



Speech by

**KERRY SHINE**

**MEMBER FOR TOOWOOMBA NORTH**

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### **CRIME AND MISCONDUCT BILL**

**Mr SHINE** (Toowoomba North—ALP) (5.40 p.m.): The Crime and Misconduct Bill before the House represents, if you like, a complete overhaul of previous legislation put in place following the Fitzgerald report dealing with the prevention of corruption, the raising of the standards of the public sector so far as matters of integrity are concerned, and the Queensland Crime Commission's role with respect to major and organised crime and paedophilia. The structural change is one uniting the bodies and their roles—that is, the Criminal Justice Commission, CJC, and the Queensland Crime Commission, QCC—into a new Crime and Misconduct Commission, CMC. Broadly speaking, under the current structure the CJC is chiefly concerned with public sector misconduct whereas the task of the QCC is to tackle major and organised crime.

The chief effect of this bill is to place these areas—that is, crime and misconduct—again under the one umbrella, as was the case prior to the passage of the Crime Commission Act 1997. I have a particular interest in the subject matter as a member of the Parliamentary Criminal Justice Committee, which under the bill before the House will become known as the Parliamentary Crime and Misconduct Committee, PCMC. The CMC is to have a full-time chairperson with four part-time commissioners being community representatives. Additional positions created to attend CMC meetings on a non-voting basis are an Assistant Commissioner, Crime, and an Assistant Commissioner, Misconduct.

Queensland Crime Commission functions will now largely be taken over by a reference committee under the CMC to provide references to the CMC for crime-fighting, leaving issues of management and oversight to the full CMC. The office of the Parliamentary Criminal Justice Commissioner continues as the Parliamentary Crime and Misconduct Commissioner, as does the office of the Public Interest Monitor, retaining its name under the current legislation. The office of the parliamentary commissioner will continue and together with the PCMC continues its oversight role of the CMC. It will now include the crime functions currently undertaken by the QCC.

The CJC's current important functions with respect to witness protection, misconduct, prevention and intelligence stay. With one exception, the powers of the CMC remain the same, the exception being electronic data surveillance in relation to crime matters. A major change is to enable units of public administration to handle misconduct within their own agencies—that is, the handling of complaints against police, for example, will be the responsibility of the Police Commissioner. The CMC will continue to carry out research to support its functions into crime and its prevention. Any other current research functions are to be carried out by the Premier's Department. I have referred very briefly to the major structural changes and the roles to be performed under the proposed legislation. Other honourable members who have contributed to this debate have made more detailed mention of different significant aspects of the bill. Having regard to the constraints of time, I will restrict my remaining remarks to those relating to the committee on which I serve, the PCMC as it is to be called, and the office of the parliamentary commissioner.

Part 3 of the bill before the House deals with the establishment and operation of the PCMC—that is, the committee. The current members of the PCJC remain the same in the new form of the PCMC—that is, four government and three non-government members. Uniquely, this committee remains in existence after the dissolution of the House. However, in the event of a member being defeated, she or he will be replaced by nomination of the leader of the party from whence he or she comes rather than remaining on the committee until a new committee is appointed, as is the case at the moment. This overcomes a current difficulty which arose as a result of the last election when a

member who served on the PCJC was defeated but had to attend meetings for quite a few months until the new committee came into existence.

Under the bill, there appear to be no significant changes to the committee's powers and responsibilities. In relation to the committee's consultative role and the appointment of the CMC chairperson and part-time commissioners, other than in relation to the inaugural chairperson, the chair and deputy of the committee are members of the panel that makes that choice. There is, however, no role to be played by the committee with respect to the appointment of the Assistant Commissioner, Crime, and Assistant Commissioner, Misconduct, although there is provision for consultation with the Leader of the Opposition.

Under the legislation, it is a requirement on the CMC's chairperson to notify the committee of conduct of a commission officer the chairperson suspects involves or might involve misconduct. Under the current legislation, the chairperson is required to do this pursuant to protocols. Legislative requirement replaces this. The committee is not represented on the reference committee as an example of a lessening of its involvement in the process. On the other hand, as an example of its increased functions it has a new role in respect of the authorisation for the parliamentary commissioner to hold hearings. With respect to the parliamentary commissioner, there is provision for continuity of office. Most of the provisions with respect to his or her role remain the same and reflect the current position. The parliamentary commissioner is appointed under this bill on a part-time basis. Time will tell whether that will be sufficient in the future. There certainly have been instances in the past where the former parliamentary commissioner had a full-time task in relation to the workload concerning the Connolly-Ryan records.

The current functions of the parliamentary commissioner under the Criminal Justice Act and also the intelligence review function, presently conferred by the Crime Commission Act, are in place. There is a reduction of some power, but overall the power of the parliamentary commissioner remains quite wide. The parliamentary commissioner has power to do all things necessary or convenient for the performance of the parliamentary commissioner's functions. The parliamentary commissioner, however, will not have the powers of a commissioner under the Commissions of Inquiry Act 1950. Therefore, he or she will not have the powers of compulsion. Evidence can no longer be obtained by him or her from, for example, journalists and other members of the public at large unless they volunteer such evidence.

The parliamentary commissioner will have the power to conduct hearings, as is currently the case. However, that power will only be exercised if the parliamentary commissioner has used all reasonable means to obtain the information sought without success. Also, the Parliamentary Crime and Misconduct Committee will have to give its authority and, of course, that will require bipartisan support. In other words, the parliamentary commissioner will not be able to hold any hearings without the approval of both sides of the House in the sense of their representation on the parliamentary committee.

Under the bill, reports of the parliamentary commissioner are confirmed to be subject to parliamentary privilege. This is a clarification of a recent court decision involving the Criminal Justice Commission and the Parliamentary Criminal Justice Commissioner. It is a worthwhile inclusion to ensure that in future there is no confusion on this point and no unnecessary litigation. Overall, the bill reflects a move in the right direction and I commend it to the House.

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