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# **Lionel Murphy Memorial Lecture**

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**Does Australia need new  
anti-terror laws?**

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**Does Australia Need New Anti-Terror Laws?**  
*Lionel Murphy Memorial Lecture, 22 October 2014*

George Williams

My topic today is one of great contemporary concern. Next week, Parliament will debate the most significant new anti-terrorism measures introduced in Australia since the London bombings of 2005.

The so-called Foreign Fighters Bill is a large piece of legislation. It runs to nearly 160 pages, and deals with some of the most contentious aspects of Australian law. It seeks to greatly expand the reach of government power in a number of new areas, such as by jailing Australians for up to 10 years for entering any area declared a no-go zone by the government.

You might think that Parliament will take a long, considered look at this Bill. The reality will be different. After a rushed committee process that has recommended largely cosmetic changes to the Bill, debate will begin in the Senate on Monday. This will likely conclude the next day. The Bill will then come on for debate in the House of Representatives, where it will be passed before Parliament rises on Thursday.

This truncated timetable matches the government's desire to have this legislation enacted as quickly as possible. We know the government will almost certainly get its wish because the opposition has agreed to facilitate this. Indeed, the leader of the opposition has written to the Prime Minister indicating that the opposition will ensure the bill is enacted by the end of October, that is, by the end of next week.

I wonder what Lionel Murphy would have made of this process. I doubt he would have been complementary ...

Murphy was of course one of Australia's great reforming Attorneys General. Among many notable achievements in areas such as access to justice, family law and trade practices, he had a particular interest in national security and the accountability of our intelligence agencies.

This was best reflected in his visit (or what the media termed a 'raid') to the Melbourne headquarters of the ASIO in 1973. He did this in order to make a point about the responsibility of the agency to its minister, after ASIO officers failed to satisfy his requests for intelligence on suspected terrorist groups in Australia.

Murphy's approach to national security displayed a level of courage, and boldness, that seems very distant from the contemporary debate.

By contrast, the modern Labor Party is concerned to do everything it possibly can to satisfy the needs of bodies like ASIO, and to be seen in public to be doing so.

There is of course wisdom in this approach. The Australian community faces a very real threat from terrorism. It is thus important that both the government and the opposition act in a considered, appropriate way to ensure that our agencies are well-resourced and that Australia's laws able to protect the community.

This though cannot excuse a lack of the vigilance and scrutiny. Indeed, it is especially important that parliaments and oppositions carefully assess the merits of national security measures of this kind.

This is because such laws pose special dangers to the community and our democracy. It should not be forgotten that danger can arise not only from those who threaten our system of government, but from those who profess to protect it.

This can happen because laws that were once unthinkable become possible in the face of community fear of threat of terrorism. As was stated by Alexander Hamilton in *The Federalist* (No 8) in the late 18th century:

Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war, the continual efforts and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free.

This dynamic arises whenever the security of the nation is threatened, such as during World Wars I and II.

Unlike those conflicts, the so-called 'war on terror' has no conceivable end. It is, after all, not a war on a specific entity, but on a methodology that has been employed from the earliest eras of human history.

In many ways, this makes anti-terror laws of a greater significance than the exceptional measures typically found on the statute book during World Wars I and II. Those conflicts were of more definite duration, and wartime legal measures ceased to operate after the conflict ended.

Indeed, what has at times been called the 'war on terror' has run now for a longer period than either of those worldwide conflicts, and continues unabated with no likely end in sight. Rather than being short-term and transient, our anti-terror laws have taken on a character of permanence.

The realisation that extraordinary anti-terror laws are here to stay has important implications. We can expect that inroads made into human rights by these laws will endure. In doing so, the laws create new precedents, understandings, expectations and political conventions when it comes to the proper limits of government power and the role of the state in protecting human rights. This has produced a recasting of the relationship between security and liberty in Australia.

This is reflected not only in national security, but the copying of these measures into other areas of law. An example is the extension of the control order regime from our national anti-terror legislation to so-called anti-bikie laws. In South Australia, former Premier Mike Rann justified this by saying: "We're allowing similar legislation to that applying to terrorists, because [bikie groups] are terrorists within our community.'

Laws of this kind have now spread throughout the country, and are also encouraging the revival of offences for guilt by association and consorting. The danger is that the exceptional powers granted to combat terrorism will increasingly be used by State governments to prosecute the law and order debate. They are becoming part of the State legislators' toolbox for demonstrating to the community how they are tough on crime.

All this demonstrates how the passage of anti-terror laws by our national Parliament requires heightened, rather than lowered, scrutiny. This is vital if we are to protect the community while not undermining the democratic values that we are hoping to safeguard from terrorism.

With this in mind, I want to address the following three questions:

1. Does Australia need any anti-terror laws?
2. What anti-terror laws do we already have?
3. Does Australia need new anti-terror laws?

### **Does Australia need any anti-terror laws?**

Australia came late to enacting national anti-terror laws. It had no such laws prior to the September 11 attacks, but afterwards quickly made up time.

The absence of national anti-terror laws in Australia prior to September 11 was unsurprising. Apart from isolated incidents such as the 1978 bombing attack on the Commonwealth Heads of Government Regional Meeting at the Sydney Hilton Hotel, Australia had little direct experience of terrorism. It took the attacks of September 11 to provide a catalyst for the passing of Australia's first laws.

The enactment of these laws not only reflected events overseas, but real concerns that terrorism might occur at home. The assessment of the Australian government and its agencies is that terrorism is a persistent threat to the community. I do not doubt the accuracy of this, though it is of course not possible as a citizen to have an informed knowledge of the exact nature of the threat.

The best that we can do is rely upon the blunt assessment provided by Australia's National Terrorism Public Alert System. From 2003 it was set at 'medium', indicating an assessment that a terrorist attack 'could' occur. Most recently, the threat posed by people returning from conflicts in Iraq and Syria has led the government to raise the nation's terrorism public alert level to 'high'. This indicates that a 'terrorist attack is likely'.

Even in the face of such threats, it has been strongly argued that Australia does not need any anti-terror laws, primarily on the basis that terrorism can be dealt with by the existing criminal law. However, that position was not sustainable.

Laws were needed to deal with specific aspects of threat posed by terrorism. For example, the nation needed a statutory framework directed to preventing the financing of terrorist acts overseas so as to ensure that Australians do not enable such attacks. New laws were also required on subjects such as the targeting of terrorist organisations.

More broadly, the criminal law in place in 2001 was not sufficient for the task of preventing terrorist attacks. It is not appropriate in the context of terrorism, as is often the case for other

types of crime, to primarily apply the force of law once an act has been committed so as to bring the perpetrator to justice. Instead, given the potential for catastrophic damage and loss of life, intervention to prevent terrorism is justified at an earlier point in the chain of events that might lead to an attack.

Such prevention can be seen as an act of political pragmatism given the pressing need for Australian governments to take action to protect the community from terrorism. It can also be seen as a measure designed to respect fundamental human rights, including the right to life and to live free of fear.

Anti-terror laws raise important questions as to how early the law should intervene to pin criminal responsibility on actions that may give rise to a terrorist attack. It is arguable that the laws as actually enacted give rise to lengthy jail sentences for preparatory acts too far removed from the actual commission of an act of terrorism.

However, this is not a persuasive argument against the existence of anti-terror laws per se, but for their recalibration so as to ensure that they criminalise actions that can be more realistically described as preparation for committing a terrorist act. On the other hand, the argument for appropriate anti-terror laws is not a case for departing from well-accepted principles of criminal law aimed at ensuring outcomes such as the right to a fair trial. Anti-terror laws must be framed in light of such human rights values.

An effective prevention strategy also required laws to confer powers on agencies such as the Australian Federal Police and ASIO. These organisations required legal authorisation to collect information to head off an attack and the power to target not only individuals that might engage in terrorism but also groups or cells of potential terrorists. Again, the issue here is not so much one of justification, but of proportionality. Australia's law enforcement and intelligence agencies should have sufficient powers to dismantle and prevent threats to the community, but those powers should be carefully tailored to the level of the threat. They should also be subject to strict and transparent safeguards enforced by independent agencies.

Apart from the inadequacy of its existing national laws, Australia was justified in enacting new anti-terror laws after September 11 in fulfilment of its obligations as a member of the international community. For example, Resolution 1373 of the United Nations Security Council, adopted on 28 September 2001, determined that States shall 'take the necessary steps to prevent the commission of terrorist acts' by ensuring that 'terrorist acts are established as serious criminal offences in domestic laws and regulations'. This gave rise to an obligation on the part of Australia to enact laws directed at this problem. While Australia had criminal laws in place that could have been used to *prosecute* individuals for acts of terrorism, it was unsustainable for Australia to argue that it already had sufficient laws in place directed at the *prevention* of terrorism.

Finally, Australia's anti-terror laws can be seen as having an important moral dimension. In an era punctuated by terrorist attacks starting with New York and Washington and followed by Bali, Madrid, London, Mumbai, Jakarta and elsewhere, it was appropriate that Australia outlawed such forms of political violence. Enacting a specific crime of terrorism signalled that, as a society, Australia rejects the use of violence in the pursuit of a political, religious or ideological goal.

Australian governments and parliaments deserve credit for recognising that Australia required new laws directed towards protecting the community from the threat of terrorism. These institutions were correct in their assessment that such laws ought to be directed particularly to the prevention of such acts. In hindsight, Australia's legal system prior to 9/11 reflected complacency about the potential for political violence in Australia and the region. The task then for legislators was not to determine whether anti-terror law should be enacted, but to bring them into being in an appropriate form, including in a way that gave due respect to fundamental human rights

### **What anti-terror laws do we already have?**

The problem arising from Australia's anti-terror laws is not that they exist, but the extraordinary and far reaching form in which they were enacted. Australia's response to September 11 was similar to that of many other countries.

It emphasised the need to deviate from the ordinary criminal law — with its emphasis on punishment of individuals after the fact — by preventing terrorist acts from occurring in the first place. The result was a bout of lawmaking that continues to challenge long-held assumptions as to the proper limits of the law, and criminal law in particular, and also accepted understandings of the respective roles of the executive, parliament and the judiciary.

One remarkable feature of Australia's response to terrorism is the sheer volume of lawmaking. In the years since September 11, Australia's Federal Parliament, and so not including the laws of the States and Territories, has enacted 62 anti-terror laws.

This can be divided into three periods. From 11 September 2001 to the fall of Prime Minister Howard's Coalition government in November 2007, the Federal Parliament enacted 48 anti-terror laws, an average of a new anti-terror statute every 6.7 weeks.

Across the following 6 years of the Rudd, Gillard and Rudd governments, the Federal Parliament enacted 13 of these laws, an average of one new law every six months or so. Finally, 1 new anti-terror laws has so far been passed under the watch of the Abbott government from its election victory in September 2013.

These statistics are eye-catching and, indeed, Australia's output of anti-terror laws exceeds that of nations facing a higher threat level.

In a comparative analysis of the anti-terror laws passed in a range of democratic nations, Kent Roach has described Australia's response as being one of 'hyper-legislation' as a result of Australia getting 'caught up in the 9/11 effect'. He found:

Australia has exceeded the United Kingdom, the United States, and Canada in the sheer number of new antiterrorism laws that it has enacted since 9/11 ... this degree of legislative activism is striking compared even to the United Kingdom's active agenda and much greater than the pace of legislation in the United States or Canada. Australia's hyper-legislation strained the ability of the parliamentary opposition and civil society to keep up, let alone provide effective opposition to, the relentless legislative output.

Australia's national anti-terror laws are striking not just in their volume, but, more significantly, in their reach. In particular, Australia's the laws:

- define a 'terrorist act' as conduct engaged in or threats made for the purpose of advancing a 'political, religious or ideological cause'. The conduct or threat must be designed to coerce a government, influence a government by intimidation, or intimidate a section of the public. The conduct or threat must also cause any of a number of harms, ranging from death and serious bodily harm to endangering a person's life, seriously interfering with electronic systems, or creating a 'serious risk to the health or safety of ... a section of the public'. The definition excludes advocacy, protest, dissent or industrial action so long as there is no intention to cause things such as serious physical harm, death or a serious risk to the health or safety of the public. The definition is more carefully tailored than others in some nations, but still encompasses liberation movements, such as the struggle of Nelson Mandela against apartheid, the armed resistance in East Timor or those seeking to bring down the Syrian government.
- create a range of new offences, including that of committing a 'terrorist act'. Other provisions create a wide range of offences for conduct preparatory to a terrorist act. These include: providing or receiving training connected with terrorist acts; possessing 'things' connected with terrorist acts; and collecting or making documents likely to facilitate terrorist acts. The penalties are severe. For example, a maximum penalty of life imprisonment is imposed where a person provides or collects funds and is reckless as to whether those funds will be used to facilitate or engage in a terrorist act, or, more generally, where the person does 'any act in preparation for, or planning, a terrorist act'. These offences can be combined with the 'inchoate' offences that apply to other Commonwealth crimes, such as that for attempt or conspiracy. The offences thus render individuals liable to serious penalties even before there is what would ordinarily be regarded as the formation of criminal intent. It is this predictive approach, exemplified in the doubly pre-emptive offence of 'conspiracy to do an act in preparation for a terrorist act', which gives the offences such an extraordinary reach.
- contain remodelled sedition offences whereby it is an offence punishable by seven years' imprisonment to urge the overthrow of the Constitution or government by force or violence, or to urge interference in parliamentary elections. It is also an offence to urge violence against a group or an individual on the basis of their race, religion or political opinion.
- enable warrantless searches whereby police officers may enter premises without a warrant in order to prevent a thing from being used in connection with a terrorism offence, or where there is a serious and imminent threat to a person's life, health or safety.
- provide a longer investigation period for terrorism offences (24 hours) compared to non-terrorism offences (12 hours). In the case of a terrorism offence, the investigating authorities may also apply to a magistrate for up to seven days of 'dead time' if they need to suspend or delay questioning the suspect (for example, while making overseas inquiries in a different time zone).
- enable the proscription, or banning, of organisations by government decree. The Attorney-General can make a written declaration that an organisation is a 'terrorist organisation'. Once a declaration is made, a range of offences apply to individuals who are linked to that organisation, including: directing the activities of a terrorist organisation; intentionally being a member of a terrorist organisation; recruiting for a terrorist organisation; receiving funds from or giving funds to a terrorist organisation; providing 'support' to a terrorist organisation; and associating with a terrorist organisation.

- include a ‘preventative detention order’ regime in which individuals may be taken into custody, without charge or trial, and detained for a maximum period of 48 hours where this is reasonably necessary to prevent an ‘imminent’ terrorist act from occurring or to preserve evidence relating to a recent terrorist act. An extended period of detention is then possible under State law up to a maximum of 14 days. They can only contact their employer and one family member to say they are ‘safe, but not able to be contacted for the time being’.
- include a ‘control order’ regime, in which individuals not suspected of any criminal offence may be subject to a wide range of restrictions that can regulate almost every aspect of their life, ranging from where they work or live, to whom they can talk, where those restrictions are ‘reasonably necessary, and reasonably appropriate and adapted, for the purpose of protecting the public from a terrorist act.’ A person can even be subject to house arrest. All this can occur without a trial, and indeed control orders ignore the concept of guilt and innocence altogether.
- provide extraordinary new powers to ASIO whereby the Director-General of ASIO can apply to the Attorney-General for questioning and detention warrants. A person may be questioned in eight hour blocks up to a maximum of 24 hours where this would ‘substantially assist the collection of intelligence that is important in relation to a terrorism offence’. In addition, a person may be detained for up to a week for questioning where there are reasonable grounds to believe that he or she will alert another person involved in a terrorism offence, not appear before ASIO for questioning, or destroy a record or thing that may be requested under the warrant. It is an offence punishable by five years’ imprisonment to refuse to answer ASIO’s questions, or to give false or misleading information. These warrants may be issued against non-suspects, including family members, journalists, children between the ages of 16 and 18 and innocent bystanders. It is an offence, while a warrant is in effect and for two years afterwards, to disclose ‘operational information’ (including ‘information that [ASIO] has or had’) that a person has as a direct or indirect result of the issue or execution of the warrant.
- new powers of electronic surveillance, not only for terrorist suspects, but also for those who the authorities believe are ‘likely to communicate’ with the person under investigation.
- additional powers to the Attorney General to close down a courtroom from public view where sensitive national security information is likely to be disclosed. That information may then be led against a defendant in summary or redacted form. Decisions as to whether the evidence will be admitted are decided in a closed hearing from which the defendant and even his or her legal representative may be excluded. When deciding whether and in what form to admit the evidence, the judge or magistrate is directed to give ‘greatest weight’ to the interests of national security over other considerations.
- require that publications, films or computer games that ‘advocate’ the doing of a terrorist act must be classified as ‘Refused Classification’. This includes where the publication, film or computer game ‘directly praises the doing of a terrorist act in circumstances where there is a risk that such a praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person might suffer) to engage in a terrorist act’.

As this list of law demonstrates, the Australian government already has formidable powers at its disposal to combat the threat of terrorism. Indeed, some of these powers would be more at home in a police state, than a democratic nation like Australia.



These powers already extend to the possibility that people will return to our shores from conflicts in Syria and Iraq with a radical outlook and training in terrorism.

Indeed, Australia's existing counterterrorism laws have been specifically constructed to respond to threats of this kind. That is because the problem of people returning to Australia in such circumstances is not new. Past parliaments responded to the possibility that Australians would return home from conflicts in Afghanistan and elsewhere intending to inflict harm upon the community.

### **Does Australia need new anti-terror laws?**

It is against this background that we must assess the Abbott government's proposals for what it called three tranches of new anti-terrorism measures:

1. National Security Legislation Amendment Act (No 1) 2014, which was passed by Parliament on 1 October. It deals with a broad range of matters, excluding extending ASIO's powers of intelligence gathering to computer networks, and granting ASIO officers immunity from prosecution when they engage in special operations.
2. Counter-Terrorism Legislation (Foreign Fighters) Bill 2014, the largest of the lot, which deals with a broad range of matters connected with Australians returning from overseas conflicts, as well as a number of other unrelated matters. This is the bill that will be debated, and almost certainly passed, by Parliament next week.
3. As yet unreleased Bill requiring telecommunication and other companies to retain metadata information likely on calls and internet use likely for two years for access by government agencies.

Let me say at the outset that the Abbott government is right to propose a number of the changes contained in its bills. Many existing laws are in poor shape after being rushed through prior parliaments, while others need updating for new technology. For example:

1. Modernising the law to ensure that ASIO powers of surveillance keep up with changes in technology, such as the development of computer networks.
2. The process of cancelling a person's passport so that they cannot leave the country to fight abroad can be slow and unwieldy. Because of this, the government is right to propose a new power that will enable passports to be suspended temporarily until a final decision is made.
3. It has also proven difficult to prosecute people who have engaged in conflicts overseas. In light of this, the Bill contains a sensible measure that will make it easier to introduce evidence into Australian courts about the activities of these people.

These measures can rightly be described as urgent and necessary. Indeed, government might be criticised for taking so long to bring these measures into Parliament. They ought to have been enacted months, or even years ago.

Unfortunately, other aspects of the government's agenda are unjustified or ill-conceived. Indeed, rather than representing an incremental, necessary set of changes to these laws, it has embarked upon the biggest expansion of Australia's anti-terror laws in nearly a decade.

These further changes demonstrate a troubling feature of Australian lawmaking in this area. Our parliamentarians always prove willing to ratchet up the powers offered agencies to fight

terrorism. However, examples of where governments are prepared to wind back those powers, even where such powers have been shown to be ineffective or unnecessary, are almost non-existent.

Among the Abbott government's new anti-terror measures, those already enacted include:

- Expanding ASIO's intelligence gathering capacities from computers to whole computer networks, without defining what a computer network is or explicitly making it clear that its powers can only be accessed in regard to those areas of the computer network strictly related to the target.
- Providing up to 10 years jail for any person, including a journalist, who reveals anything to do with an ASIO special intelligence operation. As amended, section 35P of the ASIO Act now states:

- (1) A person commits an offence if:
    - (a) the person discloses information; and
    - (b) the information relates to a special intelligence operation.
- Penalty: Imprisonment for 5 years.

The penalty is increased for 10 years if, for example, 'the disclosure of the information will endanger the health or safety of any person or prejudice the effective conduct of a special intelligence operation'.

The provisions are broad enough to capture any reporting by a journalist not only about a special intelligence operation, but about anything that 'relates to' such an operation. No defence is provided for reporting on the public interest, such as if the story reveals incompetence, wrongdoing, or other matters such as the death of an Australian citizen at the hands of an ASIO officer. The provision will also be very difficult for journalists to comply with given that they will not actually know when a special intelligence authorisation has been authorised, let alone when information in some way relates to such an operation. It is already been said publicly by number of journalists that the provision will have a 'chilling effect' upon their activities.

And those to be debated next week include:

- Extending for a decade the operation of anti-terror three regimes not now found in any comparable country, such as the United States, the United Kingdom or Canada: the ASIO questioning and detain regime, (which not even Israel has), preventative detention orders and control orders. Australia copied the last from the United Kingdom. However, the United Kingdom has since been repealed in favour of a less intrusive regime, leaving Australia alone in maintaining such a law.

These three regimes were enacted at height of the 'war on terror', and are due to expire in 12 to 18 months' time. None has proven to be effective or necessary, and all have been recommended for repeal by independent inquiries and reports.

- Subjecting Australians to up to 10 years in jail for any area declared by the government to be a no-go zone on the basis that a listed terrorist organisation is engaging in hostile activity there. Iraq and Syria certainly come to mind, but so do

other nations such as Israel, Indonesia and even, given past experience, the United States.

A person could escape conviction only by proving that they went to the area *solely* for a reason identified by the government as legitimate. The Bill says that it is a defence to enter a no-go zone such as to provide humanitarian aid or visit a family member. On the other hand, a person could be jailed if they went there to visit a friend, undertake freelance journalism, for a religious pilgrimage or to conduct business.

- a new offence for advocating terrorism by which person can be subject to 5 years imprisonment for general speech about terrorism without any requirement to actually incite violence, which is already the subject of a criminal offence. The idea revives concerns about sedition laws that were the subject of such vigorous debate from 2005.
- Providing additional grounds upon which organisations can be declared to be terrorist organisations. This would allow organisations to be banned where the organisation promotes or encourages terrorism. This extends an already problematic regime.

An organisation could be proscribed for advocacy on the basis of the views expressed by a few of its members. These views might not be representative of the views of all members of that organisation and, as such, a member of that organisation could be exposed to a range of serious criminal offences, including 10 years in jail merely for their membership, on the basis of views that they do not even agree with or support. Offences such as this represent the extreme end of restrictions upon freedom of speech.

It is remarkable that this year the government has so quickly moved from assaulting section 18C of the *Racial Discrimination Act* on the basis that it restricts freedom of speech, to proposing a number of new restrictions of a far more severe kind on exactly that freedom.

## **Conclusion**

Australia does need new anti-terror laws, but many of the measures being proposed by the Abbott government go far beyond what is required. It is clear that Australia is once again going through a period of government overreach and overreaction to threat of terrorism. It says a lot that Australia is contemplating measures not seen in nations such as the United States and the United Kingdom, even given the higher threat of terrorism they face.

This reveals a key difference between the structures of government of these nations in Australia. In every other democratic nation, fundamental democratic rights, such as freedom of speech, are protected by way of a Bill of Rights or human rights act. Such protection can prove decisive at times of community fear in ensuring that responses to terrorism respect the values and principles that underlie the long term health of the democracy.

By contrast, in Australia, few if any of these principles are given legal protection. Without such checks and balances, the question of how far a politician should go in combating terrorism is left almost always only to the political realm. Indeed, the only check or balance available may be to trust the wisdom and good sense of our elected representatives. As recent debates show, this is inadequate, and dangerous. Not only are politicians subject to the same propensity to overreact as the community, but they also stand to benefit in political terms from doing so. Being disproportionately harsh on terrorism, even at the cost of fundamental human rights, is hardly a vote loser.

All this goes to show how Australia's new anti-terror laws expose structural problems with Australia's system of law. That system is dependent upon an effective parliamentary process and a culture of respect among political leaders when it comes to democratic values, rule of law principles and human rights. Anti-terror laws reveal how many of the bedrock principles of Australian democracy are actually only assumptions and conventions within the political system rather than hard legal rules that demand compliance. The laws reveal the capacity of politicians and the Federal Parliament to contravene these values and, in doing so, to create new and problematic precedents for the making of other laws.

It is on this note I want to finish, not with a quote from Lionel Murphy, but from one of his political opponents. One antidote to many of Australia's anti-terror measures is a healthy respect for liberalism and individual liberty. The founder of the Liberal party, Australia's longest serving Prime Minister Sir Robert Menzies, spoke often on the subject.

On 3 September 1939, Menzies announced to the nation that we were at war. It was a decision that would cost many Australian lives. Four days later, on 7 September, he introduced the National Security Bill 1939 into Parliament. Unlike Prime Minister Tony Abbott, who has recently talked of the need to sacrifice our liberties in favour of national security, Menzies said this:

Whatever may be the extent of the power that may be taken to govern, to direct and to control by regulation, there must be as little interference with individual rights as is consistent with concerted national effort ... the greatest tragedy that could overcome a country would be for it to fight a successful war in defence of liberty and to lose its own liberty in the process.

Unfortunately, this is a sentiment we will not hear much of when Parliament debates Australia's latest anti-terror measure next week.