



Submission No 40

Inquiry into potential reforms of National Security Legislation

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Organisation: Private Capacity

The chair, The Joint Parliamentary Committee on Intelligence & Security
Parliament House Canberra. *ACT 2600*

Re ; - The proposed changes to National Security Legislation currently under consideration by the Joint Committee on Intelligence & Security to invade our privacy and access any information regarding our internet communications constitute **electronic trespass**.
See HCA cases *Coco v R* (1994) 179CLR 427 *Plenty v Dillon* (1991 CLR 635 F.C. 91/004 *George v Rockett, Halliday v Nevill, etc.*

The Common Law and The Imperial Acts are the law of the land - The Common Law rights prevail

The Commonwealth Parliament has **not** been granted any power to legislate for or indulge in that activity either physically or electronically, or to censor our communications in any manner without our specific and fully informed consent.

No alteration may be made to the powers granted to the parliament on its foundation in 1901 without a referendum in accordance with the provisions of section 128 of the Constitution of the Commonwealth of Australia (1901).

Amongst the **absolute rights** of the 'Individual', including the 'Australian' people, in whom Australian sovereignty resides, are the right to **life limbs and property**, as well as our **inherited ancient common law rights and liberties**. (See... William Blackstone's "Commentaries on the laws of England". Book One, Chapter One., Sect 80 The Judiciary Act 1903 Cth), The 'privileges' of the parliament, (See the Quick & Garran annotated Constitution of the Commonwealth of Australia (1901) parliament, at p 501...

[Quote ... **'WHAT ARE NOT PRIVILEGES**.—Neither House has a right to promulgate standing rules and orders, or to make or enforce any particular votes or resolutions, which are contrary to the common law, or to the statute law of the country. Several historical cases have established the principle that there are defined limits to parliamentary privilege, and that any attempted exercise of privilege, in excess of that recognized by law, if not checked by the force of public opinion, may be pronounced illegal on appeal to the courts of law. It is an acknowledged right of the House of Commons to expel a member, who disgraces or defies it, but the House could not legally go further and declare him disqualified for reelection... End Quote]

There appears to be a significant lack of knowledge of the limits and restrictions imposed upon the actions of MPs, and the limits imposed on the matters upon which parliament may lawfully legislate (Section 51 of the Constitution for the Commonwealth of Australia is a good starting point. The 'Quick and Garran' annotated version is well worth more than a cursor glance by all MPs who are elected to that position of trust to legislate to our benefit and according to **our will**, not that of a private political party, a business or industry lobby, or any corporation, foreign or domestic. **MPs version of what is in the 'National Interest often conflicts with the will of the people**. The desires or convenience of any government department or 'Minister' are **subordinate** to the will of the 'Australian' people! **Powers not granted are denied!** The power to legislate for access to censor, read, copy share or eavesdrop on any of our communications with others **has not been granted** to the 'parliament'; ergo, it is unlawful to do so!

S.51. (v) postal, telegraphic, telephone, and other like services; relate to public services once funded and owned by the 'Australian' people, and managed by the government; under the 'public office' of the Post Master General'; that is no longer the case, that public office having unlawfully been sold off to private enterprise, as have many other once public owned 'offices' and associated infrastructure.

The '**Internet**' is not taxpayer funded infrastructure or service, managed by government nor is it technically or physically similar to the postal, telegraphic or telephone services nominated in S 51.(v) those functions and activities no longer exist; digital phones computers and e-mail are completely different from the analog services of the 1900s and are beyond national jurisdiction of the parliament; they are **incapable of valid comparison as a like service to that of a 1900's postal telegraph or telephone service**.

The fact that foreign and international electronic communications can be intercepted by our intelligence and security agencies does not give them any right or authority to use that capability against the 'Australian' people in our own country. It appears that our parliament is not capable of protecting our national borders while our defence forces are overseas protecting other people, and foreign agencies already attack our digital communications! Parliament should **focus** on making our private communications secure, from foreign and domestic attack, and protecting us from the very same actions you wish to take against us! **Our Defence** is of primary importance, but has been severely neglected by those elected to that position of trust as MPs. How can we trust employees who would impose such draconian laws upon us and treat us with **contempt** like Julian Assange and David Hicks who committed no criminal offence in Australia? Perhaps we could all seek refuge in Equador. ? Will these laws apply to **all** foreign Embassies, businesses, and corporations, or are they just for the people who employ you?

There appears to be a serious lack of knowledge among elected representatives of the limits and obligations of their position. (See, '**your Will Be Done**', Arthur A Chresby Pub. Marshall Pickering; ISBN 055101 DDC: 226 **Chresby** appears to be one of the few MPs who had a clear understanding of the obligations and duties of an MP. Why have a 'Privacy Act'?

It is My Will that the proposed changes to allow security services invade our privacy and communications history be totally rejected

Yours sincerely

G Lloyd-Smith

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