



Speech by  
**Ros Bates**

**MEMBER FOR MUDGEERABA**

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## **CRIME AND MISCONDUCT AND SUMMARY OFFENCES AMENDMENT BILL**

**Ms BATES** (Mudgeeraba—LNP) (4.31 pm): I rise today to make a contribution to the Crime and Misconduct and Summary Offences Amendment Bill 2009. As stated in the *Legislation Alert No. 2 2009*, the summary offences amendment bill seeks to expand the Summary Offences Act 2005 to add an offence which applies to a person who unlawfully throws an object at a vehicle that is in the course of travelling, places an object in or near to the path a vehicle is using or may use in the course of travelling or directs a beam of light from a laser at or near a vehicle that is in the course of travelling in a way that endangers or is likely to endanger the safe use of the vehicle. The maximum penalty for this offence is two years.

Media coverage has highlighted community concern about the potential dangers of throwing rocks and other objects at travelling vehicles or onto roads. In addition, there has been a spate of media reports of laser pointers being aimed at aeroplanes, which can interfere with a pilot's vision and jeopardise the safety of passengers. The Commonwealth Civil Aviation Act 1988 allows provisions of up to two years imprisonment for this offence.

In recent months the media has reported on a number of incidents involving rocks being thrown at vehicles, particularly from overhead bridges. In 2009 there have already been a number of these incidents in South-East Queensland, including a large rock thrown from an overpass through the windscreen of a vehicle carrying tourists which did not lead to a serious accident, an overhead rock thrown at an ambulance taking a sick child to Ipswich Hospital, a large rock thrown at a truck's windscreen resulting in the driver being sprayed with glass, a rock thrown at a bus which smashed a window and injured a passenger and rocks thrown from a pedestrian overpass on the M1 highway on the Gold Coast near Wet 'n' Wild. This is a serious offence and one for which other states, in particular New South Wales, have already legislated. Unfortunately, the majority of perpetrators are juveniles and the penalty of two years imprisonment will not prove a deterrent. This bill, unfortunately, does not include provisions for juveniles.

Other states already have in process programs to educate juveniles on the dangers and consequences of rock throwing. These excerpts are taken from a letter to school principals in South Australia from the SAPOL Crime Reduction Section in September 2005. Many of the offenders caught committing these types of crimes have been young people copying peers or inspired by publicity to engage in this crime. The document states—

Throwing rocks at vehicles is a serious crime that can have fatal consequences.

Vehicles can be damaged, but worse drivers and passengers can be seriously injured or even killed. This type of activity is not a juvenile prank; it is a serious act that can endanger lives.

... police have received a number of reports about rock throwing from bus companies in the southern and northern suburbs. Police are aware that many of the offenders caught have been young people, copying their friends or others or motivated by publicity to commit this crime.

Police together with the community want to make sure that you all understand the seriousness of this crime. The message is clear; **ROCK THROWING CAN KILL.**

Police and the community will be working together to make sure you are safe while you are on school holidays; help them by not getting involved in rock throwing. If you find yourself with others who think rock throwing is fun, remind them that it can kill, and could they deal with the consequences?

More worrying is the fact that it appears that the majority of these offenders are juveniles and one wonders what, if any, deterrent this amendment will have on those who can still get away with it.

This excerpt from the Northern Territory Police, Fire and Emergency Services Media Liaison back in December 2004 highlights that more needs to be done to deal with juvenile offenders of this crime. It states—

Acting Superintendent Craig Ryan said incidents of rock throwing were always a concern and police had, in the past, mounted special operations to tackle the problem.

'We always expect rock throwing to increase during the school holidays and we usually target such offences during that time,' Acting Supt Ryan said.

'But these incidents overnight are worrying from the point of view of the number reported as well as the age of the alleged offenders. Police have received reports from witnesses that some of these offenders are as young as four and five years old.'

'We are appealing to members of the public to immediately report rock throwing so we can apprehend offenders before there are more serious consequences than simply a broken car window.'

The United States, particularly in the state of Oregon, has taken a dim view of repeated incidents of rock throwing perpetrated by juveniles. As far back as 1991 an article in *The Seattle Times* stated—

Fencing will be installed later this year on the Highway 525 overpass where a Lynnwood motorist was killed by a 16-pound rock allegedly dropped by two youths.

This is the start of a new program being considered by the state Department of Transportation because of a growing number of rock-throwing incidents.

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Two years ago, Oregon began a fencing program for overpasses, erecting eight or nine a year.

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Fencing is required now on pedestrian-only crossings.

Queensland has a suite of criminal offences which could currently apply to rock-throwing conduct depending on the circumstance of the case. These offences include endangering the safe use of a vehicle or related transport infrastructure, endangering the safety of a person in a vehicle with intent, wilful damage, acts intended to cause grievous bodily harm or other malicious acts, grievous bodily harm or, if death results, murder or manslaughter. The maximum penalties for these offences range from five years imprisonment to mandatory life imprisonment. At present there is a range of offence provisions in Queensland legislation that could apply and be applied when sentencing for rock-throwing and laser-pointing conduct. In situations where death results from the conduct set out in the above offence provisions prosecutions for murder or manslaughter may be brought. For example, if property damage such as a shattered windscreen results from rock-throwing conduct, police could charge the perpetrator with wilful damage, which is punishable by a maximum penalty of five years imprisonment. However, the offences described above only apply where personal injury or property damage occurs or where there is proof of malicious intent.

The specific offence directed at rock throwing and other dangerous conduct such as directing a laser pointer at a vehicle has come about as a result of growing community concern on both issues. 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. Whilst I would be more than happy to see these loopholes closed and tighter sentencing, this bill will not in any way deter rock-throwing incidents among juveniles. The answer to this dilemma is more than just a mandatory sentence of two years imprisonment where the majority of these offenders are juveniles. The government needs to consider the following to curb the rising incidence of this and other related offences in conjunction with the mandatory sentencing when the crime is perpetrated by a juvenile: consider fencing on pedestrian-only walkways, community service orders for juvenile offenders, education in schools prior to school holidays when offences are most likely to occur, the use of CCTV on overpasses to assist police apprehend the juveniles involved and zero tolerance for these and other related offences where death and permanent disability can occur.

In the electorate of Mudgeeraba I have seven overpasses on the M1 alone that are not caged including the notorious Nerang-Southport interchange, exit 75, exit 77, the long-awaited Mudgeeraba interchange at exit 79, exit 81 at Robina Parkway and exit 83 at Reedy Creek. Every one of these overpasses has some method or other for pedestrian access. However, by and large, they are utilised by schoolchildren traversing the M1 from the western side in order to attend high school at Robina State High School as that is the only high school close to the Mudgeeraba electorate. Two years ago there was a report to Mudgeeraba police of a rock-throwing incident at night from the Robina Town Centre overpass. No arrests ensued, however, the police believe that the perpetrators were juveniles.

This bill is yet another Labor government's supposed tough-on-crime initiative which precludes those most likely to offend and therefore will have absolutely no deterrent for those most likely to offend. I support tougher sentencing. However, this legislation will only be applicable to those who are of age and, without education and alternative methods of dealing with juveniles, this measure will allow many perpetrators to escape unharmed whilst their victims deal with the fallout.