



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 23 April 2009

CRIME AND MISCONDUCT AND SUMMARY OFFENCES AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (12.00 pm): I move—

That the bill be now read a second time.

The bill amends the following acts: the Crime and Misconduct Commission Act 2001 and the Summary Offences Act 2005. I turn firstly to the amendments to the Crime and Misconduct Act 2001 to remedy the effect of the recent Supreme Court decision in *Scott v Witness C* (2009) QSC 35. The amendments respond to the first recommendation of the Parliamentary Crime and Misconduct Committee report No. 79, tabled on 21 April 2009.

The Scott decision is considered to limit the CMC's major crime function to investigating specific matters referred to it by the Crime Reference Committee. This is not how parliament intended the crime referral arrangement to operate under either the repealed Crime Commission Act 1997 or the current Crime and Misconduct Act 2001.

Nearly 80 per cent of the major crime investigations undertaken by the CMC and its predecessor, the Queensland Crime Commission, have been conducted under general 'umbrella' referrals. These referrals relate to serious types of major crime including networked criminal paedophilia, terrorism and criminal activity by established criminal networks or outlaw bkie gangs and their associates. Consequently, the Scott decision has seriously compromised the CMC's major crime investigation and intelligence activities and their outcomes. These include many successful criminal convictions and the forfeiture of proceeds of crime totalling nearly \$1.5 million.

The bill responds to the Scott decision by validating past, present and future use of general 'umbrella' referrals for major crime investigations. In doing so, the bill gives effect to parliament's original intent that the crime function of the former QCC and the CMC should be subject to scrutiny by an independent reference committee which could use both specific and general referral mechanisms.

The bill achieves this by amending the Crime and Misconduct Act 2001 to, firstly, reframe the crime referral provisions to deal expressly with 'specific' referrals and 'general' referrals. A specific referral is intended to identify a particular incident of major crime—for example, the disappearance and suspected murder of a named person at a specified place and time. A general referral is intended to facilitate the investigation of a broadly described category or subcategory of major crime, without needing to identify individuals or groups or particular incidents—for example, terrorism or criminal activity involving drug trafficking and violence by members of outlaw bkie gangs and their associates.

Secondly, the bill clarifies that public interest considerations apply to all referrals, whether requested by the Police Commissioner or the Assistant Commissioner, Crime or initiated by the Crime Reference Committee.

Thirdly, the amendments better position the Crime Reference Committee to monitor the use of general referrals for ongoing and emergent crime investigations. This is done by requiring the Assistant Commissioner, Crime to notify the committee when the CMC commences an investigation under an existing general referral. The Crime Reference Committee is then obliged to consider whether directions are required in respect of that particular investigation.

Fourthly, the bill retrospectively validates 'umbrella' referrals made to the former QCC and the CMC. It validates crime investigations conducted under these umbrella referrals. It also validates the use of information and evidence obtained in those crime investigations for the performance of any QCC or CMC function or for the performance of a function of a law enforcement agency or prosecuting authority in receipt of the information or evidence from the QCC or CMC.

In recognition that the 'freshnet' referral invalidated by the Scott decision was over 10 years old at the time of the decision, the bill also subjects general referrals to five-yearly reviews by the Crime Reference Committee to ensure they remain appropriate over time. A referral will lapse if the review committee does not make a review decision within this period. Transitional arrangements are made to ensure that existing general referrals are reviewed within two years of commencement.

This review function is a logical adjunct to the Crime Reference Committee's crime referral function. It is consistent with its independent oversight role. It is also an efficient use of resources for the committee to review the appropriateness of a referral against the threshold considerations it assessed when the referral was initially made or last reviewed.

The bill also amends the Summary Offences Act 2005 to introduce the offence of endangering the safe use of a vehicle by throwing an object or by a similar activity. Recent media coverage has highlighted the community's concern about the potential danger of rocks and other objects being thrown at travelling vehicles or onto a road. Queensland has a suite of criminal offences which could apply to rock-throwing conduct, depending on the circumstances of the case. For example, if property damage, such as a shattered windscreen, results from rock-throwing conduct, then police could charge wilful damage, which is punishable by a maximum penalty of five years imprisonment. Other offences available include endangering the safe use of a vehicle or related transport infrastructure (section 467); endangering the safety of a person in a vehicle with intent (section 319); and acts intended to cause grievous bodily harm or other malicious acts (section 317). These offences are punishable by a maximum penalty of life imprisonment.

In even more serious cases where death results from the conduct, murder and manslaughter could be charged. Murder is punishable by mandatory life imprisonment, and a person who commits manslaughter is liable to life imprisonment. The offences I just described only apply where personal injury or damage to property occurs as a result of the conduct or where there is proof of malicious intent. However, given growing community concern, the government considers it necessary to develop a specific offence directed at rock throwing and other dangerous conduct, such as directing a laser pointer at a vehicle, which will complement the existing suite of offences described above.

The proposed offence is not reliant on proof of malicious intent and will apply where the conduct is likely to endanger the safe use of a vehicle without having to establish any actual endangerment. The offence will apply where there is no personal injury or property damage caused by the act. The new offence will provide police with a further charging option in cases where rock throwing and other dangerous conduct occurs. I commend the bill to the House.