



Speech by

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CRIME AND MISCONDUCT BILL

Ms BOYLE (Cairns—ALP) (5.50 p.m.): It is 12 years since the Criminal Justice Act 1989 was introduced. The act arose from the reforms recommended by commissioner Tony Fitzgerald. This had been preceded by an inquiry which rocked Queensland. I am reminded of my own years in Queensland prior to the Fitzgerald inquiry. I had moved to Cairns from Canberra in 1978. The daylight savings joke in those days was that as you crossed the border into Queensland you turned back your watch one hour and 10 years. I brought with me the backwards, redneck perception that many in the southern states had of Queenslanders, and I discovered that many Queenslanders themselves were embarrassed by the limitations on their freedoms and the smell of corruption that hung about government, the police force and even business transactions in the Sunshine State.

Even in faraway Cairns stories abounded about how public servants dared not express a contrary view or they would be posted suddenly to the remotes. I heard about how police monstereed and violated indigenous people and those at the bottom of society. I was told about how expressions of protest about government policies or decisions were not allowed publicly and were not even wise privately as you never knew who might be listening.

Then in the late 1980s came the Fitzgerald inquiry, which confirmed that corruption was endemic in the police force. The National Party government was swept away and a new era dawned with the election of Labor and the premiership of Wayne Goss. The social and democratic reforms that followed, including the establishment of the Criminal Justice Commission, opened the door in Queensland to integrity and accountability, to democratic debate and expression, and to, albeit at a moderate pace, social progress. Since then I have been proud to be a Queenslanders.

Little did I guess then that I would have the privilege of being a member of this honourable House and in a position to argue for the changes which underlie the Crime and Misconduct Bill 2001. It is time to move the imperative for public integrity and the fight against major crime and official misconduct to the next level. Nonetheless, my understanding of the changes needed and the likely impacts of the Crime and Misconduct Bill arise substantially from my recent experience as a member of the Parliamentary Criminal Justice Committee.

I recall how during the last term of government—my first term—I had only a general understanding of the workings of the CJC, the Crime Commission and the duties of the PCJC. Previous to that I held what I suspect is a common attitude amongst people in Queensland; that is, the Criminal Justice Commission is there to protect us against corruption in the public sector, and this is a very good thing.

I knew of the CJC as a watchdog. I also, however, had memories of my only direct dealings with the CJC. These were tinged with frustration and even, to a small degree, resentment at the damage that can be done to people's reputations by prolonged investigations. In 1991, when I was deputy mayor of Cairns City Council, accusations of embezzlement were made against the town clerk. Unsurprisingly, questions were raised by the public about whether the elected representatives of the council were in some way connected or even responsible through dereliction of duty. Neither of these were shown to be true—eventually. And that is what has stayed in my memory: the harm that was caused to many at the council by the CJC's investigation taking such a long time—more than a year. I think it took 18 months. Members will understand, therefore, that I bring to my position on the PCJC—and will bring to the new PCMC, should that be one of the outcomes of this debate—a strong

desire to assist the CJC towards improved efficiencies and thereby improved effectiveness in the management of its business.

The Crime and Misconduct Bill will assist the government to achieve improved effectiveness in a number of ways. First, the major crime and official misconduct investigation bodies will be amalgamated under the new Crime and Misconduct Commission. This in itself will result in efficiencies. The mandate of the Criminal Justice Commission will be refocused towards enabling and educating public agencies, the police in particular, to minimise, investigate and manage misconduct within their own domains. While the commission will retain primary responsibility for investigations of official misconduct, it may choose to refer a particular matter to a public agency to investigate, whether solely or in conjunction with the commission.

While on the one hand the commission retains firm control, it can, as it is confident in the capacity of other agencies, hand over the functions of the investigation to whatever degree it considers appropriate. This is actually a very significant reform, using a sophisticated method to gradually transfer the responsibility for preventing, properly investigating and managing official misconduct to the agency from which the complaint originated. Only when we have confidence that there is a strong culture of integrity in all public sector agencies may we regard the Fitzgerald reforms as having been fully implemented.

The bill combines the separate research and intelligence resources of the Criminal Justice Commission and the Crime Commission and results in the sharing of expensive and limited surveillance resources where appropriate. This latter area is the only one in which the powers of the Crime Commission are increased, through allowance for surveillance of serious criminal activities on computers. We have been made aware that paedophile networks are frequently conducted via the Internet. It may be that in this new age, in which computers are essential items for communication, other serious criminal activities will require investigation using this expanded power from time to time.

It is important to reassure the general public that, while greater responsibility for investigation of police misconduct will be delegated to the police force, the CMC will retain its responsibility to be fully informed about all charges of misconduct, to oversee and audit all investigations, to ensure timeliness and efficiency of investigations, and to require cooperation with other agencies. The CMC will have the power to review or take over investigations if necessary. Additionally, the commission chair will be required to notify the parliamentary committee of suspected improper conduct on the part of a commission officer.

One other change in the bill is the better targeting of the responsibilities and the work of the Parliamentary Crime and Misconduct Commissioner. The commissioner will act only at the direction of the PCMC. Powers to compel the production of information will only apply to commission officers, and hearings will only be conducted with the bipartisan support of the parliamentary committee.

There has been some concern about the changes that will be made to the research function of the CJC. The first point to make is that the new body will retain a strong research function. This is borne out by the expectation that only between four and six of the existing research staff complement of around 28 will be required to form the new government unit. Further, the CMC will still be requested by government to conduct significant independent research projects from time to time. The only research function that will be relocated is research into the effectiveness of the criminal justice system. This has not been a strong area of activity for the CJC, yet it is important. Research into the effectiveness of the criminal justice system may well raise issues bearing on health, education, employment or housing, for example. Resiting this research function under the Department of the Premier and Cabinet will allow for this broader perspective to be taken.

However, all the structural changes—notwithstanding improved effectiveness—also fall to the staff of the CMC and, in particular, the chair of the Crime and Misconduct Commission and the assistant commissioners. The Premier has said that when this bill is passed into legislation there will be quick action to fill these positions. But for a moment, step back in time to one of the mistakes made by the Borbidge National Party government. It introduced the Criminal Justice Legislation Amendment Act 1997, which removed the powers of the CJC chairperson to make many basic managerial decisions. This created an inefficient process whereby even minor managerial decisions had to be decided by the commission as a whole. The Crime and Misconduct Bill 2001 restores to the chair the power to make day-to-day management decisions. Further, except for the positions of chair and the two assistant commissioners, the internal structure of the commission will not be defined by statute. This will allow the chair the flexibility to structure the commission to most effectively manage its operations.

The criminal justice sector has been characterised—albeit with the help of Hollywood—by secrecy, by goodies and baddies, right and wrong, power and punishment. It therefore sounds somewhat anathema that the new Crime and Misconduct Commission should be charged with building a strong client focus. One of the important ways in which this will be demonstrated is through communication protocols to respond to complainants advising them of the action taken, the reason why the action is considered appropriate in the circumstances, and updating them from time to time on the

result of action to date. Consideration should also be given to ensuring that public figures against whom allegations are made are not left with unsubstantiated smears against their characters for prolonged periods.

As important as it is for the chair and the assistant commissioners to have expertise in the law, I suggest that is not enough. Too often in times past we have been keen to appoint people pre-eminent in their professions to such high-profile, important and I might say well-paid positions. Such people have achieved their success through hard work over many years to develop their high standing. They have not, it is no surprise, put their time into gaining credentials in organisational management or into human resource or financial management. The hard facts are that effective management requires expertise. Being a good lawyer does not necessarily make one a good manager. The same can be said in hospitals, where it has been discovered that being a good surgeon does not make one a good director of, say, a 30-bed unit with staff from diverse professional backgrounds.

For the structural reforms in the Crime and Misconduct Bill 2001 to work, it is essential that the people who get the top jobs are not only eminent in their professions but also have knowledge and experience in crime organisation management, otherwise I fear that the structural changes in the Crime and Misconduct Bill 2001 will not be translated into the increased effectiveness and efficiency that is an essential purpose behind the changes. I am pleased to support this bill before the House.
