

Dean Wells MP - Ideas and action

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The Preservation of Liberty

In the last years of the Bjelke-Petersen government and before the Fitzgerald Inquiry in Queensland, police corruption was widespread and so were corrupt policing practices like “verballing” (false confessions) and “giving presents” (planting false evidence like drugs in a suspect’s premises during a search). Many Justices of the Peace did not understand that they could refuse to sign if they thought the police request for a warrant was not in order. When he became Attorney General Wells set out to solve this problem in a characteristic way – educating the Justices of the Peace both to combat existing process corruption and to prevent its return. This excerpt is from the speech introducing the innovative Bill that required JPs to take an exam.

Underlying all of these reforms is a conception which is at once obvious, but little realized. A Justice of the Peace exercising his or her judicial mind is a Justice. He or she is acting, according to the doctrine of the separation of powers, as a member of the third arm of Government – the independent judiciary. Such a Justice is not part of the executive arm of Government at all, and certainly not a mere accessory of the Police Service, required to sign whatever is put before him or her. This thought is simple, but its consequences are profound. The doctrine of the separation of powers underscores the necessity for a formal separation between the roles of Commissioners for Declarations, whose function is administrative and who are part of the executive arm of Government, and Justices of the Peace (Qualified) or of the Magistrates Court. The justices, acting in that capacity, are part of the judicial arm of Government. That is as serious a responsibility as our system places upon its servants. It is a responsibility which touches directly the liberty of the citizen.

So, far from being an adjunct to the police function, the JP who considers, for example, a request for a warrant should consider himself or herself as a bulwark of the liberties of Queensland's citizenry. This is why we need the training. This is why we need the separation of functions. This is why we need the reform.

Queensland Parliamentary Debates 1991

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