

Australian government seeks to push through revamped military call-out bill

Mike Head**29 August 2000**

The Australian government and the opposition Labor Party are pushing a military call-out Bill through the Senate this week in time for next month's planned protests at the World Economic Forum in Melbourne and the Olympic Games in Sydney.

While both the government and the Labor Party have proposed minor amendments in an effort to meet objections from some state governments and to head off public concern, the Bill's essential content remains the same: to authorise the mobilisation of the armed forces to suppress civilian protests and unrest.

The government has seized upon the Olympics to tackle a long-standing weakness in the machinery of the state—a centuries-old English legal and political taboo on the use of the defence forces against demonstrators and government opponents on domestic soil.

During the Sydney Olympics, 4,000 troops will be on duty in and around the city, including the Special Air Services (SAS) and other elite commandos. Deployed under the pretext of guarding against terrorism, they can, if the Bill is passed, be used against an array of political protests. The Senate has been told that the army has 1,500 sets of riot gear stored at the Holsworthy barracks in western Sydney for possible use at the Games.

The Olympics mobilisation is also being used to make a permanent shift in the military's role. Until now, the deployment of troops within the country has been both politically controversial and clouded by legal uncertainties. On the only previous occasion when a federal government called out the military in an urban situation—following a bomb blast outside a Commonwealth leaders meeting at the Sydney Hilton Hotel in 1978—the sight of armed soldiers patrolling the highways and streets caused considerable public consternation.

In addition, great doubts surrounded the constitutional and legal validity of the operation. Furthermore, it was not clear that soldiers could fire upon civilians, issue orders or seize and search people, buildings and vehicles. The government's *Defence Legislation Amendment (Aid to Civilian Authorities) Bill* is an attempt to remove these unclarities.

In a joint news release on August 23, Attorney-General Daryl Williams and Defence Minister John Moore asserted that the Bill does not change the circumstances under which the armed forces can be called out. "State, Territory and Commonwealth Governments have always had the power to request call out of the Defence Force in Australia in rare situations where police need help to deal with an extreme emergency," they said.

At present, however, the federal government has no power to deploy troops unilaterally. The only provision for calling out the troops is Section 119 of the Australian Constitution—adopted in 1901 after convulsive strikes by sheep shearers and waterfront workers in the

1890s. It allows state governments to request federal assistance to protect themselves against "domestic violence".

Moreover, military personnel who are mobilised have, until now, been subject to the civilian legal system, so that they can be liable for any deaths, injuries and damage they cause. The Bill will give the military the power to use deadly force where "reasonable and necessary"—in other words to shoot to kill with impunity. Soldiers will also be able to search and detain people, seize and search premises and vehicles without a warrant, cordon off areas and stop all movement in an area. None of these powers currently exist. They are also wider than the powers ordinarily enjoyed by the police.

One of the government's own officials has admitted that the Bill makes an historic transfer of power to the military. A principal legal officer of the Attorney-General's Department told a Senate committee examining the Bill that "a distinct development with the Bill—just to be very clear about it—is that it is the first time that I know of that there is a direct conferral of powers on Defence within Australia".

A former head of the Defence Department, Paul Barratt has defended the Bill as being necessary to give the armed forces a "licence to kill". In a *Sydney Morning Herald* column he wrote: "And make no mistake about it. When we get to the stage that our civilian authorities request an assault by a CT [Counter Terrorist Unit with the Special Air Service (SAS) Regiment] squad to rescue hostages, the negotiation phase is over and we are talking about lethal force. People will die."

Originally, the government, aided by the Labor Party, tried to introduce the Bill without any publicity—not even an official media release. With bipartisan support, the House of Representatives unanimously passed the Bill in a single day, after a two-hour discussion on June 28. Labor's defence spokesman Stephen Martin pledged full support and committed the opposition to having the Bill passed before the Olympics. "It is important that a spirit of bipartisanship be exhibited ... on something as important as this," he told the House of Representatives.

On August 5, however, the contents of the Bill were first revealed publicly on the *World Socialist Web Site* [Australian government uses Sydney Olympics to strengthen military powers] and some media outlets then began to report on the legislation. Newspapers received numerous letters protesting against the Bill, forcing Prime Minister John Howard to intervene, claiming that no sane politician would deploy the army, except in extreme circumstances.

In fact the wording of the Bill shows that those "extreme circumstances" can include any political protests or civil disturbances that the government considers a threat to its interests. The Bill allows the Prime Minister, Attorney-General and Defence Minister to

authorise a call-out order when they believe that “domestic violence” is occurring, or is likely to occur, in order to protect “Commonwealth interests”. Neither “domestic violence” nor “Commonwealth interests” is defined.

Now, seeking to cover its own tracks, the Labor Party has moved token amendments, and these are likely to be embraced by the government as well as the two other Senate parties—the Australian Democrats and the Greens. Democrats Senator Vicki Bourne said her party was likely to agree to the changes. The Greens Senator Bob Brown said he will support the amendments despite reservations about their effectiveness.

Explaining the reason for the government's modifications, Attorney-General Williams last week admitted there was a rising level of popular concern. “We are aware that the issue has been ventilated by an e-mail campaign,” his spokeswoman said.

One amendment will require federal parliament to be informed of a military call-out within a certain time, either three or seven days, even if parliament is not sitting. According to the government, this will “enhance parliamentary scrutiny” of any call-out. In reality, the proposal underscores the fact that parliament will merely rubberstamp a military operation that has already taken place.

Another amendment will provide for a parliamentary committee to review the legislation within six months of any military call-out or, if there is no call-out, within three years of the commencement of the Act. As an alternative to this plan, the Greens and Democrats have proposed a “sunset” clause that would terminate the Bill in two years time unless it were reintroduced in the meantime. These proposals have been introduced in the hope that the controversy over the Bill will fade away once the legislation has been in place for some time.

Both amendments will enable the military to be mobilised against World Economic Forum and Olympic protesters. They will also legitimise the future use of the armed forces. As the WSWS has previously warned, the deployment of troops, alongside some 6,000 state police and thousands of government and private security personnel, during the Olympic Games is a precedent for wider security operations.

Under the government's proposals, the Bill will be modified to prohibit the use of army Reserves in relation to an industrial dispute, a restriction that currently applies to a request by a state for a military call-out. A Labor amendment seeks to restrict the use of regular troops in industrial disputes to situations where there is a threat of serious injury or death. But these provisions will not prevent the government using the armed forces as strike breakers, as Labor governments did in 1949 against the coal miners and in 1989 against the airline pilots.

The original Bill contained a cosmetic clause preventing the military from being used to “stop or restrict any lawful protest or dissent”. The Greens and Democrats have proposed a slightly different formula, referring to “peaceful” protests. Such words are meaningless because authorities can easily outlaw protests by refusing permission, or use police violence or police provocateurs to inflame clashes with demonstrators, providing a pretext for military intervention. The state Labor government in New South Wales has already passed special legislation for the Olympics empowering the police and other authorities to prohibit proposed political demonstrations.

Some of the state governments have objected to parts of the Bill, not because it infringes on democratic rights, but because it overrides their own powers and may cause clashes between the military and the state-run police forces. In a submission to a Senate committee, the NSW Labor government said the legislation could lead to “conflict between

State police and Commonwealth Defence Forces” and might “override the national anti-terrorist plan”. Likewise, the Victorian Labor government declared: “Confusion and conflict could arise between state agencies and the Defence Force”.

These fears have been reflected in several newspaper editorials and commentaries urging the government to reconsider. “The potential for State-Commonwealth conflict is obvious,” declared the *Sydney Morning Herald* on August 18. “For example, would the Federal Government have found it easier to use such a procedure to send troops in if it had thought the NSW Police were not up to the mark at the height of the 1998 waterfront dispute?”

The use of troops in such politically-charged conditions—thousands of people joined picket lines during the 1998 waterfront strike—may provoke controversy, the newspaper warned. “As a rule, the States and their police—who, after all, are better trained than troops for the job—are the ones to deal with civil disturbances.”

To meet these objections, the Labor Party, supported by the Democrats and Greens, has proposed that a state Premier must be consulted prior to troops being called out, unless the “Governor-General [the Commander-in-Chief of the Armed Forces under the Constitution] is satisfied that, for reasons of urgency” this is not possible. It appears that both the Howard government and the Labor Opposition anticipate civil unrest in the period ahead on such a scale that the state police will not be able to cope.

The major newspaper proprietors have today urged the government to accommodate the amendments backed by Labor, the Democrats and the Greens and ensure that the Bill passes in time for next month's demonstrations. The modifications should “allay concerns” but “in practice make little difference,” Rupert Murdoch's *Australian* stated in its editorial.

Thus, having opposed aspects of the Bill, the Democrats and Greens have provided the government and the Labor leaders with the legal formulae to accomplish a fundamental reshaping of the state apparatus, paving the way for the military to be used against domestic dissent.



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