Speech by

BILL FELDMAN

MEMBER FOR CABOOLTURE

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POLICE POWERS AND RESPONSIBILITIES AND OTHER ACTS (REGISTERS) AMENDMENT BILL

Mr FELDMAN (Caboolture—ONP) (3.12 p.m.): At the beginning of this debate on the Police Powers and Responsibilities and Other Acts (Registers) Amendment Bill let me acknowledge that, from a previous operational police officer's perspective, the Police Powers and Responsibilities Act 1997 was a very good piece of legislation when it was introduced into this House by the previous Minister for Police, the Honourable Russell Cooper. The Act received bipartisan support.

Some very knowledgable Queensland police officers put a lot of work into this Act: Doug Smith, Greg Thomas, Peter Doyle and a retired assistant commissioner under whom I served in the Redcliffe district, Frank O'Gorman—all of whom are well respected police officers.

The Bill, which became an Act, consolidated police powers under some 90 or so Acts under which police had some form of jurisdiction into one single Act. Certain Acts such as the Transport Infrastructure Act, the Traffic Act, the Domestic Violence Act, the Juvenile Justice Act and the Drugs Misuse Act—just to name a few not covered— contained anomalies peculiar to those particular Acts which could not be addressed under this legislation.

I thank the 48th Parliament for the sanity that prevailed. The Bill was not proclaimed for a period of time, and this time was used in a very productive way to educate police. Indeed, in some small way it changed the attitude of police who were to use and make this legislation workable in the reality of the public domain. Police are creatures of habit and they become comfortable with legislation that they use over and over. New legislation is looked at and worked over by the police from every possible angle. Bad legislation—and there is plenty of it—is usually made workable within the parameters set by the legislation and police get around it in the most unusual, but always very legitimate, ways.

After all, police are called upon to react to a situation in the field quickly and responsibly. An assessment of a situation is made, a decision is reached, and the situation is resolved. If the resolution of that situation was an arrest, the police officer had to know his stuff. After all, it was going to be open to debate and conjecture in a court of law. The i's had to be dotted and the t's crossed. There was no time in the initial conflict to resort to a book or a manual. There was no time to consult with a legal team. If the officer was lucky, he may have been working with a senior partner who may have provided some insight or direction as to the way to go in the situation that came to hand. However, after the officer has made a decision, he makes an arrest or detention. Then he has to await the scrutiny of the legal teams for the defendant in the Magistrates, District or Supreme Courts.

Getting back on track a little, this is where the consolidation of those 90-odd Acts actually assisted the police. We did not have to search for jurisdiction on the right to arrest or detain to ensure the correctness of the action that we took. Once this Act came into being, the majority of the Acts were catered for right there in the legislation.

Police always had a habit of making the legislation work, and work in the right way when it was introduced and enacted. It was refreshing to see good legislation come to the aid of police for a change. Speaking of change, there was some initial resentment to the technology of audio and video when it eventually came in as one of the reforms following the Fitzgerald inquiry. Some of us, however, had already discovered the value of carrying a micro cassette around and recording the conversations of suspects and offenders.

The micro cassette was part of my armour—usually hidden in a jacket or shirt—for some time before it became vogue to carry one around. As honourable members can see, it is not easy to break the habit. It became an invaluable tool for me, and one which saved me from the frivolous complaints of many offenders on many occasions. It is an innocent enough device. Even now I feel kind of naked without it in my pocket. I can tell honourable members one thing: there is nothing like the look on someone's face when they are caught by their own words—hoist on their own petard, so to speak. It is a habit that I should break here, but when the tape has been a friend for so long it is hard to stop, especially when there are so many people who are out to get you.

Police feel somewhat isolated in society. They are the first to be called upon in any time of crisis or dilemma or at the first sign of violence. They are the first to be criticised or shunned for any action taken. Taping is a very valuable tool for all police. It has been shown over the years since Fitzgerald that all the conjecture prior to the inquiry about police verbals was very much a complete beat-up. The truth of the matter is that we see the very same solicitors, barristers and Queen's Counsel who originally wanted taping now fighting like mad to have only the audio tape of their clients—the defendants of this world—admitted as evidence. Honourable members ask: why that is so? Why only the audio and not the video? Because the very sight of the client, possibly showing off his many tattoos, eyebrow-rings and nose-rings, as well as his bad attitude, may prejudice a jury. Give the barristers what they want and they then have to find a new way to get their clients off. Let us not worry about truth! Truth has little to do with guilt or innocence, but a lot to do with perspective.

Police dislike the guilty being found innocent, as much as we all abhor the innocent being prosecuted. As a matter of fact, Proverbs 17:15 says it far more eloquently—

> "Acquitting the guilty, and condemning the innocent—the Lord detests them both."

I always see a conflict when I hear of people evading a charge or avoiding prosecution not because they are innocent but because of a technicality.

That is the very thing that police were fearful of with regard to this Act. When the prospect arose of filling out all the registers, our minds turned immediately to the question of who would have access to the registers. Would it get to the stage of solicitors and barristers getting their clients off because of a slip-up in an incomplete register entry? We go back to American legislation which talks about the fruit of the poison tree. Once something happened, or once something was not completed, whatever was gathered from that point suddenly could not be presented in a court of law.

Let us examine what occurs when a police officer contemplates something like a raid on premises for drugs or stolen property. The officer in charge of the local CIB is advised and checks are made with internal police squads because of major crime initiatives. If the premises or the person are not under surveillance because of other crime-related matters, the raid is given the green light. A search is made of the drug register to establish whether or not a raid has been made on that particular property or on that particular person in the past 12 months. All raids previously carried out are entered in the application for a search warrant. A justice of the peace has to be located. Often it takes some time to track down a JP who is willing to put his name on the warrant. A JP is located and a search warrant is activated and completed from the dope register. The application for a search warrant and the warrant is taken to the justice of the peace and sworn. The application is retained by the JP and the warrant is signed by the JP. This occurs before the police even get to go to where they are supposed to go.

The raid is then organised. Sometimes up to four police have to be involved now because, if there is a video machine available, the police take the video machine. They also take a field tape-recorder and a micro cassette is used. The premises of the raid are then attended. The householder is advised of their rights during the raid. The police are identified to the householder and the occupants. An explanation is given for the raid. A warrant is shown to the householder and the expectations of the police are explained. The householder's notice is given to the occupant or the suspects who are detained. Their names and details are taken.

The premises then have to be searched in the presence of the suspects or the offenders. A log of the raid is then taken. The property is then listed on a running sheet. A field property receipt is issued for any property that is located or seized by police at the time. When the suspect is detained and taken back for an interview, this person is in police custody. So a custody register entry must be completed. Suspects are then taken to a police station for a formal interview utilising audio or video equipment. Following the interview, the suspect is given a copy of the audio tape of his interview. This is given following the details of the interview or the refusal to be interviewed being entered into the Queensland police computer system in the tapes index register. If on the prima facie evidence an offence exists, police will arrest and then charge a suspect with an offence at the watch-house. The charges are then typed into a computer and the suspect is arrested for an offence.

When the offender is charged at the watch-house, a custody register then has to be completed. Police cannot put somebody in custody without the register being completed. This is where the fun begins with the registers and the lengthy computer trail commences so that the police have a record of

whether they have completed all of these tasks, dotted their i's and crossed their t's. Firstly, the police officer must ring up the Police Service data entry section and dictate a crime report over the phone. That is to satisfy sufficient entries in the crime management system. The CRISP system, the crime register, generates a crime number so that the police may use it to process the prisoner in the watch-house. Secondly, the entering of this report by the data entry section will generate, if the computer is online and working, a drug register number. That is required for the property register. A property register form must be completed with a copy of the official notebook entry of the seized property. The property register must be completed and the property lodged with the property officer. The only way that the property can be lodged properly is if all the register entries have been completed—the CRISP register, the drug register, the tapes register, the search register, the custody register and the domestic violence register, if required.

The search register must be completed and the warrant returned to the issuing justice of the peace with an endorsement as to the time, place and person on whom the warrant was executed and the property located. The justice of the peace will then endorse the warrant to have the property stored at the relevant police station for the first 28-day period. This process leaves the police officer not only with the court brief to complete for the court date but also he has to make an application to the court to retain possession of the property in the locked and secured property office at the police station, especially as the Act demands that the police release property in less than 28 days or make another such application to the court. The property seized is now the subject of reports and it needs a corresponding register number.

As members can understand, all this computer work—if the station has sufficient computers—is what used to be the paperwork. However, it is now more complicated. It takes up a great deal of police time. One simple arrest following a raid can take a police officer all day to complete, depending on the availability of computers, other police to assist, transport and the other scant resources that should be available to police. All of these registers are part of the risk management assessment practices of police stations. They must be filled out and a lot of the computer applications have been written to ensure that one cannot be issued without the other.

The general public wonders where the police are. I can tell them that they are usually sitting behind a desk typing on a computer. The police officers are tied to computers and only they can competently enter the details of the arrest into the computers because their livelihood will be challenged if the registers are not completed effectively. We will be seeing even fewer police over the next few months as they all frantically comply with instructions given from above and get their recreation leave down to the required level. Some of these officers have accrued over 400 hours of recreation leave. The instructions from the assistant commissioner are that he wants recreation leave down to 228 hours per officer as a minimum. The senior officers need this minimum requirement, because they have contingency plans already in place should the Y2K bug be a reality. We have the turn of the millennium on 31 December 1999, with the expectation that there will be large crowds of people that will need monitoring, and this need for greater police will continue on to the Olympic Games. The police are making contingency plans for those Games and for those teams who are coming out here, especially those who are coming to Queensland to practise.

The Bill intends to enhance the administrative responsibilities relating to the recording of information in registers. The delegation of powers and responsibilities relating to the registers, as to who is responsible for maintaining the registers and which register is to contain the information, is also accounted for. The Bill also clarifies the responsibilities relating to the provisions of access to those registers and where people are entitled to be advised of certain information contained in them. For example, if a person is under police arrest, certain information may—and I like the word "may"—be disclosed to a person's friend, relative or lawyer in relation to the arrest.

According to the speech made yesterday by Mr Horan in relation to this Bill, the requirements relating to the registers will be expressed in clear terms instead of implied terms as they existed previously. The intended links between the recording obligations and the disclosure obligations of the registers will be clearer. The chief executive officers of the QPS, the CJC and QCC will have greater discretion about the way in which their registers are kept. In light of those comments, I support the objectives of this Bill, especially if they will improve the effectiveness of investigative operations and reduce the time that police officers spend on computers rather than on the job, because at the end of the day police are judged by how much time they spend on the job, not by how much time they spend in their offices or on their computers.

Although this legislation will make things a lot clearer for police in terms of their accountability and responsibilities relating to the registers, I stress my concern that the QPS does not fall in line with the American system of the fruit of the poison tree. I just hope that these things will not cause police to lose court cases.

Finally, with reference to the question that was asked yesterday by Mr Horan about the entitlement of inspecting the register of covert acts being extended to the Parliamentary Commissioner,

I, too, ask the Minister if he would give a clear indication as to where in the Bill this entitlement is expressed. In closing, I again say that, all in all, the police look to this Parliament and to good legislation and I, too, like them, pray that this Bill becomes good legislation and that these amendments do not cause the police angst as previous legislation has done. Again, I thank the Minister and support this Bill.