TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL
(NO. 2) 1984

Date Introduced: 5 September 1984
House: Senate
Presented by: Senator Gareth Evans, Q.C, Attorney-General

Short Digest of Bill

Purpose

To amend the Telecommunications (Interception) Act 1979 to permit documents, including tape recordings, in the possession of the Special Prosecutor, Mr I.D. Temby Q.C., to be given with the Attorney-General's authority to the N.S.W. Commissioner for Public Complaints or to the Royal Commission presently being conducted by the Hon. Mr. Justice D.G. Stewart.

Background

The Telecommunications (Interception) Act 1979 prohibits the interception of communications passing over the telecommunications system except where authorised under the provisions of that Act. Subsection 7(4) of the Act prohibits the communication to another person of any information obtained by intercepting a communication passing over a telecommunications system.

In 1983 a new section 7A was inserted in the Act by the Telecommunications (Interception) Amendment Act 1983 to make specific provisions for communication to the New South Wales Special Commission of Inquiry being conducted by Mr Justice Cross, of information obtained by lawful interception of telecommunications under the Act.

On 21 August 1984 the Attorney-General tabled in the Parliament a report of the Special Prosecutor, Mr Ian Temby Q.C., in relation to what has become known as the "Age Materials" together with a report by the Acting Commissioner of the Australian Federal Police, Mr J.C. Johnson, on "Allegations of Illegal Telephone Interceptions: Inquiries on Behalf of the Special Prosecutor".

From the reports tabled by the Attorney-General it appears that some of the material in the possession of Mr Temby is relevant to the Royal Commission into Drug
Trafficgng being conducted by Mr Justice Stewart and, in view of the probability of offences against State law being involved, the material may also be of relevant concern to the New South Wales Commissioner of Public Complaints. It also appears from the reports that some of the materials under consideration may have been obtained by intercepts of telephone conversations not authorised under the Telecommunications (Interception) Act 1979.

Main Provisions

Clause 3 of the Bill would insert into the Act new sections 7B. The effect of sub-section 7B(1) is to enable Mr Temby to deliver the material in his possession to Mr Justice Stewart and/or the Commissioner of Public Complaints for New South Wales, notwithstanding the prohibition against such transmission contained in the Principal Act. New subsection 7B(2) enables either of the Commissioners referred to in 7B(1) to make use of any document forming part of the materials once they are satisfied that the document is an authentic record of the matters purported to be recorded therein and that such matter is appropriate to be dealt with by them. Once the requirements of subsection 7B(2) have been satisfied the new subsections 7B(3) and 7B(4) respectively would allow Mr Justice Stewart and the New South Wales Commissioner of Public Complaints to make further use of the document in the course of their respective duties.

The Bill also proposes under clause 3 to insert a new section 7C in the Principal Act, sub-section (1) of which declares what would appear to be a statement of the present law that a person who reasonably suspects that material in his possession may be evidence of an actual or proposed offence of telecommunications interception may pass that document to the appropriate Law Enforcement Agency.

Subsection 7C(2) provides that on receipt of any document under the provisions of 7C(1) the Attorney-General, the Director of Public Prosecutions, the Commissioner of Police or the National Crimes Authority may use the document in connection with any inquiry into, or prosecution for, any offence of illegal telecommunications interception, including the related offences of accessory after the fact, attempts, incitement or conspiracy under the Crimes Act 1914.

For further information, if required, contact:

24 September 1984

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