

Exchange of Email with Office of the Clerk Showing that SOP criticism from Finlayson Unjustified – Charles Chauvel

From: Tim Workman
Sent: Wednesday, 28 September 2011 9:49 a.m.
To: CPC
Cc: Mary Harris
Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Revised SOP attached. The changes are a new time period in clause 7(1) and a new clause 12 which mirrors clause 51A of the bar 2 of the Search and Surveillance Bill.

regards

Tim

-----Original Message-----

From: CPC
Sent: Wednesday, 28 September 2011 09:41
To: Tim Workman
Cc: Mary Harris
Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Thanks very much Tim – I am making no criticism and am very grateful for your assistance, and of the other members of the clerk, on the drafting here, and I look forward to receiving your redraft.

From: Tim Workman
Sent: Wednesday, 28 September 2011 9:33 a.m.
To: CPC
Cc: Mary Harris
Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Hi Charles, in redrafting the SOP to fit within scope I worked from your original SOP and cross checked against the bar 2 version of the Search and Surveillance Bill as I altered it.

My check this morning shows that the differences between the redrafted SOP and the bar 2 version are mostly due to fitting the SOP within scope, except for the time period in clause 44(1) of the Search and surveillance Bill. In the bar 2 this was reduced from 72 hours to 48 hours. The one other provision that perhaps should be included is new clause 51A Admissibility of evidential material relevant to other offences.

All other inconsistencies with the bar 2 are due to scope or drafting issues with incorporating the Search and Surveillance bill provisions.

I will send a replacement bill by 10am.

regards

Tim

-----Original Message-----

From: CPC
Sent: Tuesday, 27 September 2011 21:50
To: Tim Workman
Cc: Mary Harris
Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Hi Tim

Please see below – press release from Chris Finlayson.

I have looked at the draft that you emailed me and it does seem that the drafting is from the Bill as introduced vs the /2 version.

I had spoken to Mary about using the /2 version, and I think we did that in the version emailed this morning, but I did not mention this expressly to you, and the drafting appears in material parts to have reverted to the version as introduced.

Would it be possible to get a redrafted version done using the /2 please? If so, when could I get it – I will be in the select committee from 9am but available on email.

Thanks and regards

Charles

Labour SOP demonstrates dangers of legislative field surgery

Press Release by New Zealand Government at 5:50 pm, 27 Sep 2011

"Charles Chauvel's draft SOP for the Video Camera Surveillance (Temporary Measures) Bill demonstrates the danger of taking parts of draft legislation out of the context in which they were drafted," Attorney-General Christopher Finlayson says.

"Mr Chauvel has, apparently inadvertently, drafted his SOP using large sections of the Search and Surveillance Bill as introduced to Parliament, rather than as reported back from Select Committee last year," Mr Finlayson said. "This has created some serious problems in what he proposes."

A number of problems are evident in the SOP posted by Mr Chauvel on the Labour Party blogsite:

- * Mr Chauvel's clause 7(1) refers to a period not exceeding 72 hours. But this was in the Search and Surveillance Bill as introduced, not as reported back. The Select Committee altered it to 48 hours, to reduce the period of time a surveillance device is first used without obtaining a surveillance device warrant. This increases surveillance powers, something Mr Chauvel previously expressed concern about.

- * Mr Chauvel's clause 8(3)(a) uses the wording of the Search and Surveillance Bill as introduced, not as reported back. He would require a residual warrant be disclosed, even though the Select Committee ruled this out.

- * Mr Chauvel's clause 11 is completely deficient. He uses clause 50 of the Bill as originally drafted, leaving out important additions made by the Select Committee, particularly section 42AA dealing with restrictions on some trespass surveillance and use of interception devices.

"The Government has been advised there is a high risk of substantive and drafting errors in taking a regime out of its context in the Search and Surveillance Bill and inserting it into the Video Camera Surveillance (Temporary Measures) Bill," Mr Finlayson said. "Mr Chauvel's effort illustrates this point."

"Mr Chauvel has promoted his SOP as something which incorporates the results of select committee scrutiny. It does not. Instead, Mr Chauvel ignores the extensive public consultation undertaken on the bill. Mr Chauvel's SOP illustrates the difficulty of transplanting discrete parts of a bill into another legislative form."

ENDS

Charles Chauvel

Labour List MP based in Ohariu
Spokesperson for Justice and the Environment

facebook.com/charleschauvel | twitter.com/charleschauvel | charleschauvel.com | labour.org.nz

Authorised by Charles Chauvel, 103 Johnsonville Road, Johnsonville

From: Tim Workman

Sent: Tuesday, 27 September 2011 4:50 p.m.

To: CPC

Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Charles, I've just noticed an error in my earlier draft re clause 3. Update attached.

regards

Tim

-----Original Message-----

From: CPC

Sent: Tuesday, 27 September 2011 14:42

To: Tim Workman

Subject: RE: Video Camera Surveillance (Temporary Measures) Bill

Thanks very much Tim

Sent with Good (www.good.com)

-----Original Message-----

From: Tim Workman

Sent: Tuesday, September 27, 2011 01:38 PM New Zealand Standard Time

To: CPC

Subject: Video Camera Surveillance (Temporary Measures) Bill

Charles,

Further to our conversation this morning, attached is a redraft of the SOP supplied. By limiting it to a video surveillance warrant regime it is now within the scope of the bill, as we understand it from the consultation draft.

You will see that I have also removed a number of provisions, including those dealing with surveillance device warrant reports. In the time available, and with the difficulty of incorporating other provisions from the Search and Surveillance Bill, I wasn't able to bring these within scope. Let me know if you would like to discuss any of these omitted provisions further.

Reference to these redrafted amendments can be made in your first reading speech as they are now within the scope of the bill. I note that the intention is to refer this bill to a select committee for a short period. As your revised amendments are in scope they can be be tabled at the select committee for

consideration there, without need for further referral by the House. Accordingly you may not think it necessary to seek leave to table the amendments at the first reading stage. In the event your amendments are rejected at select committee, the amendments may still be considered at committee of the whole stage.

Tim Workman