



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 21 May 2009

CRIME AND MISCONDUCT AND SUMMARY OFFENCES AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (6.08 pm), in reply: At the outset, I thank all honourable members for their contributions to the debate on the Crime and Misconduct and Summary Offences Amendment Bill 2009. In particular, I thank my colleagues on the government side of the House for their contributions. The Crime and Misconduct and Summary Offences Amendment Bill contains amendments to the Crime and Misconduct Act 2001 and the Summary Offences Act 2005. The amendments to the Crime and Misconduct Act 2001 validate the past, present and future use of general umbrella referrals for major crime investigations and subject general referrals to periodic review to ensure they remain appropriate over time. The bill remedies the impact of the decision in *Scott v Witness C* (2009) QSC 35. In doing so, it gives effect to the intended operation of the crime referral arrangement in place under both the repealed Crime Commission Act 1997 and the current Crime and Misconduct Act 2001.

In response to growing community concern about the prevalence of rock-throwing conduct, the bill amends the Summary Offences Act 2005 to insert a specific offence applying to rock throwing, laser pointing and other specified conduct which endangers or is likely to endanger the safe use of vehicles. The offence is punishable by a maximum penalty of two years imprisonment and complements the existing suite of offences contained in the Criminal Code as well as other Queensland legislation. The proposed offence is not reliant on proof of intent and can apply where there is no personal injury or property damage or where the conduct does not result in any actual endangerment.

I will now address some of the matters raised by honourable members during this debate. The member for Southern Downs raised the issue of the penalty proposed under this offence. As with any penalty in the Criminal Code, it will be subject to constant oversight and review to ensure it reflects community expectations. It should be noted that, given that the new offence has no intent element and there is no requirement for damage or injury to result from the conduct, a maximum penalty of two years imprisonment was considered appropriate. I can advise all honourable members that serious and detailed consideration was given to the extent of penalty that should be imposed.

Further, the proposed penalty aligns with the penalties provided for two similar offences in Queensland's Criminal Code. The offence of endangering the safety of persons travelling by railway, which is contained in section 329 of the Criminal Code, applies to a person who by any unlawful act, or by any omission to do any act which is the person's duty to do, causes the safety of any person travelling by any railway to be endangered.

Another comparable offence and penalty is provided in section 230 of the Criminal Code. The offence entitled 'common nuisances' applies to acts with respect to property under the person's control by which danger is caused to the lives, safety or health of the public and is punishable by two years imprisonment. This offence is not an endangerment offence, per se, as it is based on common law principles of public nuisance.

Also, it must be remembered that police can deal with more serious examples of rock-throwing conduct by charging one of numerous code offences which would apply to this conduct depending on the circumstances of the case. If, for example, property damage results from the conduct then police could charge wilful damage, which is punishable by a maximum penalty of five years imprisonment. Other charging options include endangering the safety of a person in a vehicle with intent, which has a maximum penalty of life imprisonment; acts intended to cause grievous bodily harm or other malicious acts, with a maximum penalty of life imprisonment; grievous bodily harm, which has a maximum penalty of 14 years imprisonment; or, if death results, murder or manslaughter, which is punishable by mandatory life imprisonment and life imprisonment respectively.

With respect to the issue of why Queensland has a different maximum penalty to other states for similar offences, I note that it is important to look not only at the new offence but also at the range of related offences in Queensland and the range of related offences that exist in other states. I would encourage honourable members on the other side of the House to do this. On this point I note that currently in Queensland the most applicable offence to rock throwing and other dangerous conduct is the newly inserted section 467 of the Criminal Code. This offence, which commenced operation on 1 December 2008, consolidated various endangering offences directed at railways, ships and aircraft into an offence of general application. The new offence was intentionally drafted to extend to the endangering of vehicles being driven on roads. This offence in section 467 applies where a person, with intent to prejudice the safe use of a vehicle or related transport infrastructure, such as a road, or to injure property in or on a vehicle or related transport infrastructure, does anything that endangers, or is likely to endanger, the safe use of the vehicle or related transport infrastructure. The offence carries a maximum penalty of life imprisonment.

The section 467 offence applies to all vehicles and is not limited to certain conduct. Therefore, the offence would prima facie apply to a person who threw rocks at a car, pointed a laser at a car or placed an object on a road, provided the act was done with the requisite intent. The important factor for the House to note is that, unlike Queensland, South Australia, New South Wales and the Northern Territory, which have enacted specific rock-throwing offences, do not have an endangerment offence similar to section 467. The proposed offence, which does not require any proof of intent, is therefore a lower level and complementary offence to section 467 and provides a further charging option for police depending on the circumstances of the case. The Queensland penalty is therefore part of a continuum that ranges from two years to life imprisonment, depending on the conduct.

The member for Mudgeeraba raised the issue of juveniles committing these crimes. It is recognised on both sides of the House, I hope, that these offences may often be committed by young people. Where juveniles commit this offence it will be dealt with by the courts in the same way that existing criminal offences under the Summary Offences Act are dealt with. Where juveniles are found guilty of this offence they will be subjected to the full range of criminal penalties as provided in the Juvenile Justice Act. This may include a custodial sentence where appropriate in the circumstances as well as a range of other penalties.

The member for Gaven suggested that this bill is evidence of a reactive approach. This may be accurate, but not in the negative sense that the member might have implied. The amendments to the Crime and Misconduct Act are fundamentally clarifications of the original intention of the act to ensure that the CMC can carry out its major crime function. This is a critical function in the fight against organised and major crime in the state, and the government is committed to ensuring that the CMC has access to a full and appropriate suite of powers to assist it in its job.

This bill continues the Labor government's commitment to ensuring that Queensland is a safe and just state. This bill will ensure that the CMC will have the powers appropriate to investigate and punish serious criminal activity with the public interest in mind. The bill will also ensure that Queenslanders can travel throughout the state in safety, without fear that attacks upon them in their vehicles will go unpunished. We must continue to safeguard the people of this state against criminal activity—through powers to investigate and powers to prosecute both the most serious of criminal enterprise and smaller, more malicious or thoughtless acts of idiocy and stupidity that endanger others. In conclusion, I thank all honourable members for their contributions.

I also wish to thank officers of the Department of Justice and Attorney-General—namely, Courtney Arndell, Louise Shephard and Ainslie Kirkegaard. I feel very well supported by the officers of the Department of Justice and Attorney-General including officers in Strategic Policy who do a terrific job, in this case at very short notice to rectify a serious problem with the law in Queensland. I thank them for their diligence and energy in delivering very significant policy outcomes for me and legislative outcomes for this state. I thank all honourable members once again and commend the bill to the House.