

The Anti-Terrorism Act Bill C-36



Scott Reid, MP
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257-8130



Dear Constituent,

On October 15, the government introduced Bill C-36, the *Anti-Terrorism Act*. This bill introduces a number of long-overdue measures to fight terrorism. These include:

- New investigative tools for the police;
- Prison sentences for aiding or concealing a terrorist;
- Making it illegal to raise money for terrorist organizations.

It was because of these measures (which are described in detail inside this brochure) that I voted in favour of allowing Bill C-36 to be sent to a parliamentary committee for further study.

However, the *Anti-Terrorism Act* was hastily drafted and contains a number of provisions that could profoundly reduce some of the traditional freedoms that Canadians treasure. For example, we might lose the right to ask what personal information the government has collected; any person could be arrested without warrant; and, no compensation would be provided for people mistakenly arrested and detained, even after their innocence had been proved.

These provisions are so profound that many MPs have demanded that the government amend Bill C-36 so that it would cease to be effective after a specified period unless Parliament votes to re-enact the law. So far, the government has refused to allow such a Sunset Clause.

If the government changes its mind, I will vote in favour of the *Anti-Terrorism Act*, but it is possible that the government will not agree to such a clause. In this case, I would prefer to vote against Bill C-36. **However I will not vote against the law unless authorized by you to do so.** Please fill in the attached ballot, telling me how you want me to vote. I will abide by the wishes of Lanark-Carleton voters.

Please read the detailed analysis of Bill C-36 inside this brochure before you vote.

Sincerely,

Scott Reid, MP

CONSTITUENCY REFERENDUM #3

Should Scott Reid vote against Bill C-36 if it is not amended
to better protect our basic freedoms?

How Bill C-36 Protects

The new *Anti-Terrorism Act*, Bill C-36, is a package of legal measures which take aim at both terrorist organizations and operations, and at individual acts of terrorism. It is intended to strengthen investigation, prosecution, and prevention of terrorist activities domestically and abroad.

The Government's stated Anti-Terrorism Plan has four objectives:

- To stop terrorists from getting into Canada, and to protect Canadians from terrorist acts;
- To improve the tools of our law enforcement agencies to identify, prosecute, and convict terrorists;
- To prevent the closing of the Canada-US border by American anti-terrorism measures;
- To work within the international community to bring terrorists to justice.

Defining Terrorism and Related Offences

- Bill C-36 defines “terrorism” and “terrorist activity” for the first time.
- It would create new Criminal Code offences related to terrorism.
- The bill would make it an offence to knowingly participate in, contribute to, or facilitate the activities of a terrorist group, or to instruct anyone to carry out a terrorist activity or an activity on behalf of a terrorist group.
- Bill C-36 would make it an offence to knowingly harbour or conceal a terrorist.

New Investigative Tools

- Bill C-36 would make it easier for agencies such as the RCMP to obtain wire-taps for the surveillance of terrorism suspects.
- The maximum duration of a wire-tap warrant would be extended six fold.
- Police would no longer have to prove to a judge that wire-taps are a “last resort”, and therefore, a justified violation of personal privacy.
- Bill C-36 would allow police to arrest people without warrant if they believe that such arrests might prevent terrorist activity.
- Bill C-36 would allow police to compel people to provide information relating to terrorism or suspected terrorists to an investigating judge, without any charges having been laid against the suspect, and without a crime actually having been committed.
- The DNA warrant scheme and data bank would be extended to include terrorist crimes.

us from Terrorism

Tougher Sentencing

- 10 years for harbouring or concealing a terrorist (new offence);
- 10 years for participating in, or contributing to a terrorist act (new offence);
- 14 years for facilitating a terrorist act (new offence);
- Life imprisonment for ordering a terrorist act;
- The new bill also creates a provision for *consecutive sentencing*, which currently does not exist in our legal system. This would mean that the above penalties would be in addition to ordinary jail terms.

New Secrecy Provisions

- The *Official Secrets Act* would be updated and tightened to address national security concerns.
- The *Official Secrets Act* would be renamed the *Security of Information Act*.
- The secrecy law would be broadened to allow the government to protect much more of its military and police information under the umbrella of “issues of national security”.

Cutting Off Funds to Terrorists

- Bill C-36 would help cut off financial support for terrorists by making it a crime to knowingly collect or give funds – directly or indirectly – to groups involved in terrorist activity.
- The bill removes charitable status from organizations involved in, or supportive of, terrorist activity.
- This bill also makes it easier for law enforcement agencies to freeze and seize the assets of organizations involved in terrorism.
- The bill would ratify the *International Convention for the Suppression of the Financing of Terrorism*.

How Bill C-36 Infringes on the

Many observers have expressed concern with the dramatic limitations that the new *Anti-Terrorism Act* will place on the freedoms of law-abiding Canadians. Bill C-36 was rushed to completion in only a few weeks following the September 11 bombings. As a result, it is sloppily drafted and has not been subjected to the scrutiny that is normal for such an important bill.

The four infringements that have attracted the most attention are the following:

- Bill C-36 gives the police the power of “preventive detention”;
- It allows no financial compensation for innocent Canadians who have been mistakenly identified as terrorists or as supporters of terrorism.
- The bill allows for the suspension of key provisions of Canada’s privacy and access to information laws;
- Bill C-36 creates new categories of “thoughtcrime” by focussing on the ideology of terrorists rather than on the crimes they commit.

The Dangers of “Preventive Detention”

Bill C-36 permits the arrest of any individual, without a warrant, if the police believe that such an arrest might prevent terrorist activity. A typical concern about how this power might be abused is expressed by *National Post* columnist Christie Blatchford:

If an officer believes, for instance, that [person] X is about to commit a terrorist activity—not that he has, but that he will—he can if necessary arrest him without warrant and keep him in custody for as long as 48 hours.

Then if the officer convinces a judge that he has reasonable grounds for his suspicion ... X can be ordered into a recognizance [a “recognizance” is a kind of bail condition] “to keep the peace and be of good behaviour” and forced to agree to “other reasonable conditions” prescribed by the judge.

If X refuses to agree to such restrictions upon his liberty and life, the judge “may commit the person” to jail for a year

It’s a hell of a tool. Even if it could be handed only to responsible, careful police officers, I would still find it troubling that a Canadian citizen could be sent to jail with no charge, no trial, no conviction.

On the other side of the equation, it should be noted that there is a powerful argument in defence of preventive detention. This was well expressed by Justice Minister Anne McLellan, who has stated: “If we don’t stop the terrorists getting on the plane, it’s too late. We must be able to disable the organizations before they are able to put hijackers on planes or threaten our sense of security.”

Traditional Freedoms of Canadians

No Compensation for the Wrongly Accused

Anti-terrorism laws in both Britain and the United States include provisions to ensure that innocent persons who have been mistakenly identified as terrorists or as supporters of terrorism will be compensated for any financial or property damage that this causes. The British legislation states, “The Secretary of State shall pay compensation to any person who suffers loss or damage as a result of the act.”

Bill C-36 does not offer any compensation at all to the wrongly accused. When asked about this in Parliament, the government has suggested that any person who is harmed should look to existing civil remedies. However, existing remedies are weak. In some cases, it has taken years for compensation to be paid to innocent individuals who had been wrongly convicted of murder.

Yet several cases of arrests and detentions due to mistaken identity have already taken place in Canada since September 11. Under the new preventive detention provisions of Bill C-36, the potential for serious harm to be done to innocent individuals is greatly increased.

A Dangerous Focus on Illegal Thoughts Instead of Illegal Actions

Bill C-36 makes a novel and potentially dangerous distinction between crimes committed for ideological reasons and those committed for other reasons. Former Manitoba Justice Minister Vic Toews raised this concern in the House of Commons Justice Committee on October 18:

I’m very concerned about this definition of “terrorist activity.” Specifically, I refer to the provision on page 13 [of Bill C-36], which is an integral part of this definition. It states: “An act or omission in or outside of Canada that is committed in whole or in part for a political, religious or ideological purpose, objective or cause.”

I have grave concerns, not only from a prosecutorial point of view, because what does a prosecutor do? Does he bring evidence to show that a particular religious group believes that it’s all right to bomb, or this is the objective that the person had? Wouldn’t one think that it is sufficient that you plant a bomb for the purposes of causing terror, not matter whether it’s motivated by religious, philosophical or other purposes?

I’m very concerned about our government, and our agencies, and our courts, looking at the personal views of individuals, religious views, because I don’t want our courts to go on religious witch hunts, or ideological witch hunts.

I don’t care what a person believes. That’s that person’s business. What I am concerned about is how he carries out those beliefs. If they plant bombs for the purpose of destabilizing our democratic country, that’s sufficient terror.

The Veil of Secrecy

Canada's secrecy laws ensure that we can gain access to many important government documents and files. These laws are the means by which opposition parties and the media uncover corruption, abuse of power and conflict of interest. Bill C-36 would extend the powers of the federal government to withhold information which it deems to be vital to national security. The law would allow the Attorney General to issue "certificates" of permanent exemption for any information.

As Liberal MP John Bryden has noted, Bill C-36 "allows the government to withhold information pertaining to security issues forever....That is the excuse that has been used by dictatorships throughout history and around the world."

Canada's Privacy Commissioner, George Radwanski, warns that as the law is currently written, "nothing would preclude the issuance of certificates that prohibited the disclosure of *all* information in the hands of a given department or agency."

Why Bill C-36 needs a "Sunset Clause"

Mr. Chrétien ... thinks a non-binding parliamentary "review" of the legislation after three years will suffice. "If you can guarantee there will be no problem with terrorism in three years, I have no problem with a sunset clause...But we don't know. The problem will not necessarily disappear that easily."

In other words, get used to this unparalleled enhancement of state power; it will be on the books in perpetuity. Such is the Chrétien message, and it is disgraceful.

— Editorial, *Globe and Mail*, 23 October 2001

The...difference between a sunset clause and parliamentary review is the onus: Under a sunset clause, the bill dies unless expressly renewed; Under a review, the bill lives until expressly repealed....If the bill turns out to be as odious to civil rights as some people fear, we should want to get rid of it, no matter the inconvenience to police. Conversely, if our worries about the bill prove groundless, or if the threat of terrorism remains as great as it seems today, we will presumably know that well in advance of the bill's expiry date. This bears repeating. Nothing about a sunset clause prevents Parliament from repassing the legislation, exactly as before.

— Andrew Coyne, *National Post*, 24 October 2001

We support calls for the new anti-terrorism bill to be amended to include a "sunset clause" that will make it lapse after a clearly defined period of time unless Parliament specifically re-enacts it. Such a clause would pose no danger to the fight against terror, because the measures in the bill, if adopted by Parliament, would take effect immediately and could be re-enacted if parliamentarians deem them still to be necessary when they were scheduled to lapse.

— Editorial, *Ottawa Citizen*, 22 October 2001

To see the complete text of all quoted material, visit www.lanark-carleton.ca

Ballot

If the Government refuses to add a "Sunset Clause" to Bill C-36, how do you want me to vote in Parliament?

(If a Sunset Clause is added, I will vote for the Bill).



Vote FOR Bill C-36
even if it has no Sunset Clause



Vote AGAINST Bill C-36
if it has no Sunset Clause

You must mark this ballot, in the circle of either the YES or the NO tabs, and I must receive it by November 27, 2001 for your vote to count in this referendum.

NOTE: If the vote on Bill C-36 is held before November 27, I will count the ballots received by the date of the vote, and I will vote accordingly.

Name _____
Address _____
Town _____
Postal Code _____

COMMENTS

Please fold over, tape shut, and mail to my office, postage-free.



Name _____
Street _____
Town _____
Postal Code _____

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Required
for letters to
Members
of Parliament**



**Scott Reid, MP
House of Commons
Ottawa, Ontario K1A 0A6**

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Constituency Referendum

#3 Bill C-36: *The Anti-Terrorism Act*

Please fill out the ballot on the reverse side, remove it from the brochure, tape it shut, and return it postage free to my office.