



NEW SOUTH WALES COUNCIL FOR CIVIL LIBERTIES INC

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8 July 2004

The Secretariat
Senate Legal & Constitutional Committee
Parliament House
Canberra ACT 2600



By Fax (02) 6277 5794

Dear Sir/Madam,

INQUIRY INTO THE PROVISIONS OF THE ANTI-TERRORISM BILL (NO 2) 2004

This submission is made on behalf of the NSW Council of Civil Liberties in respect of the abovenamed legislation.

The Council is concerned about the provisions of this Bill and the general thrust of the legislation. Having regard to the very strict time restraints to be imposed in relation to the making of submissions on this Bill we make the following general points and would be happy to elaborate further.

The proposed new offence of association with terrorist organization is fundamentally flawed and is a massive attack on the civil liberties of Australian citizens to associate with persons whom they choose. Experience with the consorting legislation at a State level has shown how this has been open to abuse and the genesis of much police corruption. Consorting offences have been consistently held to be unconstitutional and a breach of the Bill of Rights in the United States of America. We are not aware of any comparable jurisdiction that has similar provisions in its anti-terrorism legislation and no compelling reason has been given why this offence should be created.

Furthermore, the exceptions are very limited. For instance even the exception with regard to lawyers is limited to certain types of cases and representation. Certain procedural provisions have the practical effect of reversing the onus of proof and could mean much innocent activity and innocent persons could find themselves tainted with criminality.

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The provisions would have a particularly harsh effect in respect of journalists who are seeking to investigate terrorism matters. For instance, an exposé similar to that run recently by an Australian journalist in Time magazine in respect of certain groups operating in Iraq could well run foul of this legislation. In this regard the legislation would provide further inroads and attacks on the right of free speech and dissemination of information and further constraints on the operation of the news media. Such legislation could be used as a threat by the authorities to stop investigative journalists carrying out exposés of corrupt or abuse of power by law enforcement bodies.

The provisions relating to the *Passports Act* provide a further attack on the liberty of the individual to move freely. A foreign passport is in fact the property of the issuing government. It is not the role of the Australian Government to in effect second guess whether a passport issued by that government should be cancelled or not. There are already existing powers to require people on bail to deposit all their passports as a condition of bail as is set by the courts. There is no need for any further provisions in this regard.

In general, the Council submits that these proposed amendments are an unwarranted massive intrusion of the civil liberties of Australian citizens and should be totally rejected. We apologise for the shortness of our submission given the limited amount of time in which submissions could be made. We would be happy to elaborate further on the above points if required.

Yours faithfully,



David Bernie
Vice President
NSW Council for Civil Liberties