




Speech By  
**James Lister**

**MEMBER FOR SOUTHERN DOWNS**

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### **JUSTICE LEGISLATION (LINKS TO TERRORIST ACTIVITY) AMENDMENT BILL**

 **Mr LISTER** (Southern Downs—LNP) (12.02 pm): I, too, rise to speak in favour of the Justice Legislation (Links to Terrorist Activity) Amendment Bill 2018. I am also a member of the committee and would like to extend my thanks to my colleagues, the members for Toohey, Macalister, Mirani, Mansfield and Lockyer, and to the committee staff who always do a terrific job for us.

The objectives of this bill are to support a national framework to ensure that there is a consistent national effort to prevent and respond to terrorist threats and to implement the Council of Australian Governments, or COAG, agreement that 'there will be a presumption that neither bail nor parole will be granted to those persons who have demonstrated support for, or have links to, terrorist activity'.

These objectives will be achieved by the following four things: reversing the statutory presumption in favour of bail for any adult or child offender who has previously been convicted of a terrorism offence or who is, or has been, subject to a control order under the Commonwealth Criminal Code; creating a presumption against parole for prisoners who have been convicted of a terrorism offence or who are the subject of a control order as well as those who have promoted terrorism in the past; giving a court the discretion to fix a parole eligibility date rather than a parole release date for offenders with previous terrorism convictions and those who are the subject of a control order who have promoted terrorism in the past; and, lastly, removing the discretion of a sentencing court to order a release date for a child that is any earlier than after serving 70 per cent of a period of detention and to require conditions to be imposed on the supervised release of a child.

We are fortunate in our committee that we always have an eager group of stakeholders who contribute to our work. In this case there were five stakeholder submissions. They were from the Bar Association of Queensland, the Parole Board of Queensland, the Youth Advocacy Centre, Dr Rebecca Ananian-Welsh and Associate Professor Adrian Cherney from the QUT Law School, and the Queensland Law Society. The majority of stakeholders supported the bill and recognised the government's responsibility to minimise the risk to the community posed by terrorism.

Some of the issues raised concern the presumption against bail. The Queensland Law Society were of the view that proposed laws must be balanced against the preservation of the fundamental principles of law and infringe on the rights and liberties of individuals only to the extent that is necessary. The stakeholders considered that the infringement on individual rights and liberties is unjustified in this particular bill. The Bar Association of Queensland was concerned about an effective erosion of the presumption of innocence, commenting that to undermine this presumption on the basis of the nature of one offence in a person's criminal history, regardless of its relevance to the charges on which a person is seeking bail, is unjustifiable.

There were also concerns raised about the presumption against parole. The Bar Association, the Queensland Law Society, and Professor Ananian-Welsh and Associate Professor Cherney raised concerns regarding the disincentivising effect of the presumption against parole created by the amendments to the Corrective Services Act. It was said that a presumption against parole for terrorist

offenders or radicalised prisoners can have a range of unintended consequences, one being that an inmate may see no incentive in disengaging from extremism because there is no clear path offered to be released into the community.

With regard to youth justice reform, many submitters raised four main concerns about the bill's application to children: children being treated the same as adults; the conflict between the bill and the charter of youth justice principles; reversal of the presumption in favour of bail; and limiting a sentencing judge's discretion to order children's early release from detention. While submitters held these concerns about these factors in relation to adults, these concerns seem to be exacerbated simply because the reforms involve children, and I suppose that is understandable. I would like to acknowledge the understandable concerns raised by groups such as the Law Society and the Bar Association. I would like to give credit to the member for Macalister for her speech. She always has a very good grasp of these sorts of things from her background as a policewoman.

I say, along with other speakers beforehand, that our legal system and the protections for individuals are based on balance. They always have been. For instance, at the moment, someone who is seen to be committing what is, in the opinion of a police officer, an offence can be arrested and taken to the police station and thus has their liberty curtailed, but there are protections. They have to be charged. They have to go before a court and so forth. In that sense we have achieved a balance which society accepts. The resting point of that balance needs to accommodate our changing circumstances.

We do live in a world with the spectre of terrorism. We have seen appalling terrorism attacks, most recently in Christchurch. We have seen attacks in Australia, Indonesia, continental Europe, the UK and of course America. They are all obviously to be condemned. It is necessary, therefore, on the balance of public interest, to look at individual liberties and freedoms and determine, with the voice of society, what is appropriate. I think it is fair to say that, on the balance of public interest, it is necessary to embark on these curtailments of the individual liberties of those who are accused in order to protect the public good.

I accept that at the COAG meeting, which was no doubt advised by excellent people who know the business of terrorism and the business of justice and law enforcement, they were convinced that these reforms are necessary. I say to groups such as the Law Society and the Bar Association that I absolutely acknowledge your vital part in advocating for the justice system and law in our state. We do take very seriously the implications with regard to individual liberties that are formed in this bill, but I do agree with the speakers before me that these reforms are, on balance, necessary because of the situation we find ourselves in with the spectre of terrorism. They are necessary to protect the people. I am quite certain that these reforms are, on balance, favoured by the people because they know that they are for their ultimate protection. Having said that, I commend the bill to the House.