

## CRIMES AMENDMENT (ROCK THROWING) BILL 2008

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. John Hatzistergos.**

### Second Reading

**The Hon. JOHN HATZISTERGOS** (Attorney General, and Minister for Justice) [4.06 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Amendment (Rock Throwing) Bill 2008. The act of throwing a rock at a vehicle is not only cowardly and stupid but also downright dangerous, and the Government will not tolerate that type of idiotic behaviour. The bill recognises and responds to well-founded community concerns about the abhorrent practice of rock throwing by introducing a new five-year, stand-alone offence for throwing objects at vehicles or vessels.

Throwing objects at vehicles is not a silly prank or harmless fun. The impact on victims can be devastating and ongoing. The recent incident in Kiama involving 21-year-old Nicole Miller—who spent four days in a coma with severe head injuries after the car she was a passenger in was struck by a rock—demonstrates some of the tragic consequences of rock throwing. Nicole Miller suffered terrible injuries and remains traumatised by the attack. And if we need any reminder, reports indicate that just yesterday a two-kilogram rock allegedly was thrown at and struck a car in Fairfield, causing substantial damage.

Already a range of existing offences with tough penalties apply to rock throwing, which results in serious damage or injury—for example, attempted murder, manslaughter, maliciously or recklessly inflicting grievous bodily harm, reckless wounding and malicious damage. Those offences all carry severe penalties ranging from 5 years to 25 years imprisonment. This new offence complements the already existing offences and provides police with another charge to lay in appropriate circumstances. Last year the Government demonstrated its view of the seriousness of these types of offences when it increased the penalty for recklessly inflicting grievous bodily harm from 7 years imprisonment to a maximum of 10 years imprisonment. This new offence will complement the other existing offences to ensure that we have a range of offences with a range of penalties to cover the full spectrum of criminality—from the least serious to the most serious.

People should not escape serious penalties simply because they did not succeed in injuring someone. The act of deliberately throwing an object at a car when there is potential to injure someone should be subject to criminal sanctions. The bill creates an offence to fill this gap by criminalising a situation where a person intentionally throws or drops a rock on a vehicle or vessel, even if the person fails to cause damage to property or harm to another person. The new offence will apply not only to motor vehicles but also to trains and trams, bicycles, and certain other road users. Even when no damage occurs, the dangers created by rock throwing can create substantial fear among drivers and commuters. During 2007 this fear was seen in certain communities when bus services were temporarily cancelled following a spate of rock throwing attacks.

This legislation sends a strong message to would-be offenders that this type of stupid behaviour is completely unacceptable and will be treated as a serious criminal offence. The Crimes Amendment (Rock Throwing) Bill 2008 enacts the new offence by inserting a new section 49A into the Crimes Act. An offence under section 49A is committed if a person intentionally throws an object at, or drops an object on or towards, a vehicle or vessel and the conduct risks the safety of a person. Under the bill "throw" also includes "propel", so that people using slingshots—which, sadly, has happened—and people intentionally kicking objects off overbridges will also be captured by the offence. The bill covers not just motor vehicles but also includes trains, trams, vessels, bicycles and animals being ridden. The maximum penalty for a breach of this provision is five years imprisonment. This penalty is appropriate for the nature of the offence and allows police and prosecutors flexibility in charging offenders. It strikes the right balance, given the range of existing offences available, and closely reflects changes introduced in South Australia in September 2006.

Some have called for this offence to have a much higher penalty—as high as 25 years imprisonment. To have such a penalty for this offence would make it out of step with the range of offences where people are actually injured, such as reckless wounding, which carries a penalty of seven years imprisonment, or recklessly inflicting grievous bodily harm, which carries a penalty of 10 years imprisonment. Although we hope it never happens, I also remind honourable members that if, as a result of a rock being thrown, somebody is killed then the offenders could be charged with manslaughter, which carries a 25-year maximum sentence, or even murder, which carries a life sentence. If rock throwing without hitting a car or injuring a person carried a 25-year penalty—the same as for manslaughter—the offence would be rarely used and, when it was, juries would be extremely unlikely to ever convict someone of the offence. No-one wants to see rock throwing idiots acquitted just because the offence carries an extreme 25-year penalty.

Subsection (2) makes it clear that the offence applies regardless of whether the vehicle or vessel is stationary at the time the object is thrown or dropped. Subsection (3) makes it clear that for the offence to apply it does not need to be proved that the accused was aware that his or her conduct risked the safety of any person. It also provides that the new provision is designed to include situations even where no contact was made with the vessel or vehicle. In summary, the bill creates a specific offence of throwing objects at vehicles and vessels, which allows authorities to take action against offenders at a number of levels. From serious offences, where there is injury to people or damage to property, to cases at the lower end of the scale, there is now a full suite of charge options available to police. Importantly, the bill creates a serious stand-alone offence that reflects the dangerousness of the activity and sends a strong message to the community that the Government will not tolerate these cowardly and stupid attacks on drivers, transport workers and passengers. I commend the bill to the House.