



Speech by

Hon. Kerry Shine

MEMBER FOR TOOWOOMBA NORTH

Hansard Tuesday, 10 February 2009

CRIMINAL PROCEEDS CONFISCATION AND OTHER ACTS AMENDMENT BILL

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (8.13 pm), in reply: At the outset, I thank all honourable members for their worthy contributions to the debate on the Criminal Proceeds Confiscation and Other Acts Amendment Bill 2008. In particular, I thank honourable members from both sides of the House for their wholehearted support for the provisions of the bill.

This bill contains amendments to the Criminal Proceeds Confiscation Act 2002, the CPC Act; the Security Providers Act, the SP Act; the Fair Trading Act, the FT Act; and the Trusts Act 1973. The amendments contained in the bill deliver important initiatives for Queensland. First, the amendments will complement and strengthen Queensland's criminal confiscation laws. For example, criminals who move their ill-gotten gains interstate will not be able to profit from that move. They can hide it but we will find it and confiscate it.

Second, the amendments also protect consumers from unwanted disruptions to their personal and family time from door-to-door traders visiting after 6 pm during the week. Third, the amendments raise standards in the security industry by requiring firms to maintain membership of professional, accountable industry associations. As interstate experience has shown, this will increase compliance with standards set by the government and increase best practice across the industry. Finally, the amendments clear the way for charitable trusts to make donations to important public facilities and institutions. These charitable trusts are estimated to hold approximately \$1 billion in funds able to be donated.

The amendments to the Criminal Proceeds Confiscation Act 2002, which are the outcome of a review by the PCMC, are consistent with the act's current framework and aim to improve the act's ability to achieve its objectives, which are primarily aimed at removing financial gain and increasing the financial loss associated with illegal activity. The Security Providers Act 1993 amendments include a requirement for a security firm licence application to provide evidence of membership of an approved industry association. The amendments to the Fair Trading Act remove scope for extensions for door-to-door trading hours, and the Trusts Act amendments will enable state controlled bodies, such as the State Library and the Queensland Museum, to receive donations from 'prescribed private fund' donors without compromising the donors' tax-exempt status.

I will now address some of the matters raised by honourable members during the debate. The member for Toowoomba South raised the question of the benefit of association membership and commented on the important role of government in ensuring compliance with the Security Providers Act 1993. Evidence from interstate has shown that approved industry associations commonly adopt and promote a consistent approach to good business practices and ensure member compliance with relevant state and Commonwealth legislation. So being a member means more than just turning up to the annual convention.

A recent review of the New South Wales Security Industry Act 1997 showed that the requirements for firms to be members of approved security associations in the New South Wales act contributed to

regulation of the industry and greatly assisted in ensuring compliance with good business practices. Research into the security industry has shown that, despite the best regulatory efforts by governments, in some cases current standards are falling short in creating safe and effective business practices. Evidence from other jurisdictions has shown approved industry associations commonly adopt a consistent approach to good business practices and ensure member compliance with relevant state and Commonwealth legislation. The review also noted that the partnership the New South Wales department developed with these associations assisted to coregulate the industry and increased industry integrity.

Notwithstanding these benefits, the Bligh government continues to maintain a direct and proactive role in promoting and maintaining high standards in the security industry. For example, the current regulatory requirements include (1) strict probity and identity checking of applicants; (2) daily criminal history checks to make sure licensees have not committed disqualifying offences or been charged with those offences overnight; (3) minimum training requirements including negotiation, communication, protection of property and first aid to make sure security guards have the necessary skills and knowledge; and (4) compliance checks.

The combination of the ongoing work of the Office of Fair Trading and these amendments means that we can be doubly sure that we are doing all that is possible to ensure a good night out is a safe night out and that our security providers are of the highest quality.

The member for Maryborough asked whether there were loopholes in the restrictions placed on door-to-door traders. The short answer is no. The amendments remove any exemptions from the prohibited hours for door-to-door traders. If companies breach these hours, they will be prosecuted and hopefully fined.

The member for Maryborough also asked whether the amendments to the Security Providers Act are bans for a set period. The amendments that require security provider companies to maintain membership of an approved industry association are not bans. Rather, this is a requirement or a precondition that must be met before a security firm licence will be granted.

The member for Currumbin raised the issue of the Scrutiny of Legislation Committee's query about protections against self-incrimination. The act provides that a person is not entitled to refuse to answer questions during a compulsory examination on the basis of privilege against self-incrimination or legal professional privilege. However, answers to these questions or documents produced are not admissible in any future criminal proceedings against the person. That is referred to as a use immunity. The intention of the original act was to provide a use immunity but not a derivative use immunity. Accordingly, a person's answers to questions posed in an examination could be used to gather further evidence which can be used in criminal proceedings or other proceedings against that person. It does follow, then, that the ability to use examination information in a derivative way, such as to locate other evidence about the examinee or a third party, would also encompass the ability to disseminate that information between relevant agencies—for example, between the CMC and the Queensland Police Service.

The decision in *Meredith v State of Queensland* [2006] QCA 465 provides clear direction about the nature and scope of examinations. In this case, the Court of Appeal held that the term 'affairs', which is one of the topics upon which a person can be examined, excluded 'an examination avowedly and entirely unrelated to the finances or property of the examinee'. It held that this line of inquiry was confined to the confiscation of the proceeds of illegal activity rather than establishing a freestanding inquisition not directed at any ultimate purpose. Accordingly, the state cannot examine a person solely about whether the respondent committed serious crimes. The decision of *Meredith* does leave sufficient scope for an examination to cover questions such as the wealth, liabilities, income and expenditure of a person whose property is restrained.

The scope of the examination remains unaffected by the ability of agencies to disseminate information disclosed during these proceedings to other relevant agencies. In all, this bill ensures that Queenslanders can enjoy their privacy at home, that they can enjoy a safe night out in the presence of security personnel and that they can be confident that criminal activity in this state will not be a profitable activity.

In conclusion, I again thank all honourable members for their contributions during the debate on this bill and for their support of the bill. I thank departmental officers for the work they have done and staff in my office who have assisted in the development of the bill. I particularly thank the PCMC for the work that it has done and its review, report No. 71, which the honourable member for Toowoomba South referred to in some detail. It was very comprehensive and clearly was the foundation for many of the amendments that we are dealing with tonight.