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HOUSE OF REPRESENTATIVES

PROOF

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**Australian Border Force Amendment
(Protected Information) Bill 2017**

Second Reading

SPEECH

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SPEECH

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Speaker O'Brien, Ted, MP

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Mr TED O'BRIEN (Fairfax) (17:46): It is a pleasure to follow the member for Goldstein in this debate on the Australian Border Force Amendment (Protected Information) Bill 2017. National security—the defence of a nation's borders and the protection of its citizens—has been a core responsibility of sovereign governments since the rise of nation states. Even earlier, the protection of peoples and the resources that sustained them was a cornerstone responsibility for those forms of government that preceded the modern state. And so it remains for the Turnbull government—this national government—in this extraordinary era of sweeping change and global turbulence.

Today, the task of maintaining our national security is even more complex and more demanding of vigilance and specialist skills than ever before. There are more people on the move right now, globally, across national borders, searching for everything from permanent resettlement either with or without controlled parameters to travel for brief periods for business, for pleasure and maybe even for mischief, than at any other time in human history. Technological change is speeding up every aspect of that intermingling, together with the immense tensions it creates. This is one of the great global challenges of the 21st century, and we have to keep up. We have to be prepared and we have to ensure that, as new challenges emerge, we are alert enough and flexible enough to reorganise and refine our capability and systems to keep Australia safe.

That's why this bill, the Australian Border Force Amendment (Protected Information) Bill 2017, is before the House today. It is also why the Turnbull government is undertaking the most significant reform of Australia's national intelligence and domestic security arrangements in 40 years, as announced by the Prime Minister, the Attorney-General and the Minister for Justice just two months ago, following a review of Australia's intelligence community ordered by the Prime Minister only last year. This review is a big part of that process of keeping up with an ever-changing security landscape and is so desperately important if we are to take the protection of our citizens and defence of our way of life seriously as a first priority.

The review highlighted how changing security threats and technologies are driving the need for closer cooperation and improved vigilance between and by our domestic security and law enforcement agencies, against a backdrop, it needs to be emphasised, of stellar performance from all of those agencies to date in maintaining our national security. Our intelligence and law enforcement agencies have successfully intercepted 12 imminent terrorist risks since September 2014. Operation Sovereign Borders has prevented successful people-smuggling ventures for nearly three years. Yet the government remains deeply mindful of the need to reorganise and to refine our efforts whenever compelling advice suggests it is needed to maintain our security at levels that meet the needs and expectations of Australians. Another major result of that review has been the decision to establish an Office of National Intelligence and to transform the Australian Signals Directorate into a statutory agency within the Defence portfolio.

The government will also, as part of the same batch of reforms, establish a home affairs portfolio—a portfolio of immigration, border protection and domestic security and law enforcement agencies—such that there will be an effective federation of agencies, including the Australian Security Intelligence Organisation, the Australian Federal Police, Australian Border Force and the Australian Criminal Intelligence Commission.

Earlier in the year, in the May budget, the government announced a program worth nearly \$60 million to enhance technology that stores biometric data—involving, especially, facial recognition and fingerprints—so that security at points of entry to Australia, especially at our international airports is enhanced. This is crucial national security work, given that an extraordinary 700,000 people arrive in and depart from Australia every week. Yet another major investment is almost \$100 million, announced in the 2016 budget, to enhance, again principally through investment in technology, our visa application processes to provide us with enhanced risk assessment of applicants.

A major and very important challenge in this ongoing and evolving effort to keep the country safe is, of course, to ensure that measures are fair and reasonable in their impact and application on the vast majority of decent, honest, law-abiding people. People who cherish the rule of law and the rights we all enjoy, people who hope to enjoy those rights and freedoms by joining our Australian community or people simply visiting Australia from overseas for legitimate business or pleasure—they all deserve to be treated civilly and fairly by our laws and those who enforce them. This is a finely tuned and seriously considered balancing act, where individual freedoms are respected while at the same time our national security regime is robust, innovative and capable, and as comprehensively alert to all threats as it can be.

Information gathering by our security agencies—from individuals, from industry, from other sectors of government, from foreign agencies, from partners—to ensure mutual national security is obviously a key factor, a central factor, in enabling those agencies to keep us safe. Some of that information is highly sensitive and must be carefully managed. We have to ensure that it is only used or disclosed for legitimate purposes. The danger inherent in the mishandling or the leaking of information with the potential for significant damage to our national security, public safety and law enforcement is obvious. In the act being amended here, the penalty for that sort of breach was two years in prison.

On a more personal level, individuals can obviously suffer serious detriment where personal and sensitive information is inappropriately disclosed. Other information may be less sensitive and more appropriate to disclose in an open, democratic society while at the same time we deal effectively with critical threats. The Australian Border Force Amendment (Protected Information) Bill 2017 clarifies the secrecy and disclosure provisions in the Australian Border Protection Act 2015 with retrospective application to reflect the policy intent of those provisions which was, and is, to prevent the unauthorised disclosure of information that could cause harm to the national or public interest—what is known as 'identifiable harm'. The bill makes clear that the definition of information to be protected includes only certain kinds of information such as that relating to the security, defence and international relations of Australia; the prevention, detection and investigation of offences; the protection of public health and safety; or sensitive personal and commercial matters. This narrowing of the definition with retrospectivity will reassure individuals who may otherwise erroneously believe they have committed an offence.

The bill maintains provisions making it an offence to record or disclose information obtained by a person in their capacity as an entrusted person. That includes people employed by the department either directly or via some form of contracted service. The unauthorised disclosure of information by these people will continue to be punishable by two years imprisonment.

These provisions were originally adapted from the model in place for the former Australian Customs and Border Protection Service, which were reflected in the Customs Administration Act 1985, but that model has not kept pace with developments that have so deeply influenced the increasingly complex and interconnected world we now live in. There was no internet then. Terrorism existed, but on nowhere near the scale that we see today. Freedom of rapid movement around the globe, especially of air travel, was in its relative infancy, given the vast numbers travelling today. There were millions of refugees, but their numbers were nowhere close to those of today, which measure in the tens of millions—managing that flood has been a significant border security issue here and for many other countries and, indeed, whole continents around the world. It was certainly a very different world in 1985.

These provisions are reasonable, necessary and proportionate for providing assurance to the Australian public, to business, to industry and to government partners in Australia and abroad that information provided to Australian authorities will be appropriately handled, to ensure a strong border protection regime. That is in the interest of all Australians and it is also in the interest of the many visitors to our shores. It is for that reason that I am happy to commend the bill to the House.