



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

**National Security Legislation
Amendment Bill (No. 1) 2014**

Second Reading

SPEECH

Wednesday, 24 September 2014

BY AUTHORITY OF THE SENATE

SPEECH

<p>Date Wednesday, 24 September 2014</p> <p>Page 6915</p> <p>Questioner</p> <p>Speaker Lambie, Sen Jacqui</p>	<p>Source Senate</p> <p>Proof No</p> <p>Responder</p> <p>Question No.</p>
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Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (10:21): I rise to speak to the National Security Legislation Amendment Bill (No. 1) 2014. This bill seeks to make several amendments to legislation used by two of our major intelligence agencies—the Australian Security Intelligence Organisation, ASIO, and the Australian Secret Intelligence Service, ASIS. Before I detail my reason for supporting this bill, I want to thank those officers and their families for their service and loyalty to Australia. While I do not consider them rough, I believe that a variation of a famous quote from George Orwell is one way of describing the situation we now find ourselves in: we sleep soundly in our beds because rough men and women will visit justice on those who will do us harm.

Because of the very secretive nature of the work, ASIO and ASIS officers do not receive public recognition for their acts of bravery and sacrifice, but I know that the vast majority of Tasmanians appreciate and value the contribution that the Federal Police, ASIO and ASIS officers give to our nation. So, thank you for your service.

There are some in this chamber and in our community who think that we have a choice about whether we wage war or not. They forget that war and conflict is sometimes visited and forced upon people. When that happens you do not have a choice on whether you fight or not. I am glad our nation has a history of fighting for what is right, and against the bullies and thugs who impose their culture on us.

The bill contains a number of reforms to modernise and improve the legislative framework governing the activities of the Australian intelligence community—primarily ASIO—and those agencies assisting them, to gather intelligence to protect our nation against national threats. The bill came about after the Joint Parliamentary Committee on Intelligence and Security released a report in June 2014 making a number of recommendations to give ASIO officers and their peers in other agencies the powers that they need to detect and deal with threats against our country.

Where the bill makes some changes of an administrative nature, these appear to have support from all members and senators. The bill gives

appropriate powers to ASIO, ASIS and other intelligence agencies to share information which they should have had, and need, to fight the real threats that certain individuals, groups and even other nations may pose to this country.

The bill provides extensive additional warrant powers to provide them with the tools they need to keep pace with technologies to uncover and to continue to foil plots of terrorism against our nation. The bill will give ASIO and ASIS the powers they need to work with private entities when they need to gather intelligence using geospatial imagery and similar methods to gather critical information on terrorists and others who seek to harm Australia.

Probably the most contentious part of the bill is schedule 3, which provides ASIO with the framework to conduct controlled intelligence operations which will be called 'special intelligence operations'. The framework of these special intelligence operations largely mimic operational powers that the federal and state police already have to investigate organised crimes, including those by outlaw motorcycle gangs and drug dealers. The bill was reviewed by a Senate committee, which made 17 recommendations to strengthen the accountability of ASIO staff in performing their duties under the powers given to them under the bill. As I understand it, the government has supported all of these recommendations and has amended the bill to reflect that.

The amended bill will require ASIO to seek approval from the Attorney-General before a special intelligence operation would commence or vary in its tasks or goals. Special intelligence operations will be restricted to a six-month period and only extend beyond that time if the Attorney-General approves this. Government employees conducting special intelligence operations will receive the exemptions from committed offences and civil liability. They will not be exempt if their actions cause death or serious injury to any person, or their actions involve sexual offences or their actions result in significant loss or damage to property. Over the past few days Senator Brandis has also added the offence of torture to this list. Again, this legislation is not unusual and, in fact, closely mimics the same legislation given to the federal and state police to use

in the collection of evidence in undercover operations on crime.

Schedule (3) of the bill also makes it a criminal offence to disclose information about a special intelligence operation that would endanger the health and safety of the staff working on it or which would endanger the effectiveness of the operation. When the Senate committee reviewed the bill, it was concerned that the offences for disclosing information about special intelligence operations would prevent disclosure of relevant information by persons in some legitimate circumstances. For example, whistleblowers, including undercover ASIO operatives, who have seen something that they knew was wrong and wanted to report it to their agency, or to the oversight agency or to the Attorney-General.

The committee recommended that the bill be changed to allow disclosure about special intelligence operations in certain instances, including: disclosure of information for the purpose of obtaining legal advice; disclosure of information by any person in the course of inspections by the Inspector-General of Intelligence and Security, the regulator of ASIO or oversight agency, or as part of a complaint to the Inspector-General of Intelligence and Security or other proactive disclosure made to the Inspector-General of Intelligence and Security; or communication of information by Inspector-General of Intelligence and Security staff to the Inspector-General of Intelligence and Security or other staff within the office of the Inspector-General of Intelligence and Security in the course of their duties.

Whilst I acknowledge this would allow whistleblowers to raise concerns with ASIO's regulator if powers were being abused under special intelligence operations, I wonder what would happen if the Inspector-General of Intelligence and Security failed to act on those disclosures. That could happen. It has happened in other states in this country—Queensland, being one, has learnt this through royal commissions. To overcome the possibility of that happening and preventing accountability, the legislation in Queensland states that if whistleblowers report their concerns to an authorised agency and that agency fails to act within six months of the disclosure then the whistleblowers may take their concerns to a member of parliament.

In closing, it is important to note this point: we would not be in this position, where there are armed guards on high alert patrolling our national parliament and where we are debating legislation that undermines personal rights and freedoms, if we had cracked down and taken a harder line with the enemy we face today—the sharia law extremists of 10 years ago. We would not be

worried about beheadings and acts of gross violence from sharia extremists if the politicians of the past had cleaned up our own backyard of sharia supporters.

On that note, I am very disappointed by the latest public comments of Mr Keysar Trad, spokesman for the Islamic Friendship Association of Australia, who attacked my views on sharia law. He is not being very friendly or honest. Mr Trad must stop playing the victim and become more truthful with the Australian people. This latest war with extremists and their threat to Australia is not about any religion. It is all about support for a law, and that law is sharia law.

Everyone knows that our enemies support Sharia law. Everyone knows that the people who are planning to cause mass killings and beheadings of innocents in Australia and to commit terror attacks want Sharia law imposed on our country and, indeed, on the rest of the world. So, right now, the question every Australian must ask is: do I support or sympathise with Sharia law? If the answer is yes then those people, as I have already said in the past, should get out of Australia, because you clearly have divided loyalties and you breach section 44 of our Constitution. You cannot support or offer sympathy for Sharia law in any way, formally or informally, because part of the official deal of living in Australia and being a citizen is that you have undivided loyalties. Our Constitution is clear, Australian citizens must exclusively support only one law and Constitution, and that is Australian law and the Australian Constitution.

In the middle of war and during a high national security threat it is time that our law and our Constitution were obeyed by all. You either reject all laws other than Australian law, or you lose all rights as an Australian citizen. If you want to express support for Sharia law, then do not play the victim, or attack my right to free speech, or try to intimidate me. Just get out of Australia and leave us in peace. My message for Mr Trad and other Sharia law supporters is simple: if you want Sharia law so much, if you want to defend it, then go and live in a country that has Sharia law. There are plenty to choose from. Australia does not have Sharia law and never will. Good luck; now get out.

I support the bill before the parliament and urge senators to support the Palmer United amendments to increase penalties for those found guilty of disclosing the identities of ASIO and ASIS agents. I thank all the public servants who are placing their lives on the line to protect ours.