Speech By

Mark Furner

MEMBER FOR FERNY GROVE

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AUSTRALIAN CRIME COMMISSION (QUEENSLAND) AND OTHER LEGISLATION AMENDMENT BILL

Mr FURNER (Ferny Grove—ALP) (4.28 pm): I rise to support the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 as it is proposed to be amended, and I thank the minister and those government members for their support in examining this particular bill. The committee recommended that the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 be passed. As has been pointed out, only one submission was received. That is not generally indicative of what happens in committee hearings, but in some cases only one or a few submissions are received so you act on the evidence before you. That is the nature of a true bipartisan committee when examining particular matters such as this. Furthermore, the Queensland Police Service, the Public Service Business Agency and the Queensland Fire and Emergency Services provided an oral briefing to the committee on 15 June 2016. The QPS also provided a response to the submission received.

I will not restate the objectives of the bill as I understand that they have been ventilated, but I will touch on a few of the amendments proposed by the bill. I turn first to the CrimTrac agency merger into the ACC. The merger will have a number of benefits including improved quality and timeliness of information and intelligence delivered to operational police officers.

I now turn to the amendments to the Police Powers and Responsibilities Act 2000. In relation to the amendment relating to explosives detection dogs, the committee heard—

The bill amends the places at which an explosives detection dog can carry out explosive detection to align it with the places that a drug detection dog can currently operate in. The bill also changes reference to 'explosive detection dogs' to 'firearms and explosive detection dogs' to provide consistency in the use of terminology throughout the PPRA, the Police Powers and Responsibilities Act, and to better reflect the duties that police dogs perform.

I now touch on the amendment relating to authorising a police officer to arrest. It was argued before the committee that this proposed amendment highlighted a gap between the current legislation and methods used in contemporary policing. The committee heard—

There are a number of circumstances that you can imagine where a situation like that would unfold. A police officer ... reviewing CCTV ... may very well witness an event occurring that is tantamount to an offence and forms the suspicion in their own mind, but currently the legislation is such that the police officer is not able to direct another police officer to take action. The amendments to this bill will ultimately recognise the fact that the world has moved on and technology plays a very significant part in the detection of offences and, importantly, this will address that very significant oversight.

I now turn to the point on which government members found there needed to be an amendment made to the bill. That is in respect of section 439 of the PPR Act. As I indicated earlier, this was the only provision about which government members raised concerns, particularly having heard the evidence from the Queensland Council for Civil Liberties. The committee report states—

The QCCL did not consider this proposed change to s 439 of the PPRA was minor or technical, instead arguing that the change would foster the re-emergence of 'verballing', a practice identified as rife in Queensland criminal investigation prior to the Fitzgerald Inquiry. The QCCL stated:

> *To open up the possibility 26 years after the Fitzgerald Inquiry that police will be able to be more energetically engage in a verbal is a significant worry.*

The QCCL relied upon the case of R v Smith when dealing with permissible evidence and suggested—

To allow in such evidence here would be to ignore the safeguards for those the subject of the police investigation and questioning provided by ... the Act and to risk a return to an earlier less accountable period when police evidence of verbal admissions was regularly challenged in the Courts as fabricated, often with justification.

Having read the report, on 9 August the Queensland Law Society wrote to the minister indicating—

The Criminal Law Committee supports the government members' statement of reservation ...

It also said—

The society is of the same opinion with regard to the reduction of evidentiary safeguards which that proposed amendment would make. Allowing the judiciary to admit evidence where there is noncompliance or insufficient evidence of compliance with the relevant safeguards is neither desirable nor necessary.

I table that correspondence from the Queensland Law Society.

Tabled paper: Letter, dated 9 August 2016, from the President of the Queensland Law Society, Mr Bill Potts, to the Minister for Police, Fire and Emergency Services and Minister for Corrective Services, Hon. Bill Byrne, regarding the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 [1524].

Not only did the government members consider the evidence put before the committee; we also considered fundamental legislative principles. In some cases when committees consider bills they tend to skip over the FLPs and do not necessarily concentrate on what might be an issue. Given that we are a unicameral parliament, it is important for committees to reflect on FLPs as they apply to particular cases. Under the heading 'Potential FLP issues—procedural fairness—evidentiary provisions' the committee report states—

Legislation should be consistent with the principles of natural justice which are developed by the common law and incorporate three principles. Of relevance here is the third principle, being that 'procedural fairness' should be afforded to the person, meaning fair procedures that are appropriate and adapted to the circumstances of the particular case.

In relation to procedural fairness, justification is required for relaxation of the normal rules of evidence applicable to legal proceedings.

Clause 12 seeks to replace current section 439 with new section 439 which omits references to the term 'record' in order to allow judicial discretion to admit evidence where there has not been full compliance by police in the recording of an admission or confession.

The explanatory notes state—

The Bill redrafts section 439 and omits the use of the term 'record'. This will allow oral testimony of a confession or admission where it is in the interests of justice. This arguably breaches an individual's rights due to noncompliance or insufficient evidence of compliance with safeguards pertaining to confessions and admissions.

Based on the evidence before the committee, consideration of FLPs and the amendments sought to section 439, government committee members exercised their impartial judgement to recommend that the proposed amendment be deleted from the bill. I am not certain about those opposite. I listened briefly to the member for Everton's contribution. All committees should operate in an impartial manner and examine legislation in its totality to make sure they act in the interests of all Queenslanders affected by the relevant bill. It is not a case of members being beholden to ministers or shadow ministers, as was indicated during the last sitting week. Committee members are to exercise their true judgement. In the last sitting week the shadow police minister opposed a bill that all members of the Legal Affairs and Community Safety Committee recommended be passed. Members opposite talk about being dysfunctional or about leadership challenges. Someone was trying to line up the member for Everton in his attempts to have another shot at the leadership of the opposition. Last sitting week he came in here and made an absolute fool of himself. He did not read the report and did not look at the facts on which the committee made the decision to endorse the bill in its entirety. He came in here and fumbled and stumbled like a complete—what I want to say would probably be unparliamentary so I will not say it.

Mr Mander: Feel free.

Mr FURNER: No, I have more respect for the member for Everton.

I turn to the provisions relating to the power to search a vehicle for a knife. The committee report states—

Under section 31 of the PPRA, a police officer who reasonably suspects any of the prescribed circumstances for searching a vehicle without warrant exist may:

(a) stop a vehicle

(b) detain a vehicle and the occupants of the vehicle

(c) search a vehicle or anything in it for anything relevant to the circumstances for which the vehicle and its occupants are detained.

The committee felt that the amendment was reasonable and accepted evidence on the balance of the requirements sought.

In relation to the amendments to the Weapons Act 1990 the committee report states—

The bill inserts the same clarifying definition of public place into sections 51 and 57. This creates conformity between sections 50, 51 and 57 of the Weapons Act, such that a person who unlawfully carries a short or long firearm, a knife, or another type of weapon in a vehicle, in public, is committing an offence under the Act.

Finally, in relation to the amendments to the Fire and Emergency Services Act 1990 the committee report states—

The bill inserts a new section 58D (Power to require information about identity of occupier) into FESA to permit an authorised fire officer to require information that will assist in identifying the occupier of a premises, so as to investigate a contravention of fire safety measures.

In conclusion, government members certainly appreciated the evidence about FLPs and made a clear, conscious decision, based on what was provided, to accept the bill with only one amendment to safeguard the interests of Queenslanders. I commend the bill to the House.