

[REDACTED]

From: Tony Kevin [REDACTED]
Sent: Saturday, 13 November 2021 1:40 PM
To: Committee, PJCIS (REPS); tony kevin
Subject: [REDACTED]

Categories: [REDACTED]

From: Tony Kevin
Sent: Saturday, November 13, 2021 1:38 PM
To: Anthony Kevin ; PJCIS (REPS) Committee
Subject: PJCIS | Invitation to submit | Review of the Foreign Influence Transparency Scheme Act 2018 - submission by Mr Anthony Kevin
Attention: [REDACTED] Enquiry Secretary , JPCIS

Dear [REDACTED],

I am pleased to be invited to contribute to the JPCIS review of the first three years of operation of the Foreign Influence Transparency Scheme Act 2018 and related Acts of Parliament that were passed in 2018.

My name is Anthony Kevin, I am an Australian citizen aged 78 and I live at [REDACTED]. I am a retired Australian Commonwealth public servant and DFAT senior career diplomat (professional service 1968-98, including the last seven years Australian ambassador to Poland and then to Cambodia). I have been an independent published writer and commentator on public affairs since leaving government service in 1998. I have 30 years of experience in official diplomacy and 23 years of occasional public citizen diplomacy since my retirement from DFAT.

Over the past decade at least, I have advocated policies of Western detente with great powers Russia and China, based on mutual adherence to the UN Charter and the UN Security Council's rules and procedures. I have published two books expressing my views on Western relations with Russia, 'Return to Moscow' (UWA Publishing 2017) and 'Russia and the West' (self-published, 2020). Both books are in the Parliamentary Library and are pertinent to this submission.

I lodged a submission and testified in person before PJCIS in Melbourne in March 2018, while this draft Bill was under review. My testimony was critical of the draft Bill as a whole. I testified that in my opinion this law would be an unnecessary addition to existing adequate laws governing the operations of Australian national security agencies in protecting Australian national security; and that it would be dangerous in terms of its likely effect in deterring free public discussion in Australia on foreign policy and national security questions of public importance. I believe that my concerns then have been validated by the last three years of experience. I discuss this hereunder.

The Committee accepted one of my suggestions: to recommend removing from the scope of the draft legislation contacts by Australians with diplomatic staff of foreign embassies in Australia. That category of persons was removed from the Act as passed. I am pleased about this, because all embassies to do their jobs need to be able to talk freely to citizens of the countries to which they are accredited. This is a reciprocal obligation on all countries under the Vienna Diplomatic Conventions and their Protocols.

To my knowledge the Foreign Influence Transparency Scheme Act 2018 has only been tested in practice twice since 2018, in both cases involving Chinese Australians and Australia's relations with China. A Chinese-origin senior staff member of a respected member of the NSW Legislative Assembly, The Hon Shaoquett Moselmane, was investigated under the laws. This immediately became public knowledge, to Mr Moselmane's obvious distress and indignation. Again, three respected Chinese academics or journalists working professionally in Australia were banned under these laws from extending their visas here and had to leave Australia. This also became public knowledge. Media reporting and commentary on both cases was intemperate and McCarthyist in tone, causing fear and distress in some Chinese-Australian communities. There were no prosecutions in either case. I do not believe prosecution was the intention of these highly publicized cases: the intention was simply to name and shame, thereby inducing in Australia a fear of contacts with people involved with Chinese media, universities or government agencies.

It was established in official A-G's Department testimony during the 2018 JPCIS hearings prior to passage of the legislation that this legislation would be exercised differentially between countries of interest, according to Australian agencies' assessments of relative risks and of resources available for surveillance. These officials thus admitted that this legislation would be enforced in a discriminatory manner, with no scrutiny of Australian citizens' manifold foreign contacts involving for example US UK or Israeli persons or institutions, but (they implied) far more intense scrutiny of any foreign contacts involving China or Russia.

ASIO has of course always operated in this way. The new element under these laws is the legal burden on citizens requiring them to register as agents of foreign influence when having contacts with, for example, academic or public organisations in China or Russia. Theoretically the same obligations would apply to contacts with comparable US UK or Israeli bodies, but obviously there is no intention in Australian security agencies ever to interrogate these varied and wide-ranging links.

This is therefore in my opinion a bad law, in that it puts differential obligations on citizens. Under this law, Australians are not being treated equally.

The discrimination involved was entertainingly brought to light by former Australian Foreign Minister Gareth Evans, when he publicly and vigorously protested [Gareth Evans versus the Surveillance State: application of the Foreign Influence Transparency Scheme - Pearls and Irritations \(johnmenadue.com\)](#)

against an Attorney-General's Department Assistant Secretary's letter to him asking him to consider whether he might need to register himself under the Foreign Influences Transparency Act due to his contacts with a South Korean think-tank, the Jeju Foundation ? In his published reply, Mr Evans flatly and publicly declined to do so and effectively challenged the Department to take it further.

I am happy to make the same argument as my former Minister. I state that any contacts I have had or may in future have with reputable Russian or Chinese public foreign policy discussion fora like the Russian International Affairs Council, or with the Russian international press agency TASS, or with Chinese radio stations like China Radio International, both of which sometimes invite me to comment on international issues of the day from an independent Australian perspective, do not make me a potential agent of foreign influence.

Thus, like my former Minister Gareth Evans, I decline to register as such under the Act. I am happy for ASIO to investigate under its existing legislation whether anything I say or do publicly as a citizen poses any threat to national security. I am sure that it does not, and I would urge to ASIO to direct its limited resources to real threats to national security.

Finally I wish to put this Foreign Influence Transparency Scheme Act in a broader context, of the increasing difficulty that I have observed in Australia for people trying to find venues to express independent views in public discussion of foreign policy and international security questions of importance. Freedoms if not exercised may be lost, and I observe increasing deterrents, including these laws, to the free expression of dissenting views on these matters. Outside John Menadue's estimable online journal 'Pearls and Irritations', I see less and less opportunity in Australian mainstream media and discussion forums for the mainstream public expression of well-informed but seriously dissenting views.

We have seen over the past four years an acceleration of tendencies in Western countries including Australia towards a new Cold War against Russia and China. The West has vigorously advanced evidence-free allegations as in the Skripals and Navalny poisonings, and of alleged Syrian Government chemical weapons attacks on their own citizens, and of alleged Chinese human rights abuses in Xinjiang and in Hong Kong.

In my observation the main drivers of a worsening East-West climate are Washington and London, with Moscow and Beijing simply reacting in self-defence of their national sovereignty and security.

The West's increasing insistence on pushing its own doctrines of international security, like the self-serving 'rules-based order' or its proposed Magnitsky-style trade, investment and travel sanctions imposed unilaterally by parliaments and outside the UN international security system, are being vigorously opposed by the great powers Russia and China. Both great nations stand for strict reliance on the UN Charter and the UN Security Council rules and procedures. In this, Russia and China have the support of the great majority of UN member nations large and small, which understand that respect for national sovereignty under UN rules is essential to their own security.

The UN Security Council veto power, variously exercised by different permanent members at different times, is an essential guarantee of peace in the world and of the UN's continued efficacy. Without the veto power, the UN would soon go the way of the League of Nations. There is an urgent need to discuss possibilities for a new Australian diplomacy towards nuclear weapons powers Russia and China based on principles of détente and mutual security and respect, and not hostile confrontation: as Paul Keating robustly argued recently in the case of China in his National Press Club address .

But instead of having such public discussions, Australia more and more falls unquestioningly into line behind US and UK international positions, and dissenting views are pushed out of sight and contention. This is unhealthy. We are losing our capacity to engage independently and effectively with the world and our region.

Australian discussion of major foreign policy and international security issues is now dominated by strongly American-aligned public bodies like the Australian Strategic Policy Institute ASPI and the Lowy Institute. Formerly nonpartisan public fora like the ABC or the Wheeler Centre in Melbourne have ceased to be venues for free exploration of diverse ideas on such issues. The envelope of acceptable public discourse has narrowed over the past few years. Topics and speakers are selected to advance to help disseminate and normalise 'Five Eyes' narratives. ('Five Eyes', originally simply an intelligence sharing network between US UK Canada Australia and New Zealand, has expanded its scope in recent years to become a

key national security policy coordinating mechanism, dominated by US and UK. Only New Zealand has held back from this).

I see from own experience and that of others how the envelope has narrowed.

I believe the Foreign Influence Transparency Scheme Act (2018) under review by PJCIS is contributing to an increasingly intolerant, indeed verging on McCarthyist, public climate of discussion in Australia. If editors and media content producers are frightened to engage professionally with dissident thinkers for fear of being interrogated on such contacts under the Foreign Influence Transparency Scheme Act, they are less likely to have those contacts. I have experienced many doors, previously open, now being closed to me. I am not alone in this experience.

The late Professor Stephen Cohen, a towering American scholar of Soviet Russian history and a strong and outspoken advocate of US-Russian dialogue and detente, sadly experienced in the last five years of his life his opportunities publicly to express his expert views on US-Russia relations sharply constricted, and his public reputation unfairly attacked. He lamented this, and I share his lament.

Peace and security require that we go on talking at all useful levels to a range of influential people in countries that might otherwise one day become our enemies. As Winston Churchill truly said, 'jaw-jaw is better than war-war'. The role of 'second-track diplomacy' involving knowledgeable and open-minded private citizens freely expressing their views as citizens and engaging in dialogue with overseas persons, remains a valuable asset in free societies. We are at real risk now of losing such intellectual resources in Australia. The ranks of free independent thinkers are thinning, as mortality takes its toll and those still with us are discouraged from trying to engage in public discussion.

As Paul Keating noted, our Australian elites seem to know less and less about the world and how our nation ought to operate in it. This shows, in our recent clumsy diplomacy towards China, the US and France. It takes remarkable ineptitude to alienate all three governments at the same time. A healthy climate of free public expression and debate on dissenting views would help protect Australia from such national security misjudgements. We risk again becoming a nation of the blind leading the blind, far too dependent on the views and assessments of our great and powerful friends.

The JPCIS should do nothing to worsen this situation. I ask the Committee to seriously review whether its continued support for this unnecessary and free speech - inhibiting law might be mistaken. I would like to see this unhelpful deterrent law repealed or simply quietly shelved. This would send a wonderful signal to freedom-loving people in Australia. I would be happy to discuss these views further with the Committee if it so wished.

Regards,

(signed)

Anthony Kevin

Canberra, 13 November 2021



From: "Committee, PJCIS (REPS)" <ajc@aph.gov.au>

Date: 18 August 2021 at 9:36:37 am AEST

**Subject: PJCIS | Invitation to submit | Review of the Foreign Influence
Transparency Scheme Act 2018 [SEC=OFFICIAL]**

OFFICIAL



PARLIAMENT OF AUSTRALIA

PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY

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Review of the Foreign Influence Transparency Scheme Act 2018

INVITATION TO MAKE A SUBMISSION

The Parliamentary Joint Committee on Intelligence and Security has commenced a review into the [Foreign Influence Transparency Scheme Act 2018](#).

The Foreign Influence Transparency Scheme was introduced in 2018 with the purpose of bringing transparency to activities undertaken on behalf of foreign principals, particularly where those activities are intended to influence Australian political and governmental systems and processes.

The Committee tabled its [Advisory Report on the Foreign Influence Transparency Scheme Bill 2017](#) in June 2018, and the Committee is required by Section 70 of the [Foreign Influence Transparency Scheme Act 2018](#) to commence an inquiry into the operation, effectiveness and implications of the scheme by 10 December 2021.

Making a submission

The Committee invites written submissions addressing any or all aspects of the Bill. Prospective submitters are advised that any submission to the inquiry must be prepared solely for this purpose and should not be published prior to being accepted by the Committee. Submissions are requested by **4pm, Monday 29 November 2021**. Further information about [making a submission to a committee inquiry](#) can be found at www.aph.gov.au/makesubmission.

For more information about this Committee, you can visit its website [here](#). On the site, you can make a submission to an inquiry, read other submissions, and get details for upcoming public hearings. You can also track the Committee and receive email updates by clicking on the blue 'Track Committee' button in the bottom right hand corner of the page.

Regards

[Redacted signature]

Parliamentary Joint Committee on Intelligence and Security

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