



Speech by

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POLICE POWERS AND RESPONSIBILITIES AND OTHER ACTS AMENDMENT BILL

Mr FELDMAN (Caboolture—CCAQ) (10.02 p.m.): It is with pleasure that I rise to speak on the Police Powers and Responsibilities and Other Acts Amendment Bill. Again, it is a pleasure to be able to speak in this House as an advocate for police from an operational policing background—a police officer who has always been in the field and amongst the public, whom I swore to protect and whom I served in this State both in and out of plain clothes.

I look at how, over time, with some smart silks—and sometimes not so smart silks—determined criminals have hidden behind the constraints of the law and the right to silence. I feel that it is about time we struck a home run for the hardworking coppers in the community, and I believe that this Bill is of that ilk. I commend the Minister for Police and Corrective Services for standing up for the right of the community to protect itself from the hardened criminal element. The Police Powers and Responsibilities and Other Acts Amendment Bill will have the capacity to further enhance the ability of police to detect crime and fight crime.

I have already read and heard the inane rantings of the usual adversaries to good legislation for police and corrective services and, indeed, the judiciary, and of course I refer to the usual throng of our ambulance chasing lawyers from the civil liberties brigade. The bottom line is always, "How much money is out there and how much money can I make out of this piece of legislation? How many cases can I suck out of this piece of legislation?"

We always hear this gem. Poor old Terry O'Gorman usually bears the brunt of most of it, and again he did not disappoint. He said, "This is a giant increase in police powers." I heard the scaremongering from the civil liberties activists that, "Only the courts should monitor the taking of DNA. Don't trust the police." At the very minimum, it was said, there needs to be court involvement or court supervision in the taking of samples. The scariest one of the lot was, "Who is going to decide whether someone is a suspect?"

I see Mr O'Gorman conjuring up images of police standing on the corner of Roma and Makerston Streets, in ranks of three, goosestepping along and randomly jumping out on innocent bystanders and rushing them back to some sort of Spanish Inquisition and taking their DNA profile. What a load of rubbish and tripe is that sort of scenario that Mr O'Gorman is pushing!

I do not think Mr O'Gorman is aware of the costs involved in these tests. I do not believe he understands that the police do not intend to create more work for themselves and that this is a process concerned with saving work and not creating it.

Mr O'Gorman says further in this article from our favourite old rag, the Courier-Mail—

"It is only a short step to Police requiring whole streets and neighbourhoods to give DNA samples when there is a serious crime committed or a spate of offences in a particular locality."

I know that he was referring to a particular series of rather heinous sex crimes committed against elderly women in Wee Waa and district in New South Wales. I point out that, in connection with the testing of the whole township of Wee Waa, the crime was solved with the help of the forced DNA profiling. We must take into account that the people of the township and district also wished to assist police in solving this horrific series of violent sex crimes that were souring the vision of the town. So much for the scaremongering and political point scoring that Mr O'Gorman sought to achieve with that little gem!

The Cabinet decision to introduce this Bill, which is a copy of the proposals introduced by the Carr Government in New South Wales, is indeed a good one. It may not be the "new initiative" that the current Queensland Government would like us to think it is.

I concur with the statements in the press from the Minister for Police, Mr Barton, when he said that testing would help solve and help clear up presently unsolved crimes and help reduce disputed issues in court proceedings. To underline how much DNA testing can help, I highlight—as did a previous speaker—the remarks of Superintendent Robin Napper who addressed the Queensland Police Service late last year. Superintendent Napper said that some of the worst cases of child murder were cleared up using the DNA database introduced into the United Kingdom in 1995.

As a matter of fact, Superintendent Napper advised that the British police had cleared up some 34 homicides purely with the assistance of the DNA database—cold hits, as has already been said. Honourable members must remember that there are persons currently serving terms of imprisonment who have perhaps committed many unsolved rapes and violent sexual offences and who have gone undetected.

I think of the taped interview with the renowned serial rapist and murderer Ted Bundy just prior to the death sentence being carried out on him in the United States of America. This serves as some sort of chilling evidence. It was Bundy himself who sought to extend his life a little longer by wanting to admit to, and clear up, some further 30 offences that were still undetected at that time. I found it personally obscene that he waited until one minute to midnight to want to clear up these matters, only to extend his life. He would have been hoping to appear at trials all over the country and extend his life indefinitely with trial after trial, perhaps hoping for a chance to escape and commit further offences. However, our incarcerated prisoners will not have that luxury. A DNA database will seek out our violent serial sexual offenders, and not before time.

Recently, I had occasion to be chatting with a member of this Chamber who described the taking of DNA for the solving of a crime as somewhat lazy policing. I believe that destroying the alibi of some desperado who is attempting to avoid detection is not—and I repeat: is not—lazy policing. It is, instead, giving police a sorely and much-needed essential tool in this day and age to destroy some of the lies and falsities put up by desperate criminals trying to escape detection and placement at a crime scene at a material time.

The Scrutiny of Legislation Committee Report No. 7 of 2000 mentions "outs" for criminal offenders for not supplying a swab for the DNA database. These "outs" were found in the Commonwealth Crimes Act 1914 and in amendments to that Act in relation to the DNA database. I read with interest some of the reasons that could be given, namely, there are reasonable grounds to believe that the suspect has committed the relevant offence; there are reasonable grounds to believe that the evidence will tend to confirm or disprove the suspect's guilt; and the carrying out of the procedure is justified in all circumstances.

It also suggests that regard must be had to the seriousness of the offence; the degree of participation of the suspect in the offence; the age, physical and mental health, cultural background and so on of the suspect; customary beliefs if the suspect is an Aboriginal or Torres Strait Islander; whether there is a less intrusive but reasonably practical way of obtaining the evidence; the reasons that the suspect gives for refusing consent; the period that the person has been detained; and the reasons for any delay in proposing to carry out the procedure.

I am personally glad that the Minister has not succumbed to the lure of the twisted ideology of the vocal civil libertarians on this matter. I firmly believe that, if a person has nothing to hide, what is wrong with supplying a DNA sample? It is very much like those who refuse to speak to a police officer. "What do they have to hide?" is the first thought that crosses most people's minds. I know that there was this civil libertarian mind-set prior to the Fitzgerald inquiry that all police bashed information out of their suspects and forced them to sign confessions, a la the Spanish Inquisition or the Star Chamber. However, the video and audio taping of suspects' conversations with police and the taping of evidence and interviews has certainly put paid to that old theory that was belted about in most courts.

Criminals just cannot help being dumb. They cannot help lying, and it is generally through those lies that they are found out. One lie generally leads to another and so on and so on until they cannot remember even the first lie that they told. Hence they get caught. DNA testing is an avenue through which the credibility of the criminal can be destroyed. After all, if there is one thing that I have learned in this place it is that all the half-truths spun out in this theatre sound credible. It is only when they are tested under the heat of debate that the half-truth that was credible and believable sometimes washes away.

As a former police officer, I personally have no difficulty with the workings of clauses 307(5) and 308(4) as outlined in the Scrutiny of Legislation's Alert Digest No. 7 of 2000. With respect to the need for DNA sampling, I feel comfortable that a police officer is able to make a judgment about the relevance of the rights and liberties of a person and the public interest before exercising that power

conferred on him under this Bill. I am pleased to see that, under clause 309, the courts are empowered to order the taking of a DNA sample in a proceeding against an adult charged with an indictable offence. I see that the committee has sought answers from the Minister with respect to questions about those clauses of the Bill, and I believe that he has responded.

I know that there has been a hue and cry about clause 316 of the Bill, which deals with DNA samples and records. The powers conferred on the Commissioner of Police that he may destroy the results show clearly that there is a discretion to retain the DNA database information while destroying the sample and the results. I know that persons who supply DNA in cases such as that case at Wee Waa would like their information taken off the database. However, I must say that that "may" provision of the commissioner to retain their records should remain.

I believe that the reasoning for that is quite simple. As cadets at the Queensland Police Academy, the member for Nicklin, the member for Ipswich West and I had our fingerprints taken. The reason that was done was to eliminate our prints from the scenes of a crime. Our fingerprints were taken not just to check us out but also to rule us out in case our fingerprints inadvertently contaminated a crime scene if we were the first officers on the scene. For example, police may be pursuing an offender through windows or through a building or following a fresh trail. There has to be an ability to eliminate from a crime scene evidence that has no relevance. Neither I nor the member for Nicklin have ever sought to have our fingerprints removed from the police fingerprint database, because we still have nothing to hide. So I see nothing wrong with this clause conferring this discretion on the Commissioner of Police.

However, I would not be truly representative of my constituents if I did not bring to the attention of the House the legitimate concerns of some members of the public. There is a concern about a criminal carefully committing a crime and then setting up an innocent person by placing items containing that person's DNA at the crime scene. A person is required to be present at a place in order for their fingerprints to be found in that place. However, a person need not ever have set foot in a place, yet their DNA can be removed from them and placed in that place. Some members of the public also say that they have a lack of knowledge of DNA—how DNA samples will be tested and how the results are determined. That lack of knowledge promotes concern and cynicism about the process in the eyes of the public. Generally, if people in a position of power are more educated about an issue than are the public, the public may be manipulated to their disadvantage.

There is a concern that there still may be some corrupt police or corrupt people who have access to a file and they may use that knowledge to their own advantage or to frame others. There is a concern about the rights and the liberties of individuals who are forced to supply anyone with their genetic code. As I said before, there is also a concern about the actual destruction of the DNA sample and what the remaining computer file may be used for. There is no way that the public would know what has been done or is being done with their genetic blueprint and in whose hands it might end up. I realise that there are safeguards in place. However, just because there are rules does not mean that they can never be broken. In this instance, the consequences for an innocent party of the rules being broken could be very severe. They are just some of the thoughts of some of the people who have contacted my office. I would not be doing my duty as a member without relaying those concerns to the Minister.

I certainly agree with the Minister's comments in his second-reading speech when he referred to the covert operatives. The Minister said that much judicial comment had been made with respect to the need for legislation dealing with covert police activities. We have all seen the TV shows and movies that portray a somewhat glamorous view of covert police activities. We all understand the necessity of the use of covert operatives to infiltrate criminal organisations to go deep under cover, as has been said already. Controlled covert operations are a necessary part of a complete law enforcement arsenal. It is true that, by necessity, covert police operatives have to play the part of a criminal or they risk exposure, which can spell not just the end of the operation but could even result in that police officer's death. A police officer cannot just waltz into a criminal organisation and say, "G'day, I'm a baddie, too. Let's get out there and commit some criminal activities." It just does not work like that. Police officers have to think like criminals, look like them, act like them, smell like them and, yes, take part in the activities in which they take part. The covert operative must gain the acceptance of the criminal gang and be accepted and trusted by them. He must be an integral part of their criminal social group. In the past, covert operatives have been placing themselves outside the protection of the law to do that. The life of an undercover operative is a dangerous, mind manipulating and mind bending way of life.

I have worked with some of the police who were mentioned in the article in the Sunday Extra titled "Undercover special—anguish of cops trapped in a double life". As the Minister would realise, it is a very hard road for police to travel as they come back into the real world after working under cover. Owing to the trust factor, undercover police face resistance from their work colleagues. I should explain that trust factor to some of the members in this Assembly, because it is a character trait that seems to be removed quickly from them. Police rely on each other, they depend on each other and develop a

deep faith in each other's ability to get them through each day unscathed. We cannot trust anybody in this place otherwise, like Caesar, we may receive that "Et tu Brute" stab in the chest rather than the usual ones in the back.

In the case of the Fitzgerald inquiry, that trust and mateship was referred to as a police culture. At the time, I heard the Honourable Russell Cooper stand up for the police culture, because it is—and I should say it was—very good for morale. The CJC has tended to ruin that trust and morale in the service, and that is most unfair. However, most people believe in that old adage, "If you lie down with dogs, you wake up with fleas." Unfortunately, that adage is applied to undercover operatives because, after all, they were actually paid to lie and connive their way into the lives of their mates, who were criminals. I am glad that the Queensland Police Service now recognises that we need a special type of personality and a special type of person to go under cover.

When I was at the Woodridge station I trained a young covert operative. Some four years after I left Woodridge, when I was at Caboolture, I met him while he was doing a drug operation at Caboolture. He had to introduce himself to me, because I did not recognise him at all. He was a sad shadow of the man I trained in his youth. He described it as a very dangerous, thankless and lonely job that put him out on the edge. However, after working in the job for so long he felt that he could do nothing else. As I said, he seemed a very sad and desperate shadow of the vibrant young man I had trained.

I know of one former covert operative who still sleeps lightly every night in a room—and not even the bedroom in his own house—with a weapon at the ready and others hidden discreetly around his home, just in case. He has had death threats from some nasty people. He keeps thinking that some uninvited guests might call. That is not a way of life that I would like to be living for the rest of my life, yet some of these people do. Giving the covert operative protection from having his real identity discovered is an essential ingredient to making a controlled operation more likely to succeed.

I believe it is incumbent on this Government and the Queensland Police Service to compensate all of the fine officers mentioned in that Sunday Mail report on 28 May 2000. They did a job that, perhaps out of bravado, they agreed to perform for the citizens of this State. They took an oath to protect the citizens of this State, but they now find themselves trapped in the nightmare that became their undercover life. I feel for these men personally because there but for the grace of God I could have gone.

The third initiative in the Bill involves giving police the power to apply immediately to a magistrate for an order to take blood and a urine sample from an offender to ascertain whether he carries an infectious disease. It is terrible to admit that, in this day and age with so many serious diseases, this is one of the first things one thinks of when confronted with a serious assault, a sexual assault or even when police are spat on by vile offenders. My old neighbour the fighting prosecutor would certainly have no trouble with this piece of legislation as it is drafted.

In conclusion, I commend the Minister for bringing this Bill into the Chamber. We will be supporting it. I commend the Bill to the House.
