



Speech by

Hon. TOM BARTON

MEMBER FOR WATERFORD

Hansard 10 March 1999

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

Hon. T. A. BARTON (Waterford—ALP) (Minister for Police and Corrective Services) (11.46 a.m.):
I move—

"That the Bill be now read a second time."

The Police Powers and Responsibilities Act 1997 and the Responsibilities Code represented a significant change for policing in Queensland. The legislation, for the most part, received bipartisan support in its passage through the last Parliament because there were so many positive aspects to this legislation. This support existed even though the task of consolidating police powers could not be completed at the time the Bill was introduced. The second and final stage of the consolidation process will be completed with the introduction of a Police Powers and Responsibilities (Consolidation) Bill later this year.

A key element to the police powers and responsibilities package is accountability. The register requirements are an integral part of the Act's accountability mechanism. The Act currently implies that the Police Commissioner must keep a register. When a police officer conducts a search, seizes property or arrests a person, information about that event must be recorded in that register. Other events which must be recorded in the register include the questioning of suspects about indictable offences; the exercise of powers under a search warrant or notice to produce documents; the giving of a move-on direction; and information about what happens to seized property.

Under the Act a person who is the subject of such powers can ask for a copy of the relevant register record. Any police officer receiving such a request must comply as soon as reasonably practicable. Another safeguard is the requirement for any police officer to disclose the whereabouts of a suspect, who is being questioned about an indictable offence, to an inquiring friend, relative or lawyer.

Additionally, a police officer applying to a justice for a search warrant or notice to produce documents must disclose any other relevant warrants or notices issued by a justice in the previous 12 months. Compliance with these disclosure requirements are made possible by recording the relevant information in a computer database that is accessible Statewide. The Act also requires the commissioner to keep two other registers relating to applications for surveillance or covert search warrants and the disclosure of information obtained using a surveillance device.

The new part 12A—Registers reflects the existing requirements under sections 72, 78, 112 and 117 and introduces the following refinements. The registers will be of two types: a register of covert acts and a register of enforcement acts. "Covert acts" and "enforcement acts" are newly defined terms. The first register will record covert related events. The second will record more generally occurring events, such as the search of a place, person or vehicle, the arrest of a person, and the giving of a move-on direction. Some existing requirements to record information are implied by the Act: for example, the requirement to record information in the register with respect to a suspect being questioned about an indictable offence and the obligation to disclose the whereabouts of the suspect to an inquiring friend, relative or lawyer. The Bill will clarify such implied requirements.

Also, the intended links between the obligation to record information in the register and the obligation to disclose information kept in the register will be made clearer. A police officer who does a covert act or an enforcement act must ensure information about that event is recorded in the relevant

register. Exactly which entity's register is the relevant register will depend on whether the officer doing the particular act is performing a function for the police service, the CJC or the QCC. For example, in the case of a police officer exercising a particular power while performing a function for the CJC, whether or not the officer is seconded to the CJC under the Criminal Justice Act, the relevant register will be the CJC register. The same principle will apply to officers performing functions for other Queensland entities.

The situation is slightly different for a police officer executing an arrest power or a search warrant for another State or Territory law enforcement agency. In this situation the officer is to record the event in the register as though the function was performed for the entity to which the officer is normally attached.

The situation with the National Crime Authority is also slightly different. It has become apparent from the advice of the Crown Solicitor that any legislation passed by this Parliament that imposes register requirements on the NCA is likely to be constitutionally invalid. It necessarily follows that the current requirements, to the extent that they apply to the NCA, are also likely to be invalid.

The entities required to keep a register will be given the express authority to determine the form in which the register is kept. Also, the chief executives will be able to direct that access be restricted to particular information if disclosure could hinder or prejudice the relevant investigation, or result in embarrassment to the person, their family or an associate. As I previously indicated, the Act currently requires police officers to disclose information in certain circumstances. The information to be disclosed is recorded in a register. However, three changes to the register requirements resulting from this Bill will make full and absolute disclosure of the information impossible.

After the commencement of the proposed amendments the Police Service, the CJC and the QCC will each keep their own registers. Also, the registers kept by the entities will not generally be available for inspection by a police officer of another entity. The one exception will be the register of enforcement acts kept by the Police Service. Generally, this register will continue to be available for inspection by police officers of all entities including the NCA. Finally, if the chief executive directs, particular information within the entities register will not be generally available for inspection.

Because of these changes, the requirements imposed on a police officer to disclose information will only apply to information kept in a register the police officer is entitled to inspect and information otherwise actually known to the officer. It is necessary to extend the disclosure requirements to the second category of information to ensure that, as far as practicable, full disclosure occurs. Clearly, information actually known to the officer would not extend to information based on rumour, vague suggestions or suspicion. Additionally, the Bill recognises that joint operations do occur between Queensland entities or between Queensland entities and other declared law enforcement agencies.

Finally, provision is made for the correcting of the registers. If information is recorded in one entity's register when it should have been recorded in another, the Bill will allow for the movement of such information. I commend the Bill to the House.
