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CORRECTIONS

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Tuesday, 6 December 2005

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PROOF

to why the person in question being detained would substantially assist in preventing a terror attack or, where an attack has already occurred, in preserving evidence. Under the preventative detention provisions within the bill a person detained will not be able to be questioned except to confirm their identity. Furthermore, the detention order will be reviewable by the judiciary and subject to oversight by the Commonwealth Ombudsman. These safeguards, combined with the necessary powers of our police to detain individuals to protect Australia and its assets from a terrorist attack, strike a delicate accord between individual liberties and the overriding necessity for individual and community safety. Again, the Attorney-General will be required to submit to parliament an annual report on the operation of the preventative detention orders.

I am conscious of the time and that a number of my colleagues would like to comment on this bill and enlighten the people of Australia as to their position, so I will cut my comments short. I would like to finish by talking in general terms about the legislation, which I believe has been introduced to ensure that all Australians are protected from the scourge of terror. It is a well-balanced package and it is a proactive response to the challenges that we face both internationally and domestically. As the former Director-General of ASIO, Dennis Richardson, said in May this year:

Effective laws must be in place before terrorists strike, as it is virtually impossible to play legislative catch-up after an actual attack

These laws are designed to be effective to do just that. They are necessary to ensure the ongoing protection of the Australian people and our national assets. I wholeheartedly support the bill and I commend it to the House.

Mr DANBY (Melbourne Ports) (7.41 pm)—I rise to support the Anti-Terrorism Bill (No. 2) 2005 and to support the second reading amendment moved by the Leader of the Opposition. I want to make it clear from the outset that I support the leader's amendment and that I agree with the criticisms he has made of some of the deficiencies that exist in this bill as it has been presented to us. I also agree with the comments he made on the wider questions of security in Australia. I also want to make it clear that I believe this bill contains vitally important and necessary provisions and that I reject condemnations of it that have been made by some sections of the commentariat. The first duty of all Australian governments of any political stripe is to protect the physical security of citizens, and when this government acts in an appropriate way to take necessary measures to do so we on this side will support it. Just as the opposition suggested a Senate committee be given more time than the one day originally envisaged, this committee has come up with recommendations which refine this bill and to which the government would be very wise to pay heed.

In this current emergency of international terrorism, all Australian governments—state and federal, Liberal and Labor—have worked together to strengthen Australia's security. While I and other members have specific criticisms of this bill, I think it is important to stress that we have common objectives and desires to see effective legislation passed. That is why, if our amendments are rejected, the opposition will still support the passage of this bill, while reserving the right to amend it after the next election. That is the opposition's position, which has been set out by the leader and ably supported by the honourable member for Brisbane, the shadow minister for homeland security, and the honourable member for Gellibrand, the shadow Attorney-General. It is the position I support.

In October we mourned the deaths of four Australians killed in the second terrorist bombing in Bali. In July we mourned the death of an Australian in the London bombings. Two years ago, 89 Australians were killed in the first Bali bombing. Earlier this month we saw the arrest of a number of people in Sydney and Melbourne and their subsequent appearance before the courts charged with offences related to terrorism. Those people are of course entitled to the presumption of innocence, but it is clear that state and federal authorities have successfully detected and prevented a major terrorist threat aimed at targets in Australian cities. I am sure I speak for all members in saying that I appreciate the skill and professionalism of the Australian Federal Police, ASIO and the New South Wales and Victorian police in the way they responded to this threat.

The events of the past few months confirm my view that Australia is under attack from a new totalitarian ideology as evil as the fascist and communist forms which the democracies fought during the 20th century. It is not a war Australia sought, nor a war we can escape from by—in the words of Winston Churchill, commenting on the appeasers of the 1930s—feeding others to the crocodiles in the hope that they will eat us last. The enemy in this war adopts the rhetoric of Islam but is in fact quite alien to the traditions of Islam, particularly to the traditions of Islam in our region and particularly in Indonesia. It has been good to see several prominent Australian imams over the last few months condemning these terrorists.

Whatever we call this ideology, I think the term I prefer is 'jihadism'. We know what it looks like and we know what it is capable of. It has claimed the lives of nearly 100 Australians in New York, Bali, London and Jerusalem. That it has not so far claimed Australian lives on our own soil is a combination of good luck and good intelligence work by ASIO and the AFP. We should understand, however, that attacking Australian and other Western targets is incidental to the real objectives of the people who mastermind and fund these

attacks. Their objectives are not religious, and Islam should not be blamed; their objectives are political. Their objectives are to overthrow the governments of all Muslim countries from Morocco to Indonesia and replace them with a totalitarian state run by themselves, wrapped in the cloak of Islamic rhetoric but essentially the same kind of corrupt, despotic kleptocracy we see in Syria, Libya, Sudan and other parts of the Muslim world, where the winds of change currently sweeping the region have not yet reached. Attacks on Westerners are instrumental to their objective. They are a means of polarising and mobilising opinion in Muslim countries, of persuading Muslim masses that there is a jihad or holy war that they must join against the Christians, Jews and the godless infidels.

It is very sad that a small number of Australian Muslims have fallen victim to this delusion. This is a serious issue for the Australian Muslim community, and we have seen good statements from leading imams recently suggesting that the leadership of the community is taking this issue seriously. I am always careful in speeches I make on this topic, and I think all members should be, to distinguish Islam from the extremists who misuse it for political ends. I reject the view that all Australian Muslims are potential terrorists. I agree that we should prevent the victimisation of Australian Muslims. That is why I support the stand taken by the Leader of the Opposition that this legislation should be accompanied by legislation protecting religious minorities in Australia against vilification, incitement and abuse.

The fact remains, however, that a small number of Australians have been taken in by the purveyors of this evil ideology and that some of them have become active sympathisers with this jihadist death cult that has killed 100 Australians. A few have trained abroad with terrorist-affiliated groups. This is an urgent problem, as I have said, for the Australian Muslim community to confront. I think a majority of Australian Muslim leaders know that. Those imams—let me stress, the very few imams—who have incited young Australian Muslims to sign up with those groups bear a heavy responsibility for what has now happened to some of them.

The question facing us as a society and as a parliament is what we should do in response to this threat. Since I have been a member of this House, my party has taken a consistent position on national security issues. When the government has taken measures which are genuine and reasonable, and where those measures are taken on the recommendation of responsible security agencies such as ASIO or the AFP, we have supported them. During the nine years that this government was in office without a Senate majority, we supported its legitimate national security legislation, such as the bills banning 18 terrorist organisations in Australia. But we have also taken the view that it is the duty

of the opposition to ensure that all government legislation, including national security legislation, is proportional to what it is designed to meet. We used our position in the Senate to propose sensible amendments to the government's bills, many of which the government eventually accepted and which greatly improved the bills in question. Now that the government has control of the Senate, we are no longer able to play that role. But it is our right and our duty to subject this bill to the same level of scrutiny and to propose amendments which will improve the bill and safeguard the rights of Australians.

The most important provision of the bill provides for short-term preventative detention orders against a person suspected of planning a terrorist act and for longer term control orders to restrict the activities of persons who are felt to pose a long-term danger. It is a sad day when we have to see legislation of this kind brought before the Australian parliament but, in the wake of what has happened in Madrid and London, it would be irresponsible for Australia not to put in place laws which allow the police and security agencies to restrain people who are reasonably suspected of involvement in such an act but who cannot be charged with specific offences. That is why the Prime Minister and the six Labor premiers agreed to these proposals and why the opposition will support this part of the bill.

I might say it is a marked contrast to the absolutely irresponsible actions taken by the dreadful Tory party in London who, under their current disgraceful leadership, voted against Prime Minister Blair on exactly the same legislation. Imagine if the Australian Labor Party had taken the stance of the British Tory party on this legislation: we would have been murdered in the media. The reason we are doing this is not that we fear being wedged but that we are doing the right thing by all Australians.

I note, however, that the form of the bill now before us is very different to the form originally proposed by the Prime Minister. The premiers agreed with the principles of this measure, but they did not give the government carte blanche to bring in any bill it pleased. The premiers forced the government to make substantial changes to the provisions for control orders and preventative detention orders, and in doing so they greatly improved the bill. As a result of their stand, there is now a two-stage process for control orders involving interim control orders and confirmed control orders. Interim control orders can only be granted by a court, and a court must be satisfied that the making of orders would substantially assist in preventing a terrorist act or that a person has provided training or received training from a listed terrorist organisation and that each of the restrictions is reasonably necessary, appropriate and adopted to protect the public from a

terrorist act, taking into account the impact on the person's circumstances.

Also as a result of the stand the premiers took, we now have the additional safeguard of a public interest monitor, who will be able to ensure that a court has before it a broader range of information than is simply provided by the police. We also have provisions for judicial review, including the provision for a person to apply to the Administrative Appeals Tribunal for a full review. The bill also specifies the ways in which a detained person can be treated and makes failure by the police to comply with these safeguards an offence. There are special provisions to protect detainees under the age of 18. The opposition believe, however, that additional safeguards are needed. These include the creation of a national public interest monitor and a police integrity commission to oversee the AFP, as a necessary safeguard to giving the AFP greater powers. We also propose that the Parliamentary Joint Committee on ASIO, ASIS and DSD have its role expanded to include the monitoring of AFP activities in their antiterrorism role. These provisions, contained in our amendment, would retain the essential functions of the bill, protecting Australians against the very small number of people who may be deluded enough to plan a terrorist attack on this country, while protecting the rights and freedoms that Australian citizens have a right to expect.

Despite our reservations about some aspects of sections of this bill relating to preventative detention and control orders as expressed in our amendments, we accept that they are necessary measures and that the government is acting to put into effect the agreement that it came to with the premiers and chief ministers. The same cannot be said of the sedition section of this bill and we are not persuaded that these provisions are necessary. We are certainly not prepared to support any sedition bill which necessarily involves restrictions on freedom of speech without very clear evidence that such a law is necessary and that it would not be open to abuse.

Of course we are not alone in our opposition to this section of the bill. Just today Liberal senator Brett Mason, one of the government members of the Senate inquiry into the bill, said, 'The committee wasn't convinced that the law enforcement made its case for those new powers.' Senator George Brandis, another government senator and an experienced lawyer, asked why new sedition laws are needed at all when the best legal advice given to the committee was that incitement to violence and similar acts can already be prosecuted under Commonwealth law. Senator Marise Payne said that the committee's recommendation to remove the sedition section completely was something that she and other coalition senators on the committee 'felt strongly about'. It is good to know that there are still some lib-

erals in the Liberal Party and I commend those senators, along with Senators Crossin, Kirk and Ludwig who took a unanimous position and such principled reaction to the sedition proposals of the government.

It is an extraordinary thing that the government is pushing this bill through the House when a number of its own members are unconvinced that an important section of the bill is not justified. There is no reason why, given the widespread disquiet about the sedition section of the bill—even in the government's own ranks—that the bill cannot be divided in two and the sections on which the parliament is in broad agreement passed at once and the sedition section held over until next year to allow time for a proper inquiry. Unlike the control order and other counter-terrorism measures, the sedition section is not a matter of urgency. If the government is genuine about its desire to protect Australia from terrorism, it must understand the need for counter-terrorism laws which have broad communal and community support. If Australians suspect the government is playing politics with this issue, it only undermines the effectiveness of the whole bill.

I represent an electorate which knows something about terrorism. The family of the first Australian to be killed by a suicide bomber, Malki Roth, lives in my electorate. Two of my constituents, Donna Croxford and Sue Maloney, were killed in Bali. My constituents will support tough anti-terrorism legislation but only on two conditions: the first is that there are proper safeguards to prevent the abuse of the additional powers given to the police, ASIO and the government; the second is that there is no suggestion that the government is exploiting the issue for partisan advantage. Given this government's record, my constituents and I will take some persuading on these points. No member of this House dislikes, indeed hates, terrorism more than I do. I want to see every necessary measure taken to protect Australia against it, but I will not support measures which restrict the freedom of Australian citizens without demonstrated good cause. If the government wants to demonstrate its sincerity in this area, it will accept the advice of its own senators and not try to force the sedition sections of this bill through the parliament this year.

I conclude by saying that I am very proud of the roles played by the member for Brisbane and the member for Gellibrand, together with the Leader of the Opposition. They have formulated a responsible, balanced position for the opposition. We have taken a stand which is in the interests of the Australian people in both protecting our freedoms and taking strong measures against terrorism. We are a marked contrast to the disgraceful position of the British Tory Party which has voted against Prime Minister Blair in London. We do this not because of our fear of being wedged by the federal Liberal government but because we take the

national security of Australia and the protection and physical safety of all Australians from international terrorism very seriously. I commend this bill, with the amendments, to the House.

Ms PANOPOULOS (Indi) (7.56 pm)—I am very pleased to be speaking on the Anti-Terrorism Bill (No. 2) 2005. I want to focus on the part of the bill that has caused the most debate within the community, and that is the inclusion of the so-called new sedition laws contained in this legislation. These proposals have without doubt been the most widely debated but least understood aspects of the bill. Sedition provisions have been part of the legislative landscape in Australia since the earliest days. Essentially, the government is updating the Crimes Act to modernise the offences of contemporary language. The late Sir Harry Gibbs actually recommended such changes back in 1991—one of the greatest legal minds and one of the most decent and intellectually honest men and icons this nation has ever seen.

I have never been an advocate of encroaching on an individual's right to speak out and be heard, but this bill is not about trying to contain free speech. It is about holding accountable the fanatics who incite and promote violence against other Australians. We do need to arm ourselves against those who preach hatred and violence against our community, our government and our armed forces. That is what these provisions are intended to achieve. There is nothing to fear in these proposed laws, and freedom of expression not only is a cornerstone that remains in our society but is specifically protected in the bill. When we talk of sedition we are dealing with the promotion of violence in overthrowing democratically elected governments, urging violence against particular groups in the community, urging violence in democratic elections—and what could be worse than that?—and assisting enemies in armed combat against Australian Defence Force personnel.

For those concerned with the so-called limits on free speech and political comment, the bill outlines a good faith defence which is contained, clearly and unambiguously, in proposed section 80.3. Importantly, this proposed section essentially complements the good faith defences contained currently in section 24F of the Crimes Act relating to treason and sedition. We need to have provisions in place to ensure that there is a disincentive and that we stamp out behaviour that is likely to prejudice the security of our nation. The recent arrests in Melbourne and Sydney clearly show the importance of seemingly minor changes to legislation and what benefits can actually accrue in making our society safer and stronger when our legislation is toughened up on the advice of competent authorities and gives them the power to deal with terrorist activities more adequately.

The DEPUTY SPEAKER (Mr Wilkie)—Order! It being 8 pm, in accordance with the resolution agreed to earlier today I call the honourable Attorney-General to sum up the second reading debate.

Mr RUDDOCK (Berowra—Attorney-General) (8.00 pm)—I take this opportunity to thank all members for their contribution to the debate on the Anti-Terrorism Bill (No. 2) 2005. The contributions have been extensive, although not as extensive as some would have liked, but I acknowledge the many contributions. Members opposite have taken the opportunity to discuss a range of issues associated with counter-terrorism more broadly. Some of these issues are relevant to the bill that we have at hand but others not so relevant. The points made by members opposite build on themes identified by the Leader of the Opposition in his amendment to the motion for the second reading of this bill. I will not speak to it again, but let me just say that the government does not support the amendment of the Leader of the Opposition.

The bill before us focuses on a number of very specific matters, namely, law enforcement powers. In countering the domestic terrorism threat, the ability of our agencies to perform that task is affected by not only whether they have the necessary legislative powers but also whether the counter-terrorism framework is wide ranging and robust enough to support and complement their activities. Since September 11, 2001 the government has invested more than \$5.6 billion in well over 100 measures designed to protect Australians at home and our interests abroad. The government's record touches on all of those areas identified by the Leader of the Opposition and more.

Means of transport have been a popular target for terrorists, as we have witnessed in New York, Madrid and London, so the government welcomes the opposition leader's view that transport security is important. The aviation security regime has been further strengthened with the commencement of the new Aviation Transport Security Act in March 2005. Since March this year, over 250 regional airports and airlines have come under the security regime for the first time. They now have detailed security programs and are required to follow stringent security procedures. The Prime Minister announced the government's comprehensive response to the Wheeler review of airport security and policing on 21 September. This was followed by the agreement of the Council of Australian Governments on 27 September to new policing arrangements for our major airports as recommended by Wheeler. This bill further strengthens our aviation security regime by increasing Australian Federal Police and Australian Security Intelligence Organisation access to airline passenger information. In addition, it extends stop, question and search powers for police at transport hubs and other places of mass gathering.