liberties. That balance is an important one and I believe it has been achieved with this bill. I commend the bill to the House.