

BURN THIS BILL

By Michael Valpy

Justice Minister Anne McLellan's claim in a letter this week to The Globe and Mail that her antiterrorism bill does not strip Canadians of their civil liberties is ridiculous.

Reid Morden, the former chief of the Canadian Security Intelligence Service, says the agency doesn't need the legal powers McLellan proposes to give it, merely more human resources.

The Canadian Bar Association, the Canadian Civil Liberties Association, a parade of constitutional and civil-rights lawyers, the national commissioners of privacy and information, the head of the Canadian Human Rights Commission, the citizen oversight committee for CSIS, the former judge who sits watch on the military's Communications Security Establishment . . . you're hearing what they are saying.

They are saying the bill strips Canadians of their civil liberties. That it guts privacy and human-rights legislation, overrides Charter of Rights and Freedoms protection, puts political dissent at risk of being criminalized, gives the government and its police and spies exorbitant powers to eavesdrop on, investigate, detain and blacklist citizens. That it's unbalanced, that it threatens the innocent.

McLellan, a former constitutional-law professor who has morphed into a gnome of power, has not explained why the government's existing authority to deal with treason, the intimidation of Parliament and legislatures, sabotage, sedition, conspiracy, causing alarm to Her Majesty and other criminal acts is inadequate.

She has not explained why the government needs to abrogate protections of the Charter of Rights.

She has not explained why -- if it is a "war" we're fighting -- her antiterrorism bill is unambiguously intended as permanent legislation, a permanent change in the balance between individual rights and order in society, as Mount Allison University president Wayne MacKay told a Senate committee this week. (MacKay, former dean of law at Dalhousie University, was asked by the Senate to analyze the bill.)

This is insolence of office, taking away people's liberties without telling them why.

It leads to speculation -- as MacKay suggested in a conversation -- on whether the Justice Minister and her cabinet colleagues are really masters of this brief. Or whether they're feeling the cattle prod from a Bush administration that wants as many countries as possible with identical antiterrorism laws to constrain the international terrorist movement.

The U.S. bill at least has sunset provisions.

The bill before Britain's Parliament is reportedly more Draconian than Canada's. The British government has no written charter of rights to worry about; on the other hand, unlike Canada, it has a press that strenuously objects to the erosion of civil liberties.

The McLellan bill at very minimum needs four things done.

The Justice Department, as MacKay told the Senate committee, must submit a report to Parliament on why it thinks it cannot combat terrorism with the government's existing powers.

There must be judicial or parliamentary oversight on what names are placed on the government's list of subversive or terrorist individuals and organizations. McLellan's bill merely provides that CSIS submit names to the cabinet.

There must be sunset provisions.

The definition of terrorism contained in Section 83.01(b)(ii)(E) – the jackboots section -- must go. It says terrorist activity means "to cause serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of lawful advocacy, protest, dissent or stoppage of work . . . "

Much civil dissent, MacKay says, has an "unlawful" element. Trespass, unlawful occupation, wildcat strikes, resisting arrest, obstructing justice? Terrorist activity, McLellan's bill says. Parts of the Quebec City protest? Terrorist activity, McLellan says.

As MacKay says, "If we give away our right to dissent, then terrorists have won in a different way -- destroying our political freedoms and free traditions."

"Fascism should rightly be called corporatism as it is a merge of state and corporate power"... Benito Mussolini

“The constitution of Canada does not belong either to Parliament, or to the Legislatures; it belongs to the country and it is there that the citizens of the country will find the protection of the rights to which they are entitled” Supreme Court of Canada A.G. of Nova Scotia and A.G. of Canada, S.C.R. 1951 pp 32

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