




Speech By
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MEMBER FOR MORAYFIELD

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AUSTRALIAN CRIME COMMISSION (QUEENSLAND) AND OTHER LEGISLATION AMENDMENT BILL

 **Mr RYAN** (Morayfield—ALP) (5.15 pm): I rise to contribute to the debate on the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 and I would also like to talk to report No. 32 of the Legal Affairs and Community Safety Committee. Firstly, I acknowledge the good work of the committee in respect of their report. In particular, I acknowledge the efforts of the chair and the government members of the committee, who have obviously put a lot of thought into the report and have made some very good contributions to this debate. I highlight the contribution of the member for Capalaba, which I thought was very well researched and considered in respect of this particular debate.

I note that, in a way, this bill is an omnibus bill because it amends a number of pieces of legislation. Quite a diverse range of amendments are contained in the bill, which I will quickly highlight. The bill implements some changes that follow an agreement of the Law, Crime and Community Safety Council in 2015 with all Australian ministers with responsibilities for law and justice, police and emergency services in respect of CrimTrac, by merging the features and functions of CrimTrac into the Australian Crime Commission and making some changes to the ACC board by increasing the number of members from seven to nine. Other changes are given effect by this bill, including permitting police to use an explosives detection dog without warrant to carry out explosive detection operations at licensed premises, where an event is being held or in a public place; ensuring that it is lawful for a police officer to arrest a person without warrant at the instruction of another police officer where there are lawful grounds for the arrest, and I will come back to that particular amendment in a few moments; providing police with the power to search a vehicle without warrant where it is reasonably suspected that the vehicle may contain a knife not in the lawful possession of a person; making changes to the definition of 'public place' in section 51 of the Weapons Act to clarify the definition of 'public place' with respect to a knife being possessed within a vehicle in public without reasonable excuse; permitting an authorised officer of the Queensland Fire and Emergency Services to require information that will identify or help identify a person reasonably suspected of contravening the relevant act, that is, the Fire and Emergency Services Act or the Building Act 1975; and, finally, creating an offence provision for a failure to provide information that is required by an authorised fire officer without reasonable excuse.

I mentioned that I would come back to the particular amendment that relates to ensuring that it is lawful for a police officer to arrest a person without warrant at the instruction of another police officer. That follows the Court of Appeal decision in *Bulsey and the State of Queensland* 2015. In that case, the arrest of the appellants was ordered by the Court of Appeal to be unlawful as the officers who had arrested those people had done so on the direction of a senior police officer rather than by forming their own reasonable suspicion. That has a number of applications when it comes to large police operations where the arresting officer might not necessarily be the one who has all the information to form a reasonable suspicion that the person who is being arrested has committed an offence. I would like to

particularly touch on that because it is a critical amendment in terms of how complex police operations are conducted in Queensland and relates directly to the prospects of particular arrests and criminal court proceedings in Queensland.

The bill will enable a police officer who has formed the requisite reasonable suspicion about the commission of an offence to instruct another police officer to arrest an offender. This is an important and practical addition to the powers of front-line police officers. For example, it will give a police officer who has witnessed an offence from a police helicopter or via CCTV the option of providing an instruction to arrest to an officer who is in a better position to make the arrest. As we see greater use of surveillance, greater use of CCTV, greater use of police helicopters—Polair—to gather information that an offence has taken place we need to make sure that that information can be used in a legally enforceable way, the officer making the arrest is able to make the arrest in a legally enforceable way and the arrest sticks, the charge can proceed and those people who are responsible for committing those offences are held accountable.

Incidentally, there is a similar provision to the one we are proposing today in this bill in respect of clarifying those powers of arrest already in existence in New South Wales and Victoria. The provision includes safeguards to ensure that instructions are only issued where reasonably necessary. Those safeguards include: in order for a police officer to instruct another officer to make an arrest, the instructing officer must hold the requisite reasonable suspicion to make the lawful arrest; it is not practicable for the instructing officer to personally arrest the person; and it is not practicable, because of an emergency situation or other particular circumstances, for the arresting officer to personally form their own reasonable suspicion about the commission of an offence. Further, if a person is arrested because of an instruction under the new section that is proposed by this bill, the instructing officer must make a record of the instruction and the reasons for giving the instruction. The instructing officer must take reasonable steps to give a copy of the record to the arresting officer.

The new section also requires the instructing officer to inform the arresting officer at the earliest reasonable opportunity should the instructing officer stop holding a reasonable suspicion in relation to the arrest. The term 'instruction' has been preferred over the term 'directed'. This is more compatible in situations where a junior officer may be assisting a senior officer by instructing them as to the identity of a person to be arrested. It is also consistent with an officer's historical discretion to arrest and does not bind them to make an arrest if, in the circumstances, the officer has reservations about making the arrest.

All in all, this power will benefit police by providing flexibility where it is needed and, at the same time, maintaining an appropriate level of safeguards that protect the officer providing an instruction, the arresting officer and, just as importantly, the person being arrested. A challenge which was established as a result of some court proceedings in 2015, the Bulsey case, will now be addressed by the proposed amendment in the bill before the House today.

I will briefly speak about another amendment. That is the amendment which allows police the power to search a vehicle without warrant where it is reasonably suspected the vehicle may contain a knife not in the lawful possession of a person. I was thinking about those circumstances where police might have that reasonable suspicion. I was thinking that maybe there had been a witness who might have seen a knife used in a particular offence which is then dumped in a car or hidden in car. The power for police to access the vehicle to find that knife may help solve the offence or provide the evidence that is needed to support an arrest of a person who may have been involved in that particular offence.

There are numerous amendments in this bill. All of them are very worthy amendments. I note in particular the hard work of the government members of the committee in identifying those aspects which need to be supported by this House and by making the particular recommendations to this House as contained in their statement of reservation in the report. I encourage all members of the House to support the bill.