



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**  
**INDEPENDENT NATIONAL SECURITY**  
**LEGISLATION MONITOR BILL 2010**

**Second Reading**

**SPEECH**

**Wednesday, 17 March 2010**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Wednesday, 17 March 2010  
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**Questioner**  
**Speaker** Keenan, Michael, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr KEENAN** (Stirling) (6.53 pm)—One of the most profound consequences of the terrible terrorist acts of 11 September 2001 was the need for governments around the world to assess their capability to deal with the new and frightening threat of international terrorism. In many cases there was a need for the introduction of domestic legislation to try and deal with the new challenges as they appeared. In Australia, as elsewhere, this meant quite a large amount of legislation which tried to address this problem while still providing a balance between the protection of the rights that we all treasure and the civil liberties that we take for granted and the need for public and national security. It is up to governments to make a judgment about what the right balance is. They have to strike a balance between individual rights and the provision of national security, which is of course increasingly demanding. It is not an easy balance to strike, and clearly that balance is open to debate. We have seen that extensively in this chamber with other bills of this type.

Terrorism is a profound challenge to this society and to many others, and we should never make the mistake of underestimating how serious that threat is. The Australian public are entitled to expect that their government will do all it can to provide for their personal security and the national security. That is what I believe much of the legislation that has been introduced in Australia does. It seeks to provide that level of security and confidence that we can meet the kinds of challenges with which we are confronted. There is plenty of evidence in relation to the success we have had in meeting these challenges. That said, governments need to be cautious about the way we act. It is in this context that the opposition welcomes the Independent National Security Legislation Monitor Bill 2010.

I now want to move to the specific provisions of the bill. The central purpose of this legislation is the creation of a safeguard, an independent reviewer, to ensure that Australia's counter-terrorism legislation is effective but also contains appropriate safeguards to protect the rights of individuals in our society. This is not a new idea. As the Attorney mentioned in his speech, the office of the Independent Reviewer of Terrorism Laws has been in place in the United Kingdom for quite some time. The bill, or at least the concept it adopts, has its origins in the reports of the Sheller committee and the Parliamentary Joint Committee on Intelligence and Security in 2006, which were themselves informed by the regime that applies in the United Kingdom.

It is also worth mentioning—and the Attorney neglected this in his speech—that in March 2008 the member for Kooyong moved to introduce a private member's bill to appoint an independent reviewer of terrorism laws. But that motion was gagged by the government. Similar legislation was introduced in the Senate, by Senators Troeth and Humphries, in November 2008. It was passed in the Senate but it failed in the House. The government's bill in many respects resembles the arrangements in force in the UK, as applied by the Independent Reviewer, Lord Carlile. However, there are important differences. The bill comes with a series of amendments which the coalition will support. These amendments make the bill resemble the member for Kooyong's bill in almost every respect, and much more so than the initial version of the government's bill.

It is almost two years since the manager of government business marshalled the numbers to quash the member for Kooyong's initiative, although quietly within this bill the government have adopted most of his policy as their own. The key difference between the government's original bill and the regime proposed by the coalition is the notion of independence. In keeping with the approach of the Rudd government, the bill in its initial form required that the monitor be subject to the direction of the executive—personified by the Prime Minister. Any ad hoc inquiry would have been subject to prime ministerial approval. Any report deriving from it would be both secret—there having been in the initial bill no provision for tabling—and subject to executive micromanagement. These provisions, following the recommendations of the Senate Finance and Public Administration Legislation Committee, have now been abandoned by the government. The government's amendments address the coalition's concerns raised in the committee and restore independence, which is essential to the concept of this office. The coalition will therefore be supporting the amendments and, with carriage of the amendments, this bill, which for practical purposes is our own.

The principle behind this bill is protective. It is to add to the armoury of parliamentary surveillance another mechanism designed to ensure that the counter-terrorism laws, which were amended so as to expand the executive and policing powers of the state in extraordinary times by introducing into our laws exceptional measures, are not allowed to become ordinary measures with the passing of time. The government and the parliament were of the view that some traditional protection should be reviewed and that the policing functions of the state should be extended through such devices as preventive detention orders and control orders, which of course were controversial at the time. It was done in the service of the fundamental obligation of this government and of all parliaments—that is, to protect the public interest.

Those of us who remember those debates also remember that the government which introduced them, the previous Howard government, made it clear at the time that these were extraordinary measures. This bill introduces an Office of the Independent Monitor, which we expect will bring an objective and detached mind to the question of both the functionality of the laws and the necessity for their continuance. This can only be beneficial and it has proven to be beneficial in other jurisdictions. Subject to the amendments I have just foreshadowed, the coalition supports the passage of this bill.