Speech by

# Hon. Cameron Dick

**MEMBER FOR GREENSLOPES**

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## TELECOMMUNICATIONS INTERCEPTION BILL

**Hon. CR DICK** (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (2.30 pm), in reply: At the outset, I wish to thank all honourable members for their contributions to the debate on the Telecommunications Interception Bill. In particular, I would like to thank my colleagues on the government side of the House for their thoughtful and reflective comments on the legislation. I would also like to thank the member for Gregory for his kind and generous words on my appointment as the Attorney-General and Minister for Industrial Relations. The office of Attorney-General is one of the four high offices of state that have continued uninterrupted in Queensland since statehood in 1859, and it is an office that I am extraordinarily honoured and greatly privileged to hold.

The bill sees an end to five years of lobbying, advocacy and persistence by this and previous Labor governments to seek the Commonwealth government's recognition of the important role of the Public Interest Monitor in Queensland. It establishes the requisite recording, reporting and inspection regime required under the Commonwealth Telecommunications (Interception and Access) Act to enable the Queensland Police Service and the Crime and Misconduct Commission to apply for telecommunications interception warrants. As members have heard during the debate, the bill increases the tools available to officers investigating serious crimes, such as drug trafficking, criminal paedophile networks, organised crime, serious premeditated violent crimes and corruption.

Importantly, the bill recognises the intrusive nature of telecommunications interception. Before applying to the court for a telecommunications interception warrant, the investigating officer must advise the PIM of the application and provide all relevant material to the PIM. The PIM may appear before the court at the warrant application and may make submissions to the court.

I will now address some of the matters raised by honourable members during the debate. The current Leader of the Opposition made some entirely incorrect comments that the Bligh government was keeping these powers from the police. In nearly the same breath, he expressed support for the role of the Public Interest Monitor. He wanted to support the front-end and back-end protections. As with the debate on Tuesday about the new parliamentary committee system, he wants to, as one honourable member described it during that debate, walk both sides of the street, forwards and backwards at the same time. As usual, the opposition cannot decide whether they are coming or going on the issue.

The Leader of the Opposition said that these powers have only been held up by 'some argument between Queensland and Canberra over which was the better approach'. I think he called it a squabble at one stage. Let all members be very clear: when the Leader of the Opposition says 'some argument', he means this: should we have checks and balances that lead the nation, or should we not? His Canberra coalition colleagues said, 'No, Queensland should not be able to institute these safeguards,' yet here is the Leader of the Opposition stating that the PIM is an important part of the architecture of the protection of rights and liberties in Queensland. If LNP members were consistent with their Canberra colleagues they would oppose this bill, but they do not. If they wanted the PIM involved they would have included it in their previous bill, but they did not. If LNP members want to be relevant, it appears they have a long way to go.

The members for Moggill and Mermaid Beach both claimed that the government was 'hiding behind the PIM'. The member for Southern Downs, the Deputy Leader of the Opposition, went so far as to call the PIM a 'trick', while the member for Mudgeeraba called the PIM an unnecessary layer of 'bureaucratic red tape'. Then the member for Warrego topped it off by saying the PIM was a 'flimsy excuse' and that it 'won't make a damn'—excuse my language, Mr Deputy Speaker—'bit of difference whether the PIM is there or not'. LNP members may claim to be the parents of the PIM, but they are abandoning parentage in this debate. If the PIM is an orphan, I can assure all honourable members that the ALP is happy to support the PIM and take up that parentage. They have hastily abandoned the PIM for reasons they cannot explain in a debate they do not understand.

On the importance of the role of the PIM, and at the risk of censure from my own party, I will quote from the explanatory notes of the 1997 bill introduced by Russell Cooper, who, as all members know, is a former National Party member of this House, a former Leader of the Opposition and a former Premier of this state. What did Mr Cooper say? He said—

The authority to install a listening or visual surveillance device for the investigation of serious indictable offences, or the conduct of a covert search of a place for evidence relating to organised crime, are extraordinary but necessary powers. As the level of intrusiveness may be extensive, the community expects respective safeguards also to be extensive to ensure the proper use of such powers. The Bill introduces the new concept of a public interest monitor. The monitor will perform an independent role ...

But their own words, their own history and their own legislation are obviously not good enough for the opposition today.

The member for Warrego questioned the very utility of the PIM. The lack of opposition to warrants is not indicative of the Public Interest Monitor failing to play a significant role in testing warrant applications. Rather, it may demonstrate the importance of the PIM. The fact that the PIM must be consulted will help ensure that applications are well prepared and that proper consideration is given as to whether covert action is in fact necessary.

To date, the courts have refused each of the covert investigation warrants that the Public Interest Monitor has opposed, and that was alluded to and commented upon by some members in this House. Therefore, the Public Interest Monitor has an important role in ensuring covert investigative techniques are used appropriately. This debate is not about whether the police should have these powers; we all agree they should. The core of the debate is the vital question of getting the balance right.

It was the former Howard government which adopted a philosophical opposition to checks and balances of this type. Why was that? It was pride. It was the pride of the former Liberal Prime Minister, John Howard, and the pride of the former Liberal Attorney-General, Philip Ruddock, who stubbornly and, as some members have commented, unreasonably and unnecessarily opposed this application by the state for inclusion.

It was, however, the Fitzgerald report, necessary after years of National Party corruption and maladministration in this state, that formed the genesis of the PIM as part of a package of reforms focused on reforming police powers and ensuring that appropriate safeguards exist upon their operation. The reason the opposition has not been successful in pushing its bills on this issue is that it was not willing to allow the public interest to be represented in telecommunications interception applications and hearings—plain and simple. There is no dark conspiracy against the ill-considered ideas of the deposed leader of the opposition, now the deputy leader; just a simple desire on the part of the members on this side of the parliament to protect Queenslanders from the potential for the excessive use of police powers, to ensure we have a system of justice that balances the interests of operational policing with the liberties and rights of individuals. This is not to frustrate our police but rather to ensure that both law enforcement agencies and the community have the full and robust protections they both need and deserve.

Telecommunications interception, as I have said, is extremely intrusive on an individual's privacy. The technology allows investigative officers to listen to phone conversations, including conversations that are private and unrelated to any possible criminal activity. This investigative tool is used without the knowledge of the targeted person or people with whom they are likely to be speaking.

The government is concerned to ensure that the Public Interest Monitor is involved in testing the validity of telecommunications warrant applications. This is consistent with the Public Interest Monitor's role in testing the validity of applications for other covert warrant applications. The Queensland government had lobbied for years to obtain approval from the Commonwealth to have amendments made to the Commonwealth Telecommunications (Interceptions and Access) Act to allow the involvement of the Public Interest Monitor. Since receiving notification from Prime Minister Rudd in August 2008 that the Commonwealth would amend its legislation, this government has acted quickly to introduce these bills.

I took time to search the Commonwealth parliamentary *Hansard* record in respect of parliamentary debates about the Commonwealth legislation that authorises the introduction of a Public Interest Monitor. I am happy to be corrected if I am incorrect, but I could not find one Liberal or National member of the House of Representatives or the Senate who was willing to speak on the Commonwealth bill let alone

speak against the introduction of the PIM. No-one in the Commonwealth parliament who claims to represent the Liberal and National Party from Queensland spoke about the false and incorrect allegations and assertions made by the members opposite that the lack of these powers led to 'an increase in crime'—the allegations made by the opposition. The opposition has no influence on their Canberra colleagues. It has had no influence in the five years that we have been waiting for this measure to come forward and it has no influence today.

The Leader of the Opposition had the gall to suggest that organised crime had increased in Queensland because of this Labor government. This is like blaming the former Howard government for the rise in global terrorism, and fundamentally misunderstands crime, policing and the responsibility that the government owes to its people, which is not a surprise from the opposition.

The member for Mudgeeraba seemed confused as to the role of the PIM in Queensland, and her confusion was indicative of the lack of understanding by others on that side of the House. The member claimed that the PIM was unnecessary because the Ombudsman was used in other states and that that is sufficient. That of course completely misses the point that the role of the Ombudsman in other jurisdictions is at the back end of the process and is not involved in the application process itself. The PIM, on the other hand, has a completely different role at the front end—a role that the opposition is happy to include for surveillance warrants and covert search warrants, but for reasons which it is unable to articulate this is an identical role that it does not want here and, even worse, it does not seem to understand it. This has been and remains the fundamental flaw with the opposition's approach.

The member for Southern Downs, the Deputy Leader of the Opposition, claims that billions of dollars could be saved, lives protected and the problem of crime solved if this legislation had been passed. What was his proof? His proof was that these powers exist in New South Wales and other states, which is an interesting observation of fact but completely ignores the fact that organised criminal activity continues to be a significant problem in those jurisdictions. Where was the other evidence? Where was the data analysis? Where were the crime statistics? They are nowhere to be seen.

These TI laws are not the fix-all solution to every organised crime activity. They augment a suite of police powers that this and the previous government have introduced—powers to seize the proceeds of crime, powers to detect criminal activity and strong criminal penalties to deter criminals and protect our police and our citizens. The honourable Deputy Leader of the Opposition's suggestion that Labor has somehow failed the Queensland people is frankly offensive, naive, shamelessly self-aggrandising and is simply and fundamentally wrong.

I take up the comments made by the member for Gladstone in her sensible and reasoned speech on the bill. She made it clear that in joint operations with other law enforcement agencies the state has been using the evidence gained from telecommunications interceptions for years. These powers are important. They provide an important tool for police, and the government is adamant and always has been adamant about giving Queensland police access to them, but we would not do so without the checks and balances that are appropriate to such extraordinary and invasive powers. With that balance now achieved, the government has moved quickly to ensure that our police can continue to investigate criminal activity and protect our community.

I also want to comment on the other sensible speeches on the bill made by the Independents in this parliament and their sensible contributions, particularly by the members for Gladstone and Nanango. The member for Nanango asked what requirements there were on the destruction of restricted records. I advise the House that the bill specifically provides that, once an investigation or prosecution is completed that involved the use of telecommunications interception material, the restricted record—namely, the transcript and recording of the phone tap—must be destroyed immediately. It is important to note that, if the chief officer of an investigating agency determines that a restricted record is no longer required, the chief officer must notify the inspecting agency that the record will be destroyed. The record may not be destroyed until the inspecting entity has been given an opportunity to inspect it and the Commonwealth minister has inspected the register relating to the warrant under which the record was obtained. This provision is a requirement under the Commonwealth Telecommunications (Interceptions and Access) Act 1979. The provision provides for accountability and ensures that records are kept about the destruction of records obtained through telecommunications interception.

I want to make a few comments on the contribution—broadly described—made by the member for Burnett. The member for Burnett asserted that politicians would have access to the information contained in telephone intercept warrants. The details of a warrant are recorded by the CMC and the Queensland Police Service, and will also be known to the PIM and the judge making the order. No politician is involved in this part of the process. Each year the PIM and the Parliamentary Crime and Misconduct Commissioner will then provide reports of inspections of the applications made and warrants executed by their respective agencies, and a copy of these reports is provided to the minister. Where applications have been deficient or otherwise required remedial action, the report will contain details of the material deficiency and any

remedial action taken. Technically, such reports may contain interception information, but such information will only be provided in the report to the extent that it shines light upon the nature of the noncompliance with the legislation.

To apply the opposition's reasoning, in respect of applications that are appropriate we all have nothing to fear. In all their dealings, the QPS, the CMC and their inspecting authorities must fundamentally adhere to the legislative prohibitions on the communication of interception warrant information. All reports given to the minister are for the purpose of forwarding them to the Commonwealth in accordance with the requirements of the Commonwealth act.

A further question was asked as to whether there were offence provisions for the release of information under the scheme. I can assure the House that there are offence provisions in the Queensland bill at clause 34 and that they mirror the Commonwealth offence provisions at section 175 of the Commonwealth act. A person releasing information gained pursuant to the act in both pieces of legislation may be punished by up to two years imprisonment.

A number of the members opposite, including the member for Burnett, wanted to make this a debate about police resourcing. With your indulgence, Mr Deputy Speaker, I would like to make some comments on that given the free-wheeling nature of the debate before the House and I will do it as quickly as possible. Increasing police numbers across Queensland continues to be a high priority for the Bligh government. The Bligh government has committed a minimum of 600 additional officers over the next three years and will continue to ensure that police strength reflects the needs of communities across Queensland, including on the Gold Coast. In the last four years, an additional 90 police officers have been allocated for the Gold Coast, with a total of 752 police now allocated to that district. Twelve additional new police recruits have recently arrived on the Gold Coast following induction ceremonies at the Oxley and Townsville police academies.

Over the last five years the net growth of police officers has been around 280 officers in each financial year. I am pleased to inform the House that, in the time the Labor government has been in power, police numbers have increased by over 3,300—from 6,800 officers in June 1998 to an estimated 10,157 officers as at 19 May 2009, an increase of 49 per cent over the period.

The saddest moment in the opposition's contribution to the bill was by the member for Burnett. His declaration was that the PIM was a 'Labor PIM'. As was noted by some members observing the debate, if only he had spoken with the member of parliament sitting next to him, the member for Toowoomba South, who quite rightly and appropriately set out the history of the PIM in his contribution on the debate, and I thank him for that. The PIM was introduced by the member for Burnett's own party. It was lauded by them and, most of all, it was brought in because his party was involved in the most grave betrayals of the trust and respect the Queensland people placed in their police and their elected officials during the 1970s and 1980s.

Another disappointing aspect of the member for Burnett's contribution was his entirely, what I would regard as, despicable rant against civil liberties. He described those who believe in civil liberties as a 'contemptuous breed of human'. I reject the member for Burnett's statement entirely. Every member of this House should have at the heart of what they do in this place concern for securing the safety and protecting the rights and liberties of Queenslanders.

In a state based on the concept of democratic freedoms and the principle of individual liberty, the 150th anniversary of which we celebrate this year, it staggers me to think that any member of this place would so blithely disregard the rights and liberties of Queenslanders and those who advocate for rights and liberties. This House is charged with serious responsibilities—to protect Queenslanders who may be unable to protect themselves. Doing that lies at the core of what we do.

It is the most vulnerable members of our community who are most exposed to abuses of power, who are at risk of marginalisation and who need the protection of each and every member of this place through every law we make. Strong policing may be the sword by which we strike at the heart of criminal activity, but civil liberties are a shield we owe to every Queenslander to ensure their rights, their livelihoods and their communities are protected.

The Scottish philosopher David Hume most tellingly said, 'It is seldom that any liberty is lost all at once.' What Hume meant is that it is an incremental process, giving away those things that we cherish inch by inch, act by act. Unless there is good and proper reason for such action, we must guard against that.

Those on this side of the House have been and always will be interested in engaging in the debate about police power and the rights and liberties of individuals—an argument that appears to be too deep and too complex for those opposite to engage in. This side of the House has held the straightforward view that, where police exercise extraordinary powers, these powers should be subjected to appropriate checks and balances, both at the front and back end of the exercise of those powers.

Some members of the LNP have been in agreement with this side of the House that matters of privacy are particularly important to the people of Queensland. More accurately, members of the former

Liberal Party have been concerned about these important issues. Perhaps unsurprisingly, members of the National Party seem not to have the same level of concern. The members for Moggill, Mermaid Beach and Currumbin all noted that the issue of privacy for citizens of our state is important and needs to be considered. The member for Moggill went so far as to say, 'There is a legitimate argument in relation to protecting people if there is political or other misuse of such powers.' I could not agree more. Unfortunately, he seems unable to influence his leadership.

This is important legislation. It is important because it gives police powers they can use to assist criminal investigations. But more than that, it is important because it places appropriate checks and balances upon these powers in the interests of all Queenslanders. This debate strikes at the heart of what a responsible Queensland government and what a responsible parliament must do: strike a careful balance between important principles of state power, justice, safety and freedom. To do anything less would be to short-change the people of Queensland.

In conclusion, I again thank all honourable members for their contributions during the debate on this bill. I also thank the Prime Minister and those members of the Commonwealth parliament, in particular the Queensland members of the parliamentary Labor Party, for the courage that escaped their predecessors in government and allowed for the role of the PIM in Queensland.

I also want to thank a number of officers within the Public Service who have assisted in the preparation of the legislation—Mr David Thannhauser, Mr Phil Hall and Mr Tony Keyes from the Department of Premier and Cabinet; Jo Hughes and Andrew Gills from the Department of Justice and Attorney-General; Paxton Booth of the Queensland Police Service; Jan Speirs of the Crime and Misconduct Commission; and the staff of my office, in particular Mark Biddulph and Derran Moss. With those words I commend the bill to the House.