



Speech by

Murray Watt

MEMBER FOR EVERTON

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TELECOMMUNICATIONS INTERCEPTION BILL

Mr WATT (Everton—ALP) (2.52 pm): Like my colleague the member for Waterford, I also rise to speak in support of the Telecommunications Interception Bill. This bill complements the Commonwealth legislation which provides a national scheme for the legal interception of telecommunications for use in criminal investigations. The Commonwealth legislation ensures that the same accountability measures apply to all law enforcement agencies—right across the nation—which use the telecommunications interception powers that it bestows. The measures that must be followed include requirements regarding the keeping of records of agencies' use of the powers and reporting on agencies' use of the powers. Queensland is the only state or territory in Australia that does not currently have legislation that complements the Commonwealth regime. It is true that this has prevented Queensland law enforcement agencies from obtaining warrants to intercept telecommunications to investigate serious crimes occurring only within Queensland's state borders. The decision not to have such legislation in Queensland was not a decision taken lightly.

This government has a proud record in fighting crime. We have increased our police numbers to over 10,000. We sit above the national average for our police to population ratio. We have established new task forces to fight crime in particular areas and communities. We have armed our police force with the latest equipment to protect them in the line of duty. As a result of these measures, crime rates in Queensland have fallen. Since 2000-01, the overall crime rate in Queensland has dropped by 24 per cent. Since 2003-04, offences against property have dropped by 30 per cent. They are massive reductions in the level of crime that is being inflicted on Queenslanders each year.

In light of this commitment to fighting crime, the Queensland government's decision to not introduce complementary legislation regarding telephone tapping must have been based on a good reason. And the reason was a good one. We on this side of the House believe that citizens have a right to privacy and that there needs to be checks and balances against the abuse of powers by each arm of government, especially when those powers are as intrusive as telephone tapping. We have checks and balances on the actions of the parliament, the executive and the judiciary. Similarly, there needs to be checks and balances on our law enforcement agencies, including our Police Service and the CMC.

Unfortunately, that concern has not been shared by the opposition and, until recently, was not shared by the federal government. The Commonwealth legislation provides only what is called back-end accountability, meaning that law enforcement agencies' use of telecommunications interception powers is only inspected after they have been used. The Commonwealth does not currently provide for any accountability measures at the front end of the interception process, before they are used.

The Leader of the Opposition and other speakers from the opposition today have mentioned that the opposition has previously introduced a number of private members' bills seeking to complement the Commonwealth legislation. The Beattie and Bligh governments opposed those private members' bills and held out against pressure from the previous Howard federal government to introduce complementary legislation. As I have mentioned on a couple of occasions, this was for good reason. The Commonwealth's legislation and the private members' bills introduced by the opposition previously contained inadequate protections against the misuse of these intrusive phone-tapping powers.

The key protection that the Beattie and Bligh governments have wanted to see included in this legislation for some time now is the use of a Public Interest Monitor, known as a PIM. That is a very important protection against the misuse of these powers. From our point of view, the PIM plays a role at the application stage, when law enforcement agencies are applying for warrants to make use of telephone-tapping powers. The PIM is involved in the application stage to ensure that those powers are only granted when reasonable. The PIM has the ability to object to the misuse of those powers and to argue that there is insufficient reason for a warrant to be granted, and there are various other protections against the misuse.

I heard the Leader of the Opposition call our steadfast support for the role of the PIM at the application stage a squabble. We think it is far more important than that and far more serious than a mere squabble. I found it very interesting to hear the Leader of the Opposition, as a former member of the Liberal Party—that party that ceases to exist in Queensland anymore—take that stand. I would have thought that a Liberal—a capital ‘l’ Liberal, someone who is committed to the rights of individuals—would support the use of a PIM in this important process. I am very surprised that any former member of the Liberal Party would support legislation without these kinds of protections against misuse by the state against individuals.

Mr Moorhead: Moggill's next.

Mr WATT: Yes, we will be very interested to hear what the member for Moggill has to say on this, as someone who also held the exalted position of Leader of the Liberal Party in a former career stage.

We have consistently supported the PIM and we continue to do so today. We are very gratified and pleased to see that we at last have a federal government with the good sense to see that the PIM has an important role in this process. As I mentioned, the previous Howard federal government steadfastly opposed our request to have the role of the PIM inserted in the Commonwealth legislation. I suppose, when we think about it, it is not really surprising that the Howard government opposed the involvement of the PIM. After all, this was the government that presided over the Haneef affair.

Members will remember the incident involving the former Queensland based doctor, Dr Mohamed Haneef, whom it was ultimately demonstrated was subject to trumped-up accusations of being involved in a terrorist activity. I had a look today again at the report of the inquiry into the Haneef affair, and it confirmed my thoughts that telephone tapping was one of the mechanisms used by the Federal Police in their investigation of Dr Haneef. We can only wonder what would have happened to that investigation and whether it would have proceeded as far as it did had a PIM been involved in the application by the Federal Police for phone-tapping powers.

When looking at that report, I was even more interested to see what act of parliament was used by the Federal Police to seek the telephone-tapping warrants and what act those warrants were granted under. It was the Commonwealth Telecommunications (Interception and Access) Act. That is the very act that does not provide for a PIM. It is the very act that Queensland legislation must be consistent with to survive a constitutional challenge.

I think all Australians were disappointed by what happened in the Haneef affair. We are all in support of our law enforcement agencies taking action to keep our communities safe. As I have already mentioned, the Queensland government has a proud record in fighting crime and making our communities safer, but the Haneef affair does show that our law enforcement agencies do not always get it right—just as parliament does not get it right all of the time and just as the executive does not get it right all of the time.

Just as it is important for the activities of politicians to be subject to oversight, whether that be by the Auditor-General or the CMC, it is also important for our law enforcement agencies to be subject to proper scrutiny of their activities, especially activities as invasive as telephone tapping. That is exactly what the PIM does. Even with the PIM, a judge retains the power to grant a warrant for telephone tapping. The judge can still grant that warrant even if the PIM objects to it, but at least the public interest is protected by ensuring that there are some checks and balances in the granting of these warrants.

I am very pleased, as I mentioned, that the federal government last year agreed to amend this legislation to provide for Queensland's use of the PIM. The PIM is an important guardian of the public interest to make sure that these invasive powers are not misused. I am very pleased to be able to speak in support of a bill which will have the role of the PIM set down in legislation to protect the rights of Queenslanders while at the same time allowing our law enforcement agencies to get on with the job of keeping our community safe. I commend the bill to the House.