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26 June 2012

Criminal Law - False
Evidence Before
Parliament
Submission 004



Mr Peter Wellington MP
Deputy Chair
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Mr Wellington

Re: Criminal Law (False Evidence Before Parliament) Amendment Bill 2012

I refer to your letter of 20 June 2012 in relation to the abovementioned matter. Your correspondence was received by the Association on Friday, 22 June and the close of submissions was set by the Committee for Monday, 25 June 2012.

The Bar Association relies on the volunteer efforts of its members. I appreciate the extension for the acceptance of submissions until this evening, but the timeframe set by the Committee has not permitted the Association to give this issue the attention it deserves. We would have liked to have been of more assistance – I am told that one of our members has completed a research PhD on the subject.

In summary, the Bill re-introduces s 57 of the Criminal Code, which was repealed in 2006. Notwithstanding that the provisions have the capacity to create tension between the parliamentary and judicial branches of government, the Bar Association supports their re-introduction in principle. However, this support is conditioned on a more considered review of the criminal offences concerning Parliaments and the manner in which they are prosecuted.

In particular, consideration must be given to the role of the Crime and Misconduct Commission, and the mechanics of how a prosecution under the relevant sections would be instigated. It is important from a constitutional perspective that the Parliament retains control of its own proceedings and affairs. In respect of instituting prosecutions, it may be worthwhile to consider requirements, for example, that the fiat of the Attorney-General is required, or that the Attorney-General be directed by the Parliament to prosecute a particular matter. The creation of a Parliamentary Commissioner for Standards, similar to the scheme in the United Kingdom, could also be explored.

I will forward to you tomorrow a further response to your invitation for submissions.

Yours Sincerely

Roger N Traves S.C.
President

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