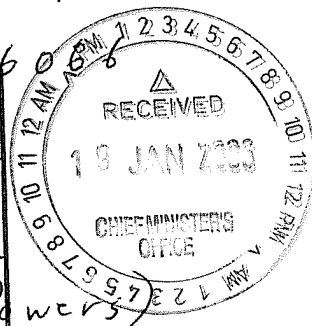


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	A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
SUBMISSION NUMBER	
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Re Terrorism (Extraordinary Temporary Powers)
Bill 2005 - Exposure Draft

Dear Mr Stanhope

This is my submission through you to the
Standing Committee on Legal & Constitutional
Affairs.

Thank you for the opportunity as a member of the
public to be able to make a submission on this
bill, itself I think a good principle. The extra
time accorded to the composition of the bill
over the extreme haste apparent in the Federal
Bill passed before Christmas, shows up as, being
so important, deserving of the consideration.

I support the intention to bring the anti-
terrorism provisions into agreement with the ACT's
Bill of Rights and Australia's agreement to the
International Covenant on Civil & Political Rights
To include 'Temporary' in the title of the bill

(2)

welcomely reflects recognition of what is still a draconian set of laws in terms of what Australians have long believed to expect in what we dub our democracy. In particular it inherently sets aside the principle of "habeas corpus" as arguably necessary at the moment for the sake of security against terrorism.

The significance of your bill may not be limited to what happens in the ACT borders between now & its expiry date, but serve, if not as a model, as a reference point when, at whatever future point COAG & the Federal Government review these sections of its Anti-Terrorism Bill (No 2) 2005.

It therefore seems to me that not only its provisions but also its own review mechanism is important for the future. This would command more respect if that process were enshrined in the legislation and required to be independent. There is to be an annual report to the Legislative

Assembly on your part on the operation and ⁽³⁾
efficacy of the laws & after $4\frac{1}{2}$ years a
more general review on your part, in advance
of the Sunset Clause at 5 years. Division 3
of Part III in the ASIO Act 1979 had en-
shrined in it that a joint Parliamentary
committee in 2005 would hold an enquiry, to
Federal Parliament presenting a Report. Other
independent mechanisms are possible. In the
Senate's Enquiry into the Federal Government's
Bill on the part of its legal committee it was
submitted by Gilbert + Tobin Centre of Public Law
that, in regard to the Sedition & Advocacy ~~Laws~~
offences a review be made independent of the
government either by referring the matter to the
Australian Law Reform Commission, an independent
expert committee or to a parliamentary committee.
In Queensland we hear that the Public Interest
Monitor has an ongoing survey role. I believe this
is desirable for the whole of the ACT Bill.
I was surprised to find no reference in it

(4)

to the Control Orders provided in the Federal Bill. Certainly the State Premiers were only required by the Australian Constitution to enact state laws which would permit the Federal Government to enact laws applying to detention of Terrorist Suspects for longer periods etc but this was not the case with the Control Orders. Yet they were asked to give these their blessing, were they not? Absence of any mention of these in the ACT Bill or in your speech introducing this raises the question of whether they were being tacitly agreed to, whether you would have no bar of them or whether you considered them outside your jurisdiction. It would be surprising if ~~none~~ a number of those provisions were not at variance with the International Covenant on Civil & Political Rights.

In the process of reviews I believe it would be desirable to include any ways the laws may cause avoidable burdens or distress to the families of the suspects. If a detainee is

the kingpin as the financial provider for a family and is unable to work for 14 days this would mean financial loss. Damage to his reputation simply by becoming a suspect may permanently affect a ~~suspect's~~ detainee's future prospects of employment once known & a respected place in his community. In a medical trial of a therapeutic drug not only is its efficacy in combatting an ailment noted but any serious side effects which can sometimes be curtailed.

A small point is that "Children" need defining as to age [Division 2.2.11].

Again on being first detained a suspect is only allowed to notify a few specific types of people of his safety, unavailability and perhaps whereabouts. It may in practical terms be impossible for him to keep many types of important appointments, leaving the other party high & dry or himself at great loss e.g. missing a viva in the course of a qualifying university exam, not picking up a friend from abroad at the airport as promised, not turning up at an interview for a job, not appearing at his own wedding! The police officer detaining him should have wider discretion in making different "legitimate" contacts for him.

Yours sincerely
The Bwiles