

1984

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator the Hon. Gareth Evans,
Q.C., Attorney-General)

OUTLINE

The purpose of this Bill is to amend the Telecommunications (Interception) Act 1979 (the Principal Act) so as to permit certain documents, including tape recordings, held by Mr I.D. Temby, Q.C. in connection with his appointment as a Special Prosecutor, to be given to the Royal Commission being conducted by the Honourable Mr Justice D.G. Stewart, the New South Wales Commissioner for Public Complaints, or both.

The Bill also declares that persons in possession of documents suspected of being evidence of an offence of telecommunications interception under the Principal Act, may give such documents to certain law enforcement agencies.

NOTES ON CLAUSES

Clause 1 - This clause states the title of the Bill and refers to the Principal Act to be amended.

Clause 2 - This clause deals with the date of operation.

Clause 3 - This clause inserts two new sections into the Principal Act.

New section 7B enables certain documents held by Mr I.D. Temby, Q.C. pursuant to his appointment as a Special Prosecutor, to be given by, or with the authority of, the Attorney-General, to either or both of the following:-

- . the Royal Commission being conducted by the Honourable Mr Justice D.G. Stewart, for the purposes of that Royal Commission's inquiries;
- . the Commissioner for Public Complaints appointed under the Commissioner of Public Complaints Act 1984 of New South Wales, for the purposes of the Commissioner's functions under that Act in relation to the documents.

Before making use of a document, the relevant Commissioner is required to consider whether, and be satisfied that, the document is an authentic record of the matters purported to be recorded in the document authenticated and is capable of being the subject of, and is appropriate to be dealt with, in the course of his inquiry (in the case of the Royal Commission) or as a complaint (in the case of the Commissioner of Public Complaints).

New section 7C first removes doubt as to the lawfulness of a person in possession of a document reasonably suspected to be evidence of an actual or proposed offence of telecommunications interception giving the document to the Attorney-General, the Director of Public Prosecutions, the Commissioner of the Australian Federal Police or the National Crime Authority. Secondly it provides that a document that is, or may be, evidence of an offence that has, whether, before or after the commencement of the section, been given to the Attorney-General or a law enforcement agency may be used for the purpose of investigation into, and prosecution of, an offence against sub-section 7(1).

For the purposes of new section 7C, new sub-section 7C(3) expands references to an offence of telecommunications interception under sub-section 7(1) of the Principal Act so as to include references to offences of being an accessory after the fact, attempts, incitements to the commission of offences, and conspiracies under sections 6, 7, 7A and sub-section 86(1) respectively of the Crimes Act 1914.