The government is on the attack over its proposed laws to revoke Australian citizenship of dual nationals fighting overseas, after shadow attorney-general Mark Dreyfus suggested that terror suspects should be charged under legislation in Australia.

During Question Time in parliament on Thursday, Tony Abbott was keen to paint Labor as weak on national security, accusing Mark Dreyfus of "rolling out the red carpet for terrorists".

Dreyfus has since defended his comments, saying that Labor supports the government’s proposal in principle, but he wanted to ensure adequate legal safeguards.

When asked by a journalist today if the government was politicising Dreyfus’ words, the prime minister refused to back down, saying that he did not want to risk a situation where a terror suspect was tried in court, and found to be not guilty.
"I mean this is a very serious question for the opposition. Not only does he want to bring terrorists back to stand trial but it seems he also wants to bring terrorists back to give evidence," Abbott said at the news conference in Cairns.

"Now, I don't want terrorists in our country. Full stop. And if someone leaves our country to join a terrorist army abroad, I don't want them back. The Government doesn't want them back. We don't want any of them back but if you're a dual citizen we will stop you coming back by taking away your Australian passport."

For many lawyers in Australia, the idea of allowing suspected terrorists to do things like “stand trial” and “give evidence” is not as preposterous as the prime minister is making it out to be. It's more of a basic legal rule. A rule of law, if you will.

“'It's a starting point to a very slippery slope,' Michael Bradley from Marque Lawyers told BuzzFeed News.
Bradley says these laws are reflective of attitudes since 2001, where the U.S. government has treated terror suspects different to criminal suspects, with people still imprisoned in Guantanamo Bay without a charge.

“What the prime minister is saying is ‘we all know who the terrorists are, so it doesn’t matter what a court or jury says’ as if it ought to stand outside the criminal justice system,” he said.

“All these protections we’ve built up over the last thousands of years, like the Magna Carta, are designed to ensure you’re not treated as a criminal without due process. Abbott is saying that doesn’t really work, he wants to give the immigration minister the power to decide who is bad.”

When asked if the legislation was likely to survive a constitutional challenge, he said “I don’t see how they’re going to be able to do it.”
“The Constitution was designed to protect the rule of law. It reserved to the judiciary the power to pass judgement to people. The executive arm of the people isn’t allowed to do that, but that’s exactly what’s being proposed, without the need for conviction.”

Bradley said there is no difference between a criminal and a terrorist under current Australian laws, and that a conviction of a terrorist crime still requires being found guilty beyond reasonable doubt. He said the proposed changes that give the immigration minister the power to revoke citizenship could be abused in the future.

“Today’s freedom fighter is tomorrow’s terrorist. While Tony Abbott might think he knows who the good guys and the bad guys are, that’s not the way the world works. A future immigration minister might have a different view as to who the bad guys are. They could just be people who the government has deemed as seditious, or a danger to the country, like a Nelson Mandela or an Aung San Suu Kyi.”