Speech By
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MEMBER FOR EVERTON

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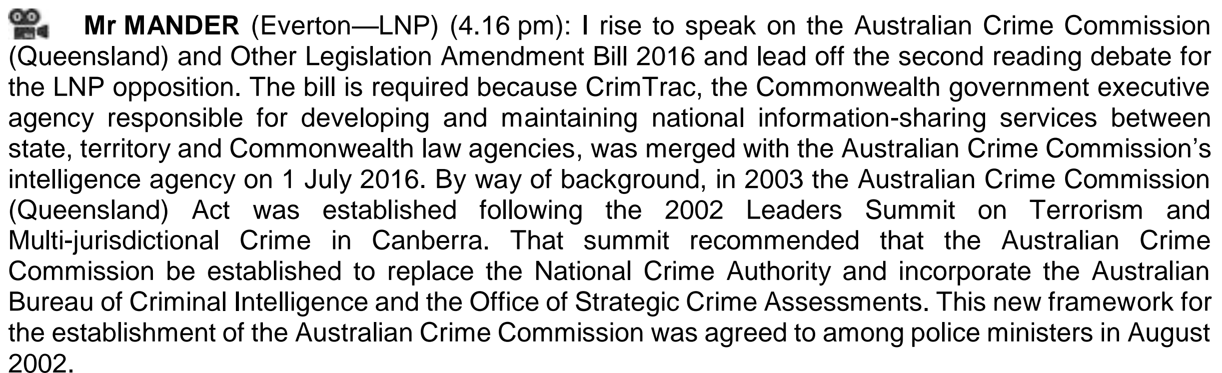
AUSTRALIAN CRIME COMMISSION (QUEENSLAND) AND OTHER LEGISLATION AMENDMENT BILL



Mr MANDER (Everton—LNP) (4.16 pm): I rise to speak on the Australian Crime Commission (Queensland) and Other Legislation Amendment Bill 2016 and lead off the second reading debate for the LNP opposition. The bill is required because CrimTrac, the Commonwealth government executive agency responsible for developing and maintaining national information-sharing services between state, territory and Commonwealth law agencies, was merged with the Australian Crime Commission's intelligence agency on 1 July 2016. By way of background, in 2003 the Australian Crime Commission (Queensland) Act was established following the 2002 Leaders Summit on Terrorism and Multi-jurisdictional Crime in Canberra. That summit recommended that the Australian Crime Commission be established to replace the National Crime Authority and incorporate the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments. This new framework for the establishment of the Australian Crime Commission was agreed to among police ministers in August 2002.

Ensuring national information and intelligence operations is underpinned through a national cooperative statutory scheme and each state implementing complementary legislation. The objective of the overarching legislation is to extend Queensland offences that have no federal aspect by conferring certain duties, powers and functions on the Australian Crime Commission.

In relation to the current bill, amendments are included to allow the CEO of the Australian Transaction Reports and Analysis Centre, or Austrac, which was formed in 1989 to combat money laundering, organised crime, tax evasion, welfare fraud and terrorism, to be added to the Australian Crime Commission board as resolved by the board. This increases the number of the ACC board from 14 to 15 and also adjusts the quorum required to constitute a meeting of the board. These changes are reflected in the bill.

As I said in a recent debate on counterterrorism laws, the LNP will always support sensible measures that keep our community safe. It is vitally important that the government is guided in its decision-making by our key law enforcement agencies. That was our guiding principle in government and that should be important for any government.

In this regard we are supportive of the changes in the bill which obviously ensure that our reciprocal legislative arrangements reflect the national changes which have occurred in the federal parliament. Fighting terrorism, cybercrime and organised crime are issues that need to be addressed across borders and through multiple agencies, and we have seen the results of what happens when you have that level of agency cooperation. The bill before the House also covers off on a number of other issues as well. As stated in the explanatory notes, these include—

1. Amending Queensland Acts that currently refer to 'CrimTrac' to refer to the new agency, 'the ACC';
2. Increasing the quorum at ACC Board meetings from seven to nine members in the ACCQA;

3. Permitting police to use an explosives detection dog, without warrant, to carry out explosives detection operations at licensed premises, where an event is being held or in a public place;
4. Redrafting section 439 of the PPRA to allow judicial discretion to admit evidence of unrecorded admissions or confessions where the admission of the evidence is in the interests of justice;
5. Ensuring it is lawful in the PPRA 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;
6. Providing police with 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;
7. Defining '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;
8. Defining 'public place' in section 57 of the Weapons Act to clarify the definition of 'public place' with respect to particular conduct involving possession of a weapon within a vehicle in public, without reasonable excuse;
9. Permitting an authorised fire officer of QFES to require information that will identify or help identify a person reasonably suspected of contravening FESA or chapter 7 or 7A of the Building Act 1975. The authorised fire officer may require the information from a government entity, an occupier of the premises, or a person who may reasonably be expected to give the information; and
10. Creating an offence provision for the failure to provide information that is required by an authorised fire officer, without reasonable excuse.

While the LNP members of the committee agreed with the elements in the bill and all members of the committee made one recommendation—that the bill be passed—there have been some developments on one particular aspect of the bill; that is, in relation to the amendments to the Police Powers and Responsibilities Act, or the PPRA, to allow judicial discretion to admit evidence of unrecorded admissions or confessions where the omission of the evidence is in the interests of justice. This follows on from a 2010 Supreme Court decision where the applicant was charged with unlawfully trafficking dangerous drugs. The explanatory notes to the bill state—

During an interview with police the applicant expressed reservations about answering questions, citing a fear of retribution if recorded incriminating others. The interview concluded and it was after the recording had stopped, but before the police and the applicant left the interview room that the applicant made admissions. Oral testimony of the police officers regarding the admissions was subsequently excluded from evidence due to the drafting of section 439 of the PPRA. Subsequent cases such as *R v Wayne Robert Purnell* [2012] QSC 60 have reiterated the need to redraft the section. The Bill will redraft section 439 and omit references to the term 'record' in order to resolve this issue.

Only one submission was received on the bill, and that was from the Queensland Council for Civil Liberties, the QCCL, about this very issue. The QCCL raised concerns that amending this provision will reintroduce 'verbals' back into Queensland law enforcement agencies' standard operations, a practice that was prevalent in the pre-Fitzgerald report era. It is important to note that neither the Queensland Law Society nor the Bar Association has made a submission about this provision. The court retains inherent jurisdiction to determine whether the evidence is admissible. The provisions in the bill would again put the court in this invidious position; however, this may be resolved through other means.

It is obvious that this bill is another example of how divided Labor are on so many things. Whether it is vegetation management, bikie laws, inquiring into the re-emergence of coalminers' black lung or the lockout laws, Labor are obviously bitterly divided within cabinet, within the backbench, and between cabinet and the backbench. Despite agreeing that this bill be passed, the government members of the committee lodged a statement of reservation to the committee report which stated that—

The government members note the lack of broad community consultation on this bill and the reduction of evidentiary safeguards as proposed by changes to section 439 of the PPRA.

Government members are not convinced by the argument that due to circumstances beyond the control of police, QPS may not be in full compliance with evidentiary safeguards. And as such, the proposed amendment to section 439 of the PPRA, allowing the judiciary to admit evidence where there is noncompliance or insufficient evidence of compliance with relevant safeguards is neither desirable nor necessary.

Government members recommend the bill be amended to delete the proposed amendment of section 439 of the PPRA.

We have to wonder what happened during this process. This bill would have gone to cabinet on two occasions with an authority to prepare and authority to introduce, and it is obvious that the police minister has been rolled by three Labor members of the Legal Affairs and Community Safety Committee. One has to ask the question: what was it that convinced them that these amendments in relation to section 439 of the PPRA should be deleted from the bill, when it either was not picked up or was not widely discussed in the cabinet? We might forgive the police minister in this instance for standing up for what the department has put forward, but where are all the lawyers and the so-called defenders of the Fitzgerald principles like the Premier, the Attorney-General, the health minister and the Deputy Premier? Maybe it was the case that the police minister rolled these members in cabinet. We have all read how often that is happening.

It is obvious that I am not aware of what happens in caucus, but one would think that when the caucus was briefed on this bill and before it was introduced into the parliament these elements would have been raised by those who were concerned about it. Again it begs the question: what was it that

convinced the three Labor members of the parliamentary committee that seemingly no-one else in the Labor Party picked up on? I look forward to the contribution of these committee members during the debate. Perhaps they can enlighten us as to what made them go against the other 39 members of caucus and demand that these provisions be withdrawn. There is obviously disharmony within the cabinet and the party room about these particular elements of the bill. In this case the minister has been rolled on something that he wanted to help support the police. This is indicative of the turmoil on the government side of the House, and it is something that needs to be explained by the three Labor members of the committee who so vigorously opposed what the minister wanted in the legislation.