

TERRORISM (EXTRAORDINARY POWERS) AMENDMENT BILL 2015

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 14: Section 26 amended —

Debate was interrupted after the clause had been partly considered.

Mrs M.H. ROBERTS: We have been interrupted in this consideration in detail stage a few times now, but I was raising the issue of the necessity of having “suspects or believes” rather than having just one or the other. Indeed, why not just have “believes” and “belief” rather than “suspects or believes”, and “suspicion or belief”? I think we have had all the explanation we were likely to get on that. I will just turn back to section 26 of the act to make sure that we have covered it off. There are a few other changes to section 26 of the Terrorism (Extraordinary Powers) Act 2005. One is a change to refer to target places or vehicles, which the opposition supports. Then there is a proposed new section 26(5)(d), which reads —

if the warrant authorises the entry of a place that adjoins or is near the target place or target vehicle — a description of the place;

That replaces the old paragraph (d), which appears to be quite similar, so I am wondering what the necessity is for the change of wording there.

Mrs L.M. HARVEY: It has been changed to include a target place or a target vehicle. To place it in context, the proposed wording is —

if the warrant authorises the entry of a place that adjoins or is near the target place or target vehicle — a description of the place;

This replaces the existing paragraph (d), which reads —

if the warrant authorises the entry of a place that adjoins or is near the target place — a description of the place;

It is really to allow for the inclusion of the words “or target vehicle”.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Section 28A inserted —

Mrs M.H. ROBERTS: New section 28A is being inserted with this clause. Can we have an explanation from the minister, in the first instance, about this order to provide or access data listed under proposed section 28A, and why that will be helpful to the police?

Mrs L.M. HARVEY: This proposed section will expand the order to provide access to data to be consistent with the powers in sections 44(2)(e) and 58 and 59 of the Criminal Investigation Act. It also introduces an offence consistent with section 153 of the Criminal Investigation Act, in the event a person who is given an order fails to obey it, which brings with it a fine of \$12 000 or imprisonment of 12 months.

Clause put and passed.

Clause 17: Section 28 amended —

Mrs M.H. ROBERTS: At clause 17, section 28 is amended. This is to do with the execution of a covert search warrant and reporting back to the judge. I see that it is a new provision to be inserted in the act in case the applicant for a covert search warrant has died or is otherwise incapacitated or unavailable, so that the report can be given to the judge by another police officer of the same or higher rank and who has been nominated by the commissioner in writing to replace the original authorised applicant. My colleagues and I have some queries about what stage the minister would be advised of that occurrence. I can see there is no mention of the minister in the bill.

Mrs L.M. HARVEY: The annual reporting about covert search warrants in section 30 covers the commissioner’s requirement to give the minister a report by 31 August each year containing the information for the previous financial year. The requirement for the execution of a covert search warrant is to report back to the judge who has issued the warrant, not the minister.

Mrs M.H. ROBERTS: I am fully cognisant of that; I am curious whether the minister expects to get a report about an incident such as this before the annual report. Presumably, if an incident occurred and these powers

were exercised, I would have thought a brief would be provided to the minister in a more timely fashion than the annual report. Can the minister clarify her expectations in this regard?

Mrs L.M. HARVEY: Section 29 of the act specifically prohibits publication of the information about covert search warrants and that covers any person publishing any confidential information. There is a requirement for the commissioner to advise the minister of an application for a commissioner's warrant. Under this legislation, the minister is obviously able to request information from the commissioner on any matter to do with a covert search warrant.

Clause put and passed.

Clause 18: Section 29 amended —

Mrs M.H. ROBERTS: Clause 18 amends clause 29 of the act. It inserts new words "report or interim report". Can the minister explain why there will be an interim report and what does she expect the nature of an interim report to be?

Mrs L.M. HARVEY: It is envisaged that in the event that the original officer who applied for the warrant was unable to report back, the interim report would be used to give to a replacement officer to give him time to compile a report that would ordinarily be completed by another officer.

Mrs M.H. ROBERTS: Further on that, the minister referred to this a moment ago, but section 29(2) of the act states —

A person must not publish any confidential information in relation to a covert search warrant except in accordance with the approval of the Supreme Court.

Does publishing include informing the minister?

Mrs L.M. HARVEY: No. The provision of information to the minister for reporting purposes under section 30 is different from the information being referred to for a covert search warrant under section 29, so the provision of information to the minister would not be deemed the publication of confidential information under section 29. It is a separate provision to section 30, which is in respect to the report that needs to be tabled.

Clause put and passed.

Clauses 19 to 21 put and passed.

Title put and passed.