

Last month, the House amended the 1978 Foreign Intelligence Surveillance Act (FISA) to expand the government's ability to monitor our private communications. This measure, if it becomes law, will result in more warrantless government surveillance of innocent American citizens. Though some opponents claimed that the only controversial part of this legislation was its grant of immunity to telecommunications companies, there is much more to be wary of in the bill. In the House version, Title II, Section 801, extends immunity from prosecution of civil legal action to people and companies including any provider of an electronic communication service, any provider of a remote computing service, "any other communication service provider who has access to wire or electronic communications," any "parent, subsidiary, affiliate, successor, or assignee" of such company, any "officer, employee, or agent" of any such company, and any "landlord, custodian, or other person who may be authorized or required to furnish assistance." The Senate version goes even further by granting retroactive immunity to such entities that may have broken the law in the past. The new FISA bill allows the federal government to compel many more types of companies and individuals to grant the government access to our communications without a warrant. The provisions in the legislation designed to protect Americans from warrantless surveillance are full of loopholes and ambiguities. There is no blanket prohibition against listening in on all American citizens without a warrant. We have been told that this power to listen in on communications is legal and only targets terrorists. But if what these companies are being compelled to do is legal, why is it necessary to grant them immunity? If what they did in the past was legal and proper, why is it necessary to grant them retroactive immunity? In communist East Germany, one in every 100 citizens was an informer for the dreaded secret police, the Stasi. They either volunteered or were compelled by their government to spy on their customers, their neighbors, their families, and their friends. When we think of the evil of totalitarianism, such networks of state spies are usually what comes to mind. Yet, with modern technology, what once took tens of thousands of informants can now be achieved by a few companies being coerced by the government to allow it to listen in to our communications. This surveillance is un-American. We should remember that former New York governor Eliot Spitzer was brought down by a provision of the PATRIOT Act that required enhanced bank monitoring of certain types of financial transactions. Yet we were told that the PATRIOT Act was needed to catch terrorists, not philanderers. The extraordinary power the government has granted itself to look into our private lives can be used for many purposes unrelated to fighting terrorism. We can even see how expanded federal government surveillance power might be used to do away with political rivals. The Fourth Amendment to our Constitution requires the government to have a warrant when it wishes to look into the private affairs of individuals. If we are to remain a free society we must defend our rights against any governmental attempt to undermine or bypass the Constitution.