Speech by

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MEMBER FOR MOUNT OMMANEY

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POLICE POWERS AND RESPONSIBILITIES AND OTHER ACTS AMENDMENT BILL

Mrs ATTWOOD (Mount Ommaney—ALP) (9.43 p.m.): I congratulate the Minister for Police and Corrective Services on this forward-thinking legislation. This Bill will allay the concerns of the residents of Mount Ommaney that there are not enough measures in place to allow police to catch the real criminals.

The Police Powers and Responsibilities and Other Acts Amendment Bill 2000 provides our Police Service with certain powers when undertaking covert operations. These powers will give police the advantage that they need to win the fight against crime. They will protect police officers working under cover and provide stringent accountability procedures for covert operations.

The Bill also protects police in instances in which they must break the law to protect themselves and the covert operation. The new covert police laws will give the police the edge in their fight against the Mr Bigs and drug crime lords. It will allow undercover police to infiltrate organised crime with legislative protection and collect evidence to finally bring the crime kingpins to justice.

The Bill proposes the establishment of a controlled operations committee, chaired by an independent person who is a retired Supreme Court or District Court judge. This committee will approve or reject applications for covert operations. This legislation will put Queensland police at the forefront in relation to collecting evidence of a crime. It will allow them to be one step ahead of the criminal element.

New DNA testing powers will enable police to take DNA samples from people convicted of an indictable offence, from people arrested for an indictable offence through a DNA sample notice, from persons before a court for an indictable offence at the order of the court and from all prisoners in corrective services facilities. This will enable police to build a DNA database of known offenders. This database will provide valuable information to police, which will enable them to solve more crimes. Police will be able to match information about suspects with the DNA database to positively identify the perpetrator of the crime.

In Britain, when DNA testing was introduced clean-up rates for property crime increased from 10% to 40% overnight. The fear of being caught is the greatest deterrent in the criminal's mind—more so than any penalties imposed on them. If criminals know that there is a good chance they will be caught, they will think twice about committing the offence.

The use of a mouth swab will make sample taking easier. This simple device will allow police to take a DNA sample on the spot and in large numbers to narrow down the search and protect the innocent. For minor offences this legislation allows police to use their discretion in dealing with a variety of situations.

New public drunkenness provisions will allow police the discretion to divert people from custody to a place of safety. This may include the person's home, the home of a relative or friend or a diversion centre. This will reduce the number of people held in watch-houses for public drunkenness, reduce their chances of entering the criminal justice system and save valuable police resources. This will prevent major offences from being committed by dealing with minor offenders early.

The Bill has included war memorials as a prescribed place where move-on powers can be exercised at any time of the day or night.

New drug diversion provisions will allow police to divert minor drug offenders to a drug diversion assessment program if the offender has not been charged with another indictable offence that is related to the drug offence and has not previously been convicted of an offence involving violence, except where the rehabilitation period under the Criminal Law (Rehabilitation of Offenders) Act 1986 has expired. If the offender has previously been cautioned for a drugs offence, a police officer must offer the person the opportunity to attend a drug diversion assessment program. It is better to treat the problem than to deal with the after-effects. Serious crimes will be dealt with more appropriately.

New blood and urine testing powers are included to assist victims of sexual and other serious assaults. This will allow police to take samples from a person reasonably suspected of committing an offence where semen, blood, saliva or another bodily fluid may have been transmitted into the anus, vagina, a mucous membrane or broken skin of the victim of the offence. If the offender tests positive to a transmittable disease, treatment of the victim can be commenced immediately.

There has been a disturbing trend in recent years for some offenders to use a blood-filled syringe as a weapon in armed robberies and other violent assaults. This is quite a frightening experience when the victim realises the implications of being stabbed with a syringe. These powers will allow the quick medical, physical and psychological treatment of the victim, avoiding often long waits to determine whether or not they have contracted a disease and thereby reducing the trauma to the victim. Authority must be given by a court after an application by police for a disease test order. The results of these tests cannot be used as evidence.

The process involved in making an application for an order to test blood and urine is quite simple. The investigating police officer may make a written application to a magistrate, or in the case of a child the Childrens Court, for a disease test order. The officer must provide the alleged offender with a copy of the application and inform them that they may have a lawyer present at the hearing of the application. Magistrates may refuse to consider the application if they are not provided with all the information they require in the way they require. In the case of an application in regard to a child, the officer must give notice of the application to the child, to a parent of the child—unless a parent cannot be located after reasonable inquiries—and to the chief executive of Family Services.

The magistrate or Children's Court must hear the application in the absence of the public. This is to protect the dignity of the victim. The application must be heard and decided on with as little delay as possible, but the court may, in exceptional circumstances, adjourn the application for no more than 24 hours to allow further evidence. The court must not hear the application unless satisfied that the alleged offender has been informed of the right to have a lawyer present at the hearing.

The victim of the offence cannot be compelled to give evidence at the hearing of the application. This is to protect the victim from the unnecessary trauma of giving evidence so soon after the offence has been committed against them. The offender or their lawyer may make submissions to the Magistrates or Childrens Court, but not to unduly delay consideration of the application.

If the court is satisfied that there are reasonable grounds for suspecting the offence has been committed, and given the nature of the offence, it can make a disease test order in relation to the offender. The disease test order must state: the name of the alleged offender on whom the test will be conducted; that the alleged offender may be held in custody for a time reasonably necessary to enable a sample of the person's blood and a sample of the person's urine to be taken; that a police officer may take the alleged offender to a place the police officer considers has appropriate facilities for taking the samples; and that a doctor or a prescribed nurse may take a blood sample and urine sample from the alleged offender.

The alleged offender may appeal against a disease test order to the District Court. The appeal must be filed without delay and does not stay the operation of the disease test order, unless the court otherwise orders. The court must hear the application within 48 hours of the disease test order being made in the absence of the public and without adjourning the appeal. The District Court may accept or refuse the appeal.

Only a doctor or nurse may take blood and urine samples. Police may ask the doctor or nurse and provide them with a copy of the disease test order for their inspection when asking them. If needed, the doctor or nurse may ask for assistance from other persons. Reasonable force may be used to take the sample. The doctor or nurse must immediately send the samples to the Health Department, where the samples can be tested for relevant diseases.

The Health Department tests the samples and can only advise the following persons of the result: the victim of the relevant offence, the alleged offender, a doctor or other health care professional involved in treating the victim or the alleged offender, a person counselling the victim or the alleged offender or a person nominated by the chief executive of Health who requires knowledge of the results. The maximum penalty for inappropriate disclosure is 40 penalty units—$3,000—or six months' imprisonment. This completes the process undertaken in relation to making an application for a disease test order.

Another part of the legislation deals with property. New disposal of property laws will allow police, in an efficient and accountable manner, to dispose of property seized by police, given to police as lost property or which otherwise came into the possession of police in the course of their duties. This will avoid the unnecessary stockpiling by police of items that are not needed for evidentiary purposes in court proceedings or otherwise needed for the purposes of an investigation—for example, lost property, clothing a victim was wearing at the time of an assault or dangerous drugs for which an analyst's certificate has been received under the Drugs Misuse Act 1986. This will also allow police to donate property such as unclaimed goods to charities, schools and community groups instead of having the property destroyed. I applaud the Minister for bringing this Bill to the House.