

Bill introduced on motion by Mr Greg Smith, read a first time and printed.

Second Reading

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [4.02 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce The Ombudsman Amendment Bill 2012 to modify the jurisdiction and powers for the NSW Ombudsman to inquire into matters that simultaneously touch upon the New South Wales Crime Commission and the Police Integrity Commission. Since this Government took office last year, the Parliament has passed legislation to reform the governance arrangements for both the New South Wales Crime Commission and the Police Integrity Commission, the PIC. This reflects the Government's commitment to effective integrity settings for the State's law enforcement institutions. However, as members may be aware, there is a long-running matter involving these two commissions and the NSW Police Force that is yet to be resolved to the satisfaction of the Government and the community. That matter is commonly known as Strike Force Emblems, and it has its roots in crime investigation and police integrity operations that began more than a decade ago.

Strike Force Emblems was an internal NSW Police Force inquiry established in 2003 to investigate aspects of Operation Florida, a joint operation involving the Crime Commission, the Police Force and the Police Integrity Commission. The report of Strike Force Emblems has not been made public. In May this year the Government asked the Hon. David Levine, QC, Inspector of the Police Integrity Commission, to review the report and advise whether it could be released. However, while undertaking the review Mr Levine received a number of complaints and submissions in connection to matters in the Emblems report. The NSW Ombudsman also received complaints concerning matters arising from the report. On 7 October this year the Premier announced that the Ombudsman and the Inspector of the Police Integrity Commission had conferred and agreed that the Ombudsman would be well placed to undertake an independent inquiry into Strike Force Emblems and any relevant matters leading up to it. The breadth of the complaints received by both offices meant it was appropriate for the Ombudsman to investigate. The Ombudsman is the appropriate independent body to comprehensively review these matters. The Government will ensure that the Ombudsman has the appropriate powers to undertake his work.

The first step to providing the Ombudsman with additional powers was taken when the Act was amended by proclamation on 10 October 2012. That amendment authorised the Ombudsman to investigate certain complaints regarding the conduct of executive officers of the New South Wales Crime Commission and members of the committee. This extension was

limited to circumstances where the conduct in question is referred to the Ombudsman by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission. The Ombudsman Amendment Bill 2012 that I am introducing today will deliver the further powers that the Ombudsman requires to conduct his inquiry.

The intention of this bill is to provide the Ombudsman with the necessary authority to inquire into operations and matters that traverse the functions and activities of the organisations involved in crime detection and crime agency integrity. The bill provides the Ombudsman with a framework in which he is able to conduct an effective inquiry covering all the relevant agencies and officers connected with Strike Force Emblems. The Ombudsman already has broad powers concerning investigation of police conduct, including coercive powers to compel witnesses to attend private hearings and to produce evidence. Under the provisions in this bill, these coercive powers are extended to the Crime Commission and the Police Integrity Commission where there has been a referral from an appropriate inspector, being either the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission. The bill will not authorise the Ombudsman to exercise coercive powers unless there has been a referral from an inspector. It will remain the function of the Police Integrity Commission and the Inspector of the Crime Commission to oversee the conduct of the Crime Commission and the Inspector of the Police Integrity Commission to oversee the Police Integrity Commission where there is no relevant overlap.

Turning now to the detail of the bill, schedule 1 amends the Ombudsman Act 1974. Item [1] of schedule 1 provides for the Ombudsman to appoint legal counsel, who must be an Australian legal practitioner, to assist in an inquiry. Such an arrangement is consistent with those for other integrity agencies. New powers for the Ombudsman to restrict the publication of evidence or information provided to an inquiry, and the prohibitions against the publication of evidence or information provided to an inquiry, are set out in item [2]. These will provide a significant forensic benefit to an Ombudsman's inquiry by maintaining strict confidentiality of investigation-related information. The provisions mirror those that apply under the Independent Commission Against Corruption Act and the Police Integrity Commission Act. Schedule 2 to the bill amends the Crime Commission Act 2012.

Item [1] in schedule 2 requires that a referral by the Inspector of the Crime Commission to any public authority, which includes the Ombudsman, must include written terms. Item [2] of schedule 2 supports the provision of Crime Commission information to the Ombudsman, notwithstanding the secrecy provisions of the Crime Commission Act. New subsection 80A (1) permits the voluntary disclosure of Crime Commission information to the Ombudsman. The Ombudsman may instead, under new subsection 80A (2), rely on the coercive powers to compel the giving of evidence or production of a document. These powers are only available, however, if the evidence or document is relevant to a matter referred to the Ombudsman by the inspector of either the Crime Commission or the Police Integrity Commission. Item [3] of schedule 2 clarifies that the secrecy provision of the Crime Commission Act—section 80—applies to all material that was previously subject to section 29 of the repealed New South Wales Crime Commission Act 1985.

New section 80 is preferable to section 29 of the repealed Act in a number of respects, including because it allows for regulations to be made prescribing persons to whom information can be disclosed without breaching the secrecy provision.

It is appropriate to adopt the more up-to-date formulation for all relevant material. The final schedule to the bill is schedule 3, which amends the Police Integrity Commission Act 1996 to provide the Ombudsman with coercive powers in relation to the Police Integrity Commission upon referral of a matter from either the Police Integrity Commission inspector or the Crime Commission inspector. In conclusion, these amendments will support an important inquiry by the Ombudsman into a matter that has remained unresolved for far too long. The Ombudsman, the Inspector of the Police Integrity Commission, the Police Integrity Commission, the New South Wales Crime Commission, and the Ministry for Police and Emergency Services has each been consulted during the development of the bill. I thank each of those agencies for their constructive approach in this matter.

The amendments have been drafted to take into account the integrity oversight arrangements already in place. They provide an efficient but comprehensive set of arrangements for inquiries into matters of conduct that simultaneously touch upon the Police Force, the Police Integrity Commission and the Crime Commission. The Government looks forward to the successful conclusion of the Ombudsman's inquiry and his report. I commend the bill to the House.