

Legislation dealing with Espionage Crime

- 5.1 The fourth term of the Committee's review addressed the adequacy of Commonwealth legislation dealing with espionage crime, including the provisions of the Criminal Code Amendment (Espionage and Related Offences) Bill 2002, which was subsequently enacted into law in September 2002.
- 5.2 Specifically, the Committee was interested in whether the three agencies, and by extension the other agencies of the Australian Intelligence Community (AIC), were satisfied that the proposed, and subsequently adopted, changes to Commonwealth legislation concerning espionage crime adequately supported agency measures to ensure the protection of security classified information from unauthorised removal or disclosure.
- 5.3 The agencies did not specifically address this term of the review in their submissions, but did provide comment in oral evidence. All three agencies indicated that they were satisfied that the revised legislation strengthened the Commonwealth's capacity to deter and punish acts to compromise Australia's national security, and in that sense, provided valuable support for agency measures to protect security classified information. Each of the agencies emphasised that they have had no cause to seek investigation of possible breaches of the Criminal Code in the past ten years.
- 5.4 The Committee considers that the changes to the legislative provisions dealing with espionage crimes, embodied in the *Criminal Code Amendment (Espionage and Related Matters) Act 2002*, were

necessary, and strengthen the legal framework protecting Australia's security interests.

- 5.5 The amended legislation includes a number of significant changes. The maximum penalty for the most serious cases of espionage is now 25 years imprisonment, a substantial increase from the previous seven year penalty. This brings penalties under Commonwealth law into line with those of comparable countries, such as the United States and the United Kingdom.
- 5.6 The type of activity that may constitute espionage has also been expanded. Under the new legislation, individuals may be guilty of an offence if they disclose information concerning the Commonwealth's security or defence, without authorisation, to advantage the security or defence of another country. The new legislation also provides protection for foreign sourced information belonging to Australia, the disclosure of which may directly or indirectly harm our relations with our allies and information exchange partners.
- 5.7 The Committee notes that the Criminal Code Amendment (Espionage and Related Matters) Act 2002 was subject to considerable parliamentary scrutiny, including an inquiry by the Senate's Legal and Constitutional Legislative Committee.

Mr David Jull, MP
Chair
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