




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 13 August 2020

CRIME AND CORRUPTION AMENDMENT BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.16 pm): I present a bill for an act to amend the Crime and Corruption Act 2001 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Crime and Corruption Amendment Bill 2020 [1370](#).

Tabled paper: Crime and Corruption Amendment Bill 2020, explanatory notes [1371](#).

Tabled paper: Crime and Corruption Amendment Bill 2020, statement of compatibility with human rights [1372](#).

This bill comes at a critical time, as Queensland heads towards its first state election following the introduction of fixed terms. The government will enter caretaker mode on 6 October 2020 until Saturday, 31 October 2020, when the people of Queensland will head to the polls to elect the 57th Parliament of Queensland.

The bill implements recommendations made by the Crime and Corruption Commission regarding the publication of allegations of corrupt conduct. On 19 December 2019, the CCC commenced an investigation into the Department of Education recruitment process that was selecting the principal for the new Inner City South State Secondary College. The CCC's final report on its investigation, titled *An investigation into allegations relating to the appointment of a school principal*, was tabled on 2 July 2020.

The Palaszczuk government is particularly concerned about the comments made by the CCC as part of this investigation highlighting the difficulties it faced because allegations were in the public domain. The CCC stated in its 2020 report that having allegations in the public domain is not ideal and may impede the integrity of their investigation. The CCC's longstanding position is that it prefers for complaints and other correspondence relating to assessments and investigations to remain confidential. Publication of a complaint or correspondence may compromise the effectiveness of CCC inquiries, especially when potential witnesses have advance warning. The publication of a complaint can also lead to unsubstantiated allegations being aired publicly and may give the appearance a complaint is motivated for political gain or other reasons. Publicising allegations may also damage the reputation of the person alleged to have engaged in corrupt conduct and compromise the fair trial of persons charged with corruption.

As the CCC has noted in its 2016 report, these risks have become amplified in contemporary society where mass communication methods mean allegations are instantaneously and widely transmitted and stay on the public record in perpetuity. However, as the CCC has also acknowledged, identifying a solution that ensures allegations of corrupt conduct are kept confidential must be balanced against the right to freedom of speech within current legal constraints and the need for open and accountable government.

While the Crime and Corruption Act 2001 contains various provisions dealing with confidentiality, as the CCC highlighted in its 2016 report, it does not have power to prevent people who are not employed by the state or local government from publicising allegations of corrupt conduct. Use of existing offences relating to frivolous and other improper complaints can also be problematic.

In examining this complex issue in detail in 2016, focusing particularly on the public interest, the CCC undertook extensive consultation on a public discussion paper as well as holding a public forum. Not surprisingly, this consultation revealed divergent views both in favour of and opposing the publicising of corruption allegations. As noted by the CCC in its 2016 report, many submissions supported publicising allegations of corruption. This government notes that the Fitzgerald inquiry remains an important reminder for all Queenslanders of the need to protect those who seek to expose government corruption. The CCC noted that some submissions put forward the view that public awareness of corruption allegations was an important 'check and balance' on the performance of the CCC and the fact that publicising allegations of corruption assisted the CCC to perform its function by prompting people to provide information to the CCC relevant to a matter or information about different, but related, matters.

Some submissions opposed publicising allegations of corruption, noting the serious and potentially irreparable reputational damage that can be done to an individual who is the subject of a corruption allegation or complaint, even where the allegation or complaint is subsequently unfounded. Others also noted the potential ramifications for an individual's prospects to receive a fair trial where extensive pre-trial publication of an allegation or complaint may have a prejudicial effect on any related criminal proceedings. In addition, some submitters to the CCC in 2016 highlighted the negative impact that publicity can have on the CCC's ability to detect and investigate allegations of corruption. This concern was reinforced again in the CCC's recent report. There is no argument that this is undoubtedly a challenging issue, but it is not one that the Palaszczuk government is going to shy away from. Ultimately, on balance, the CCC was of the view in its 2016 report that with one exception concerning the publicising of allegations of corruption against a councillor or candidate in the lead-up to local government elections there should be no change to the law.

In its recent 2020 report, the CCC recommended expanding implementation of its 2016 recommendations to the state election period. This government agrees that it is good policy that there be consistency wherever appropriate between state and local government processes and that any changes to one level of government should apply to the other. The ability to cast a free and informed vote in an election lies at the heart of Queensland's democratic system of government. It is reflected in the human rights of freedom of expression and the freedom to take part in public life which are now enshrined in Queensland's landmark Human Rights Act. The offences contained in this bill are designed to enhance the integrity of Queensland's electoral processes by ensuring that public debate in an election period is not hijacked by the publication of baseless allegations and complaints that are politically motivated and designed to do nothing more than inflict reputational damage on political opponents.

Queenslanders have the right to be fully and reliably informed in relation to relevant matters as they head to the polls, not distracted by publication of fanciful allegations and complaints. The offences are aimed equally at ensuring that public trust in the integrity of the CCC is maintained. As Queensland's primary public watchdog, the CCC plays a pivotal role in ensuring the public sector and Queensland's elected officials are held to the highest anti-corruption standards. Any sense that the CCC is being used as a political football undermines this trust. Misusing the CCC in this way can also be extremely damaging to the integrity of its assessment processes and results in the diversion of its resources from fighting serious instances of major crime and corruption. Importantly, the prohibition on publication does not mean that wrongdoers will escape detection or punishment. As the CCC indicated in the context of local government elections, it will continue to 'prioritise, in the public interest, the assessment and investigation of these matters' so that ultimately individuals who are convicted of a criminal offence may be removed from office.

I now want to provide the House with a brief overview of the specific amendments in the bill. The bill makes it an offence for a person to publish a corrupt conduct allegation about a candidate during the relevant election period unless the CCC has been notified and at least three months has elapsed to allow the CCC sufficient time to assess the merits of the allegation. The definition of 'corrupt conduct allegation' covers both complaints and allegations about corrupt conduct. Importantly, the offence targets publication. This means it is not intended to apply to prevent a person from seeking legal advice or discussing their views in ordinary social discourse. In order to be said to have published an allegation, it will be necessary to have released information to the public at large or a portion of it. In this respect, for example, a print or online newspaper article or information posted to a public social media account would be caught but a local member writing to inform an individual constituent that a matter has been

referred to the CCC would not. The offences would be summary in nature and carry a maximum penalty of 50 penalty units or six months imprisonment. The amendments will also allow an aggrieved candidate or the CCC to seek an injunction to restrain any further publication of allegations during the relevant election period.

The Palaszczuk government is serious about ensuring the ongoing integrity and transparency of our democracy. The CCC has comprehensively considered the issue of publicising allegations of corrupt conduct and while the CCC has stated that it is not convinced publishing untested corruption allegations does, in reality, contribute to open, transparent and accountable government it acknowledges that there must be compelling reasons to justify any move away from this principle. The CCC has provided its advice about these compelling circumstances and this government is prepared to adopt that considered and independent advice. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.25 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.


Motion agreed to.

Bill read a first time.

Referral to Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Weir): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.

Declared Urgent; Portfolio Committee, Reporting Date

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.26 pm), by leave, without notice: I move—

That, under the provisions of standing order 137, the Crime and Corruption Amendment Bill be declared an urgent bill and the Legal Affairs and Community Safety Committee report to the House on the bill by 2 September 2020.

Question put—That the motion be agreed to.

Motion agreed to.