

ROBERT A. S. FOX

Committee Secretary  
Senate Legal and Constitutional Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

7th June 2011

Dear Secretary,

I refer to Item 3 of the Intelligence Services Legislation Amendment Bill 2011.

(definition of foreign intelligence)

Repeal the definition, substitute: foreign intelligence means intelligence about the capabilities, intentions or activities of people or organisations outside Australia.

I note that only two submissions of the eleven so far listed have offered support for the Bill, and only one, from the A-G's Department, makes any attempt at a justification. The Law Council of Australia and the Castan Centre for Human Rights Law have already offered sound reasons for rejecting this part of the Bill.

I also note that the A-G's case for the proposed extension rests on the need for 'consistency' with the IS and TIA Acts.

However, as regards advancing the case for the extension of ASIO's powers, 'consistency' is completely irrelevant as it could equally be achieved by altering the other Acts; in itself, it can not be an argument at all for the proposal.

Leaving aside the red herring of the need for consistency, and looking at the substantive case advanced by A-G, it rests on the assumed need to 'complement the functions of the foreign intelligence agencies.'

While this may seem like an obvious reason to a bureaucrat, it still fails to offer any justification for spying on individuals overseas.

The Explanatory Memorandum to the Bill states: 'The amended definition will reflect the changing nature of threats to Australia, since activities undertaken by non-State actors, whether individually or as a group, can also threaten Australia's national interest.'

“The changing nature...non-State actors...” – As if there were anything new under the sun! For example, what triggered the first World War?

To suppose that a *single person* can pose a threat of the same order of magnitude as a foreign power, bespeaks an exceptional sense of weakness and panic in State authority.

It is an over-reaction, which of course is precisely what the terrorist sets out to achieve. Unable to inflict much damage by himself, the terrorist manoeuvres to provoke a wild self-harming response.

We see how the events of 11/9/01 in the USA have severely debilitated the nation through global over-reach, just as a choleric person stung by a wasp may undergo an excessive and exhausting auto-immune reaction leading to anaphylactic shock. We also see the unchecked growth in intelligence agencies in the USA, which multiply like cancer cells having no regard to the well-being of the country as a whole.

The proposal would allow ASIO to spy on anyone for almost any reason, since the hopelessly broad condition: “the interests of Australia’s national security, Australia’s foreign relations or Australia’s national economic well-being” cover just about anything. It’s not so much mission creep as mission leap.

I do not see the need for any further expansion of intelligence agencies in Australia; they are showing signs of pre-cancerous growth already, absorbing resources that could be used for the benefit of the country.

And the usual requirements for Ministerial authorisation do not preclude abuses, of which a few have even reached the public gaze, such as the case of Mamdouh Habib whose experiences were revealed through unexpected political changes in Egypt, and whom I, as a taxpayer have had to compensate; and naturally there must be more which the intrinsic secrecy of intelligence agencies covers up.

No case has been made to justify espionage on an individual who commits no crime. For others, there is always the Police.

Yours sincerely,

Robert Fox