

# **The John Bray Oration**

**The University of Adelaide  
Monday, 19 September 2011**

**David Irvine  
Director-General of Security**

As a career foreign service officer with no formal legal training, I am surprised and honoured to have been invited to give the John Bray Oration, in the memory of that formidable South Australian jurist and poet, Dr John Jefferson Bray.

In his essay on Bray, Andrew Ligertwood ascribed to Bray "a belief in the importance and uniqueness of the individual." Bray's own summary of his liberal views was set out in an address he gave in 1971 to the Australian Legal Convention. Four particular excerpts from that address, entitled "Law, Liberty, and Morality", might serve as the context for my remarks tonight:

- . The liberty of the individual and the right to privacy are values to be protected and not to be interfered with except for good cause.
- . Society is entitled to exercise its power over the individual in order to prevent him causing harm to others against their will. Community life would otherwise be impossible.
- . [Society's] power is not restricted to that: it can also exercise power over him to prevent him causing physical harm to others, even with their consent, or to himself. This power, however, should be exercised with caution and in extreme cases and balanced against due regard to liberty.
- . The prevention of harm to others may in modern times include a wide variety of social, sanitary or administrative legislation.<sup>1</sup>

Encapsulated in those four points is the essential challenge of the Director-General of Security in charge of the Australian Security Intelligence Organisation. How do I ensure my Organisation is taking all necessary steps to protect the security and safety of Australians and our democratic institutions while at the same time ensuring the appropriate protection of individual civil liberties?

This is not just a simplistic or theoretical conflict between national security and the rights of individuals, for the security and safety of our citizens living within our community is just as much a human right as are the other civil liberties of individual citizens. Is there a point at which one should be sacrificed in

---

<sup>1</sup> 1 Andrew Ligertwood, 'Bray the Jurist' in A Portrait of John Bray: law, letters, life; Prest, Wilfred (ed), Adelaide 1997, pp is six 75-76.

favour of the other? Or are they both, as I believe they should be, similar elements of an indivisible whole?<sup>2</sup>

I should like to put the conceptual theorising to one side and consider the practical implications in the real world of actual counter-terrorism and actual counter-espionage, where the dual imperative is to protect the security of the nation and the citizens within it, while upholding human rights and civil liberties.

While ASIO officers are wrestling daily with those issues, popular perceptions about security intelligence organisations, at least as reflected in the media, paint a much less nuanced picture.

A good illustration of this, one of many from which I could have chosen, was a cartoon from the Sydney Morning Herald of 21 June 2003, commenting upon the parliamentary debate on amendments to the ASIO Act. It portrays a heavily armed ASIO officer, pistols strapped to each thigh, about to break down a door with a battering ram on which have been inscribed the words: "Open up in the name of your cherished liberties!"

Quite apart from the fact that ASIO officers do not carry guns and do not go breaking down doors, such commentary fails to recognise the importance that ASIO places on getting the relationship right between individual freedom and community security.

### **Why do we have a security intelligence agency?**

Liberals sometimes argue that secret intelligence is of no value, and that secret agencies are a menace to our civil liberties. That is quite wrong. We cannot do without secret intelligence to defend ourselves against enemies who are themselves operating in secret. <sup>3</sup>

ASIO was set up under a charter in 1949 by the Chifley Labor government to carry out certain intelligence functions for the protection of the Commonwealth against acts of espionage,

---

<sup>2</sup> Barak, A, HCJ 5100/94, *The Public Committee against Torture v The State of Israel* 53(4) PD 817, 845: At times democracy fights with one hand tied behind her back. Despite that, democracy has the upper hand, since preserving the rule of law and recognition of individual liberties constitute an important component of her security stance. At the end of the day, they strengthen her and her spirit, and allow her to overcome her difficulties."

<sup>3</sup> Braithwaite, Sir Rodric, Chairman, Joint Intelligence Committee 1992-1993, The Royal Institute of International Affairs, Chatham House, 5 December 2003, speech entitled "Defending British Spies: The Uses and Abuses of Intelligence. "

sabotage and subversion.<sup>4</sup> Of particular interest tonight is that ASIO's first Director-General was Justice Jeffery Reed of the South Australian Supreme Court, another distinguished alumnus of this University.

ASIO operated under charter until 1956 when the Organisation was formally brought under an Act of Parliament. In the first few decades of its existence it was essentially devoted to Cold War tasks; in particular, the defence of the Commonwealth against sabotage and espionage. Most of us will be aware of the controversies that surrounded its activities during that period and especially in the context of the Petrov affair. Today, as material becomes available in the Australian National Archives, it is clear that ASIO in the 1950s and 1960s did in fact play an important role in uncovering spies within our midst.

While the Organisation was established in 1949, the modern ASIO is in many ways the child of Justice Robert Hope in the 1970s.

Robert Marsden Hope was a distinguished New South Wales jurist who served on the Supreme Court of New South Wales, initially in the Equity division and then on its Appeals court. He was later Chairman of the New South Wales Law Reform Commission and a long-serving Chancellor of Wollongong University. He was regarded very much as a liberal. Indeed, before becoming a judge he served as president of the New South Wales Council of Civil Liberties. In 1968 Hope presented a paper at the first Australian Convention of Councils of Civil Liberties, calling for a constitutional guarantee of basic human rights.<sup>5</sup>

When Prime Minister Whitlam asked Hope in 1974 to conduct a Royal Commission into Australia's intelligence and security machinery, there were some who thought that, with his background, the judge would surely recommend the abolition of ASIO, an organisation about which some sections of the community held deep suspicions, particularly as it was required to operate in secret and could not be therefore be subject to the

---

<sup>4</sup> The 1949 Charter defined the task of ASIO as the "defence of the Commonwealth from external and internal dangers arising from attempts at espionage or sabotage, or from actions of persons and organisations, whether directed from within or without the country, which may be judged to be subversive of the security of the Commonwealth. "

<sup>5</sup> Although I knew Justice hope personally, having been associated as a young foreign affairs officer with the Hope Royal Commission on Intelligence and Security in the mid-1970s, I am indebted to an unpublished monograph by Dr Peter Edwards entitled "Robert Marsden Hope and Australian Public Policy, to be published later in 2011

normal sorts of public scrutiny and accountability that characterise most other public institutions.

Hope made no such recommendation. On the contrary, while finding that ASIO had not always been properly managed and by the mid-1970s had rather lost its way,<sup>6</sup> Hope set out a persuasive logic for the security intelligence function, and the way it should be regulated, in a democratic society ruled by law. Much of Hope's report was devoted to setting out the rationale for specific operating procedures and principles that sought to balance the demands both of civil rights and of national security. These remain the basic operating principles for ASIO today.

He recommended that the security intelligence function should be precisely defined in law to help ensure the protection of the community against a number of very specific security threats. These functions are now enshrined in the ASIO Act (1979), Section 4 of which defines security in terms of the protection of, and of the people of, the Commonwealth and the several States and Territories from espionage, sabotage, politically motivated violence, the promotion of communal violence, attacks on Australia's defence system, and acts of foreign interference (whether directed from, or committed within, Australia or not); and the protection of Australia's territorial and border integrity from serious threats.

In addition ASIO has been empowered to collect foreign intelligence and to provide protective security advice.<sup>7</sup>

Hope made it clear that Australia's security intelligence organisation should not be a law-enforcement agency and certainly not a secret police force.<sup>8</sup> Rather, ASIO's principal functions should be limited to the collection, evaluation and dissemination of security intelligence, including the provision of advice. It had no independent executive function. That principle is now enshrined in the ASIO Act (1979).

## **So what are the threats that currently preoccupy ASIO?**

---

<sup>6</sup> Royal Commission on Intelligence and Security (RCIS), FOURTH REPORT, Volume I, Australian Government Publishing Service, Canberra 1997. Hope was highly critical of the management and operations of ASIO: "until quite recently, ASIO could not be taken seriously as an efficient organisation, still less an effective security organisation."

<sup>7</sup> ASIO Act (1979), Section 17.

<sup>8</sup> The original ASIO charter said the security service was part of the Defence Forces of the Commonwealth and had no concern with the criminal law. Hope found that the reason for ASIO's existence was that it met a defensive need not otherwise fulfilled.

By any standard Australia has to be one of the safer countries in the world. Nevertheless, threats to national security exist and it is the responsibility of government to be vigilant and to take appropriate action to ensure that those threats do not materialise.

If we do not protect ourselves, Australians can be injured or killed in terrorist incidents, foreign powers can gain an advantage *vis-à-vis* Australia through clandestine or deceptive means, our democratic processes tampered with, our privacy violated, our economic and commercial processes undermined or defrauded, our intellectual and real property stolen or exploited.

While nation states still conduct espionage or seek to exert covert influence against Australian interests as busily as ever, perhaps the greatest change in the security environment since the end of the Cold War is the fact that non-state actors are assuming greater importance in national security considerations; be they terrorists, right-wing extremists, cyber hackers, transnational criminals or people smugglers.

The second significant change has been that the Internet has become another tool through which to extract sensitive, private or classified information for the purpose of espionage, political or diplomatic advantage or commercial gain.

These developments have significant implications for ASIO in its national security intelligence role.

In terms of current threats, the fact that al-Qa'eda and its associated anti-Western transnational terrorist partners have declared Australia to be a legitimate target of attack continues to be a major concern. Of equal concern is that small numbers of Australians have absorbed the ideology of violent religious extremism and have planned or are contemplating and planning acts of terrorism in Australia or overseas. This home-grown brand of terrorism, involving mostly young Australians who have been "radicalised" either by Australian extremists or by overseas inspiration, requires constant vigilance. Particular worries are the so-called "lone wolf" or 'stand-alone' groups who act independently and throw off few clues as to malicious intent.

Nor can we rule out lone wolf terrorists from other extremes, as the recent horrific events in Norway testify.

It is easy to be accused of crying wolf about terrorism in a "safe" liberal democracy like Australia; that we have not recently suffered a terrorist attack on Australian soil. Nevertheless, planning for terrorist acts on Australian soil has occurred and has been thwarted by ASIO and its law enforcement partners since 9/11. Most of this contemplation and planning will not mature into a critical terrorist threat, particularly as we try to nip things in the bud quietly and early, but it is a sad truism in the intelligence business that terrorists only have to get it right once, while we have to get it right 100% of the time.<sup>9</sup> The other sad truism is that, ultimately, there can be no absolute guarantees that we can get it right 100% per cent of the time.

### **So how does ASIO address national security threats such as terrorism or espionage?**

First we collect intelligence: from open source material including the Internet; from members of the community who assist us openly or clandestinely; from the covert collection of intelligence by technical means, including the interception under warrant of communications, and from other government agencies and foreign partners.

Our investigations focus on detecting the intentions and activities of people who seek to act violently for political reasons and people who seek clandestinely to obtain sensitive Australian information, often subverting Australian citizens for that purpose.

Second, we analyse and evaluate intelligence, providing assessments and advice to government. Where our investigations detect the possibility of, say, a terrorist activity in Australia, we work closely with law enforcement to ensure prevention of such activity; sometimes by persuasion, sometimes by disruption and sometimes by criminal prosecutions launched by the police. We

---

<sup>9</sup> "Today we were unlucky. But remember we only have to get lucky once. You have to get lucky every day." This was a well-known IRA taunt after a failed attack against Prime Minister Margaret Thatcher. It was later used by a US official in support of the Patriot Act of 2003.

support whole-of-government efforts to counter violent extremism.

We also provide security assessments and protective security advice. Security assessments cover, for example, people holding or seeking national security clearances; in the case of some visa applicants, whether they should be allowed to enter or stay in Australia; or people having access to sensitive areas or goods, such as air and maritime port restricted zones. ASIO provides protective security advice to government agencies and, through our Business Liaison Unit, to operators of critical infrastructure and others in the private sector.

We also provide assessments about threats to Australians and Australian interests overseas, which substantially inform the travel advisory services provided by the Department of Foreign Affairs and Trade for Australians wishing to travel overseas.

It is worth pausing to consider an essential characteristic of security intelligence that differentiates our work from that of law enforcement. ASIO's role, first and foremost, is preventative and anticipatory in nature. "Pre-emptive secret intelligence is an essential key to reducing the risk from terrorism."<sup>10</sup>

Our job is to predict and to alert, thereby to help prevent the bomb going off, rather than to collect evidence from the debris of the explosion to support a prosecution *a posteriori*. We are not primarily in the business of collecting evidence to prove what did happen, we collect intelligence to enable us to assess what might happen or is likely to happen if appropriate action is not taken. We are less interested in history than the future.

We do not collect intelligence with the specific intention that it be used in court proceedings - although it sometimes is so used. We produce assessments, not evidence. But we do work closely with our law enforcement colleagues, whose responsibilities include criminal investigations, collecting evidence, arresting and prosecuting individuals.

## **ASIO's Investigative Powers**

---

<sup>10</sup> Omand, David, *Securing the State*, New York, 2010; p. 324

In order to carry out its investigative functions, ASIO has been given a number of special powers. These are considered controversial by some, but successive governments have confirmed them as necessary for the protection of national security.

These investigative powers are authorised under warrant signed by the Attorney-General and include, *inter alia*:

- . interception of telecommunications;
- . examination of postal and delivery articles;
- . use of clandestine surveillance and tracking devices;
- . remote access to computers; and
- . covert entry to and search of premises.

There are, of course, many other State and Federal institutions with not dissimilar powers.

In addition, in 2003, Parliament authorised additional investigative powers in respect of terrorism, whereby the Director-General may also seek a warrant from an independent judicial authority to allow, *inter alia*,

- . the compulsory questioning of persons in order to collect intelligence that is important in relation to a terrorism offence, and
- . in very limited circumstances the detention by the police of a person to be questioned in relation to terrorism.<sup>11</sup>

The conditions under which the counter-terrorism questioning and detention provisions are carried out are very precisely prescribed in Section 34 of the ASIO Act. These powers have been variously described as unnecessary and draconian. I believe they are necessary; we need to have appropriate investigative measures available when the lives of innocent

---

<sup>11</sup> ...to prevent a person involved in a terrorism offence being alerted to the investigation, the person questioned will not appear, or things required to be produced will be destroyed or altered.

citizens may be at stake. As for their draconian nature, a quick look at the coercive powers enjoyed by many other State and Federal Agencies would make the ASIO questioning powers seem unusual only in the extraordinarily explicit protections of the rights of the individual under questioning that are stipulated for their use.<sup>12</sup>

Ultimately, the real issue may not be the reach of ASIO's powers but the appropriateness of their application and whether or not there are adequate safeguards to prevent them being abused. Given the public debate about these powers, the Government has appointed an Independent National Security Legislation Monitor, who will review the anti-terrorism legislation and its operation. ASIO welcomes this move.

### **So what does this mean for Australians and their privacy?**

Justice Hope recognised that secret intelligence was necessary in order better to defend ourselves against those who were planning secretly to threaten our national security or the safety of our citizens. He also recognised that the intrinsic nature of security intelligence necessarily involved intrusion into the privacy of individual Australians. He set down three fundamental principles which govern the operation of ASIO:

"ASIO must operate within the terms of its statute, and be concerned only with matters that are relevant to security;

"ASIO must comply with the law; and

"ASIO should not intrude upon the rights and freedoms or upon the privacy of persons except to the extent that the requirements of the nation's security... justify *and* the law allows. " 13

This last principle forms the basis for a key element of ASIO's operating doctrine, that of "proportionality" whereby warranted special powers may only be used in proportion to the immediacy and gravity of the threat or harm to be prevented, and where other less intrusive methods may not be adequate or practicable

<sup>12</sup> Protections under Part III, Division 3 of the ASIO Act include: the Attorney-General's consent required for a warrant and he must be satisfied that relying on other methods to collect the intelligence would be ineffective; the person must be treated with humanity and respect for human dignity, and not subjected to cruel, inhuman, or degrading treatment; nothing said or produced by a person may be used against him in criminal proceedings; questioning must be recorded and occur before a judge or Administrative Appeals Tribunal President or Deputy; the person may contact a lawyer who may be present; the person may not be questioned for longer than 24 hours (or 48 hours with an interpreter); the person may complain to the IGIS or Ombudsman; the IGIS may be present and must be given copies of warrant documentation and questioning recording; it is an offence for a person exercising authority under warrant to contravene an safeguards or restrictions provided in the warrant or ASIO Act.

<sup>13</sup> RCIS, FOURTH REPORT, pp. 71-72, paras 121-123

for the circumstances. The more intrusive the investigative method, the higher the level of authority required, right up to the Attorney-General or, in the case of special terrorism powers, a judge.

In practice, this means that at the forefront of our minds when making operational decisions is the impact that the exercise of ASIO's investigative powers will have on individuals and whether that impact can be justified. A detailed and sustainable intelligence case must be made to justify the use of intrusive powers. Our officers are trained in assessing the need for these intrusive powers and the adoption of less-intrusive techniques wherever possible.

The application of this principle of proportionality helps explain why, after seven years of persistent terrorist threat in Australia, ASIO has considered it necessary to invoke its questioning powers on only sixteen occasions and has not so far needed to invoke the detention powers. ASIO's very limited and prudent use of these questioning powers, coupled with the scrutiny and safeguards if they are used, should offer some comfort that they are applied appropriately.

A second important operating principle is that, to be effective, ASIO must protect absolutely its covert investigative efforts and its sources, including intelligence received from foreign partners. Otherwise, its ongoing capability to detect future threats is seriously diminished.

ASIO takes pains not only to protect the precise methods by which it collects intelligence, but also to protect the information it necessarily collects on Australians and to use that information only in accordance with the law. This is a responsibility we take very seriously indeed.<sup>14</sup>

### **Accountability in Security Intelligence**

It is standard practice in Australia for Governments not to comment on detailed intelligence matters. There are good reasons for this as I have just mentioned. We need to protect

---

<sup>14</sup> One of the many consequences of the Wikileaks saga is that the release into the public domain of information about individuals and their private views, information which they had a right not to expect to become public, may represent a serious invasion of their privacy. It may put people's reputations unfairly at risk or, worse, even put them in actual physical danger.

persons under investigation, methods and sources of clandestine intelligence activities (including foreign sources) and the very private and sensitive nature of the assessments we provide to the government.

How then can the national security intelligence organisation, which must conduct its collection and investigative activity clandestinely, be accountable to Parliament and the people - as all other government instrumentalities must be accountable?

Justice Hope admitted in his Fourth Report that this issue had given him great trouble.<sup>15</sup> Hope described the issue clearly: "The necessity for secrecy in ASIO's operations means that the normal processes of checks and balances cannot be applied." His first response was to ensure that accountability to ministers of the executive government was the main method of control of ASIO.<sup>16</sup>

However it goes beyond simple ministerial control. Today ASIO operates within an extensive oversight and reporting regime that effectively ensures that ASIO is indeed accountable for its activities.

ASIO produces an annual unclassified report to Parliament and a classified report for ministers.

Justice Hope concluded that it would not be appropriate for a Parliamentary committee to have oversight of ASIO's secret operational activities and its holdings on private citizens. Nevertheless, ASIO is subject to some Parliamentary scrutiny, including through the Joint Parliamentary Committee on Intelligence and Security, which enquires into ASIO's budgetary and administrative affairs.

In addition the Director-General of Security is required to appear before Senate Estimates Committees and has the pleasure of being grilled about the Organisation's activities - where the challenge is to juggle the requirement in a public forum to assist the nation's representatives with as information as possible while

---

<sup>15</sup> RCIS FOURTH REPORT, p. 161, para 324: ". . . On the one hand is it most important that ASIO should not be, and should not appear to be, a political tool. On the other it is most important that it keeps to its proper role and that it understands and gives effect to national security needs and priorities. This is part of the basic dilemma that arises in security organizations in any democratic society out of conflicts between the interests of individual citizens and their rights, and the interests of the nation as a whole. "

<sup>16</sup> RCIS, FOURTH REPORT, page 161, para 325-325.

preserving the operational secrecy of the national security intelligence function .

It is the ASIO Act itself, however, that most clearly sets the limits and accountability regime designed to ensure the organisation does only what it is required to do - and in an appropriate way.

- . The starting point for the proper control of ASIO activities lies in the very precise definitions of security, which limits ASIO activities accordingly.
- . ASIO is answerable through the Attorney- General to the government of the day. Its special powers can only be exercised on the basis of a warrant issued by the Attorney-General or, in the case of terrorism powers, a federal magistrate or judge.
- . Another key element in the accountability mechanisms is that of proper authority for the issuing of lawful instructions within the Organisation. The ASIO Act requires the Attorney-General to issue Guidelines covering the way ASIO does its work. Those Guidelines are given effect through internal regulations, each with built-in accountability to ensure lawfulness, appropriateness and proportionality.
- . The Director-General must be impartial. The Act gives the Director-General a 'special responsibility' to ensure that the organisation is kept free from any influences not relevant to its functions and does nothing that might suggest it is favouring the interests of any particular section of the community.<sup>17</sup>
- . Section 17A of the Act stipulates that ASIO "shall not limit the right of persons to engage in lawful advocacy, protest or dissent."

Recognising the importance of bipartisanship on intelligence, on the recommendation of Justice Hope, the Director-General is required by the Act periodically to brief the Leader of the Opposition on matters pertaining to security intelligence.<sup>18</sup>

---

<sup>17</sup> This principle of non-partisanship also appeared in the 1949 ASIO charter.

<sup>18</sup> ASIO Act (1979), Section 21.

The Australian National Audit Office has full access to ASIO accounts and conducts appropriate audits annually, including audits into the efficiency and effectiveness of the Organisation in meeting its statutory responsibilities.

One of the most important and effective elements of accountability lies in the role of the Inspector-General of Intelligence and Security, an independent statutory official who has access to every aspect of ASIO's operational and administrative activities. In effect the IGIS functions as a standing Royal Commission into the day-to-day workings of ASIO - all our decisions and all our files are subject to IGIS scrutiny.

The IGIS pays particular attention to the appropriateness and lawfulness of ASIO actions. The IGIS is required to look beyond strict legality and must also report on matters of propriety and consistency with human rights. As security agencies are given intrusive powers and also need to cooperate with many foreign agencies, this oversight provides assurance that the agencies act ethically and with respect for the privacy of Australians. The IGIS's findings are reported annually to the government and parliament.

Like those of all Commonwealth agencies, ASIO decisions are subject to judicial review, and in certain cases merits review. In contributing to police investigations into terrorist activity, ASIO officers may give evidence in court. That is as it should be. In its day-to-day activities, ASIO gathers and analyses secret intelligence information, disclosure of which could seriously compromise our capabilities, methodologies, sources, officers and foreign liaison relationships. When we become involved, or our information is sought, in a legal proceeding, ASIO is committed to contributing to these legal processes. ASIO is required by the Attorney to be a model litigant.

At the same time, the Director-General has a duty to ensure that sensitive information is properly protected so as not to allow prejudice or compromise to Australia's national security. This can be challenging.

---

For example, we make public interest immunity claims over sensitive information, but only after serious consideration of the need to do so, having regard to the need to protect national security, to the strong presumption of open justice in Australian courts, and to the imperatives of procedural fairness in civil matters and a fair trial in criminal proceedings.

In the Sydney Pendennis terrorism prosecution, in responding to over forty subpoenas and providing over 4,000 pages of classified material, our legal advisors worked constructively with all parties and, ultimately, only one public interest immunity claim had to be adjudicated. That claim was upheld.

## **Conclusion**

Last week saw the tenth anniversary of 9/11. I read with interest many of the reflections written about the last ten years. Some pieces considered the merits or otherwise of Australia's legislative response to the terrorist threat. Some criticised Australian anti-terrorism laws, for example observing that not a single person had been killed in Australia in a terrorist attack since 9/11, and that none of the individuals who had been charged in connection with terrorist activity had actually been charged with engaging in a terrorist act.<sup>19</sup>

For a security intelligence agency, that is precisely the point. If there had been a successful attack on Australian territory, many people would be dead and the public would be looking to me and the Government to explain the "intelligence failure." And if we had detected terrorist planning and then allowed it to develop to the attack stage – where many things could go wrong – critics would be entitled to ask why lives had been put at potential risk by not nipping it in the bud earlier.

So the role of a security intelligence agency in a liberal democracy is never easy. Its activities and apolitical orientation will be questioned by many and its necessary lack of transparency will frequently make it the subject of scepticism and even deep suspicion. Its successes are mostly unheralded or, if they have

---

<sup>19</sup> "Our Flawed response to 9/11", article in The Canberra Times, 9/9/11, by Dr Chris Michaelsen.

been made public, soon forgotten. We remember the bomb that went off, not the one that was defused.

Yet it is a sign of the strength of our democracy that there is a continual, palpable and dynamic tension between the need to ensure the protection of the community and its people from the actions of a few individuals who would do the community harm on the one hand, and the rights of those individuals on the other.

To help manage that tension and to help us get it right, ASIO has a large complement of in-house lawyers, which has included graduates of Law Schools like Adelaide, who bring with them the concept of the rule of law. In addition, all of our intelligence officers undergo training in the ethics of security intelligence.

With their support, I believe that ASIO is indeed exercising the power to prevent people doing harm to Australian citizens and Australian interests with, in the words of Dr John Bray in 1971, "caution and in extreme cases and balanced against the due regard to liberty."

That we have been able to do so, owes much to Justice Hope, who recognised the importance of the security intelligence function and the unique circumstances under which it could be made to work in a democratic environment. The framework he devised for the Australian Intelligence community and for ASIO has largely stood the test of time.

That we have been able to do so also rests upon the commitment, professionalism and skills of the people of ASIO, who come from many diverse backgrounds and who can take no public credit for the often outstanding work that they do for the protection their fellow Australians. They may be stereotyped in newspaper cartoons, and they may make occasional mistakes which are frequently resuscitated and recycled from the archives to haunt them, but I can assure you that they do not approach their job with misplaced messianic zeal but with commonsense, good training in analysis, ethics and risk management and a keen appreciation of the rights and liberties it is their responsibility to uphold and to which they are deeply committed.

I believe Australians owe them a debt of gratitude, even if we are not allowed to know who they are.