

CHAPTER 1

Introduction

Purpose of the Bill

1.1 On 18 March 2010, the Senate jointly referred the National Security Legislation Amendment Bill 2010 (NS Bill) and the Parliamentary Joint Committee on Law Enforcement Bill 2010 (LE Bill) to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 15 June 2010.¹ On 15 June 2010, the Senate agreed to extend the reporting date until 17 June 2010. The two bills were introduced in the House of Representatives on 18 March 2010 by the Attorney-General, the Hon. Robert McClelland MP.

1.2 The NS Bill implements a package of reforms to Australia's national security and counter-terrorism legislation, as announced by the Australian Government in August 2009.² Many of the proposed reforms are a response to independent and bipartisan parliamentary committee reviews of Australia's national security and counter-terrorism legislation. These reviews are the:

- Inquiry by the Hon. John Clarke QC into the case of Dr Mohamed Haneef (November 2008);
- Inquiry into the proscription of 'terrorist organisations' under the Australian Criminal Code by the Parliamentary Joint Committee on Intelligence and Security (September 2007);
- Review of Security and Counter-Terrorism Legislation by the Parliamentary Joint Committee on Intelligence and Security (December 2006); and
- Review of Sedition Laws in Australia by the Australian Law Reform Commission (July 2006).³

1.3 The NS Bill will primarily amend the *Criminal Code Act 1995* (Criminal Code), the *Crimes Act 1914* (Crimes Act), the *Charter of the United Nations Act 1945*, the *National Security Information (Criminal and Civil Proceedings) Act 2004* (NSI Act) and the *Inspector-General of Intelligence and Security Act 1986*.

1.4 According to the Attorney-General, the reforms in the NS Bill:

1 Journals of the Senate, No. 119 – 18 March 2010, p. 3398.

2 The Hon. Robert McClelland MP, Attorney-General, 'National Security Legislation Discussion Paper', Media Release, 12 August 2009.

3 Explanatory Memorandum, National Security Legislation Amendment Bill 2010, p. 1.

...are designed to give the Australian community confidence that our counter-terrorism laws are precise, appropriately tailored and that our law enforcement and security agencies have the investigative tools they need to counter terrorism.⁴

1.5 The LE Bill also forms part of the package of legislative reform, and aims to promote transparency and ensure that Australian laws are appropriately accountable in their operation.⁵ This bill establishes the Parliamentary Joint Committee on Law Enforcement (PJC-LE) and sets out its functions and administrative arrangements. The PJC-LE replaces and extends the functions of the current Parliamentary Joint Committee on the Australian Crime Commission (PJC-ACC). Its responsibilities will include:

- the provision of broad parliamentary oversight of the Australian Federal Police (AFP) and the Australian Crime Commission (ACC);
- the examination of trends and changes in criminal activities; and
- inquiry into any question in connection with the functions of the PJC-LE that is referred by either House of Parliament.⁶

Conduct of the inquiry

1.6 The committee advertised its inquiry in *The Australian* on 24 March 2010, 7 April 2010 and 21 April 2010, and details of the inquiry, the bills and associated documents were placed on the committee's website. The committee also wrote to 47 organisations and individuals inviting submissions by 30 April 2010.

1.7 The committee received 23 submissions, which are listed at Appendix 1 and available online at http://www.aph.gov.au/senate/committee/legcon_ctte/index.htm.

1.8 The committee held a public hearing in Melbourne on 21 May 2010.

1.9 A list of witnesses who appeared at the hearing is at Appendix 2, and copies of the *Hansard* transcript are available through the internet at <http://www.aph.gov.au/hansard>.

Acknowledgement

1.10 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

4 The Hon. Robert McClelland MP, Attorney-General, *House Hansard*, 18 March 2010, p. 3.

5 The Hon. Robert McClelland MP, Attorney-General, *House Hansard*, 18 March 2010, p. 6.

6 Explanatory Memorandum, Parliamentary Joint Committee on Law Enforcement Bill 2010, p. 1.

Scope of the report

1.11 Chapter 2 provides a brief overview of the bills; Chapter 3 discusses the key issues raised in submissions and evidence in respect of the NS Bill; and Chapter 4 discusses the main issues raised in respect of the LE Bill, as well as providing the committee's conclusions and recommendations.

Notes on references

1.12 References in this report are to individual submissions as received by the committee, not to a bound volume. References to committee *Hansard* are to the proof *Hansard*: page numbers may vary between the proof and the official *Hansard*.