




Speech By  
**Peter Russo**  
MEMBER FOR TOOHEY

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### CRIME AND CORRUPTION AMENDMENT BILL

 **Mr RUSSO** (Toohey—ALP) (5.51 pm): I rise to speak to the Crime and Corruption Amendment Bill 2023. This private member's bill is not as straightforward as the member for Clayfield would like us all to believe. The Community Safety and Legal Affairs Committee, in its report No. 6 of the 57th Parliament and tabled on 11 April 2024, has recommended to the Assembly that this bill not be passed.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles—that is, to consider whether the bill has sufficient regard to the rights and liberties of individuals and to the institution of parliament. The committee also examined the bill for compatibility with human rights, in accordance with the Human Rights Act.

On 11 October 2023, the member for Clayfield introduced the Crime and Corruption Amendment Bill into the Queensland parliament. The main purpose of the private member's bill was to amend the Crime and Corruption Act 2001 to: remedy a deficiency in the reporting powers of the act, as found by the High Court in *Crime and Corruption Commission v Carne*, to explicitly allow the Crime and Corruption Commission to table and publish reports on its corruption investigations; and reverse a 2018 amendment that omitted the Director of Public Prosecutions from section 49 of the act.

Stakeholders and subscribers were invited to make written submissions on the bill and the committee received three substantive submissions. A public hearing was held on 27 March, followed by a public briefing with the member for Clayfield. The key issues raised during the committee's examination of the bill included: the reporting powers of the CCC; the tabling of reports; the omission of the DPP from section 49 of the Crime and Corruption Act; procedural fairness and natural justice; and certain provisions operating retrospectively. When the member for Clayfield presented the bill to parliament on 11 October, he said—

The bill addresses the deficiency in the law identified by the High Court in the recent decision of the *Crime and Corruption Commission v Carne*. Specifically, it addresses the deficiency in the reporting powers of the act found by the High Court. The bill also reverses a 2018 amendment that omitted the Director of Prosecutions from section 49 of the Crime and Corruption Act. It reverses the 2018 amendment, and this reversal was recommended by both the PCCC in its report No. 108, 57th Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council*, and the commission of inquiry relating to the Crime and Corruption Commission that has recently reported.

It is stated in the opposition's statement of reservation to the committee report—

While the need for this Bill has been well ventilated and the position of the Opposition on this matter been made clear, the Opposition Members do not agree with the recommendation of the Committee's report and want to highlight, once again, the opportunity to pass the Bill and remedy the deficiencies of the Crime and Corruption Act highlighted by the High Court decision in *Crime and Corruption Commission v Carne*...

...

It was made abundantly clear this Bill is necessary and urgent to ensure the CCC can operate to its full potential and mitigate against corruption risks.

It was noted by the Opposition Members the Shadow Attorney General has flagged his agreement with suggested amendments to the Bill by the CCC and appreciate his openness to take on these changes.

The Opposition Members firmly disagree with the recommendation in the report for the Bill to not be passed, and urge all Members to support it at their first opportunity.

There are five main issues with the bill. The first is the lack of safeguards. Under this bill, the CCC will have no limit or safeguard on its ability to table a public investigation report, beyond the requirement to provide an opportunity for an adversely affected individual to comment under section 71A. Secondly, there is no prohibition on prejudicing investigations, prosecutions or disciplinary proceedings. This private member's bill will place no restrictions on the CCC's reporting power in relation to matters that are currently before the court or are the subject to investigation by another entity. This means that the CCC could, without recourse, irretrievably prejudice a criminal prosecution.

Thirdly, this bill misses the opportunity to survey contemporary anti-corruption practice. The bill does not take advantage of the learnings of other Australian jurisdictions. This might include measures to safeguard human rights and protect against the prejudicing of ongoing prosecutions.

Fourthly, in relation to fundamental legislative principles and human rights, by specifically naming three individuals and depriving those individuals of a right of reply under section 71A, the Nicholls private member's bill arguably breaches the following fundamental legislative principles: is consistent with principles of natural justice; and does not adversely affect rights and liberties, or impose obligations, retrospectively. It also breaches the following human rights: recognition and equality before the law; and privacy and reputation.

Fifthly, the bill incorrectly addresses the recommendations of the PCCC and the commission of inquiry into the Crime and Corruption Commission. The explanatory notes state—

The Bill will also reverse a 2018 amendment that omitted the Director of Prosecutions from s.49 of the CCC Act ... The reversal of the 2018 amendment was recommended by both the PCCC (Parliamentary Crime and Corruption Committee Report No. 108, 57th Parliament, Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters ...

This is inaccurate. The PCCC report, at recommendation 3, states—

The committee recommends the Queensland Government review section 49 of the Crime and Corruption Act 2001. Furthermore, consideration should be given to a requirement that the Crime and Corruption Commission obtain the recommendation of the Director of Public Prosecutions, or a senior independent legal advisor, before exercising (through seconded police officers) the discretion to charge serious criminal offences (including disqualification offences under the Local Government Act 2009) in the exercise of its corruption function.

The CCC commission of inquiry final report states, at recommendation 25, that the Crime and Corruption Act be amended to give effect to a list of highly prescriptive measures, including that a memorandum of understanding be entered into.

The government's Crime and Corruption and Other Legislation Amendment Bill addresses these recommendations comprehensively. On the other hand, the private member's bill merely removes the stipulation at section 49(5) that the definition of 'prosecuting authority' does not include the Director of Public Prosecutions. Since the introduction of the bill, the government announced in February 2024 that it had commissioned an independent review, to be led by former chief justice Catherine Holmes, into the reporting powers of the CCC. Accordingly, it would be inappropriate and premature for the committee to make a recommendation in relation to the private member's bill.

As the Attorney-General stated in her contribution, the report of the former chief justice is worth repeating here. It states—

It has become clear over the course of the Review that a 'one size fits all' approach, giving the Commission an unlimited discretion to report and speak on investigations, whether the kind of conduct investigated is minor or serious, individual or systemic in nature, whether in fact any evidence of corruption has emerged, whatever the status of the individuals concerned—elected or employed—is not the answer. The number of variables involved has made it necessary instead to propose a range of circumstances for reporting and making statements.

It is also important to remember that while the work of anti-corruption commissions is vital ...