House of Commons Votes Not to Extend Anti-Terror Provisions

On Tuesday, February 27, 2007, members of the Opposition in the House of Commons voted against the extension of controversial anti-terrorism provisions contained within the Criminal Code of Canada ("the Code"). Struck down were two measures contained within the Anti-Terrorism Act ("ATA"), which had been incorporated into the Code in mid-December 2001. The extension of the provisions, which were scheduled to expire on March 1, 2007, was defeated in a vote of 159 to 124.

The first provision in question before the House of Commons permitted police to arrest terror suspects without warrant and to detain them for up to three days without laying charges. The second provision permitted judges to compel testimony from witnesses in "secret trials" about alleged terror plots.

The federal government initiated the ATA following the terrorist attacks in the United States on September 11, 2001. The goal of the ATA was to create specific criminal offences under the Code stemming from terrorist-related activities. Upon its introduction, then Justice Minister Anne McLellan said the anti-terror measures served three purposes: to deter terrorist organizations, to assist police in their investigation of terrorist activities, and to impose harsher penalties for convicted terrorists. Unlike traditional criminal law, however, the ATA was designed to be preventative rather than punitive in nature. Certain elements of the ATA were introduced as sunset clauses, meaning that after a given amount of time, they would be retired unless revived by a vote in Parliament.

The introduction of the ATA raised several issues surrounding the Charter of Rights and Freedoms. Particularly at issue was the balancing of national security interests against personal freedoms. The Charter guarantees individual rights against interference from the state, unless this interference is justifiable by the government. When the ATA was first read against the Charter in late 2001, legislators felt that anti-terror measures were justifiable in limiting individual liberties for the sake of ensuring public safety and national security. The House of Commons' recent decision not to extend these two anti-terror provisions, however, may represent a shift towards relaxing stringent state-induced measures aimed at limiting personal freedoms in the name of national security.

Sources

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