Speech by

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CRIMINAL CODE AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—Lib) (7.37 pm): I rise to speak to the Criminal Code Amendment Bill 2006, a bill to repeal sections 56, 57 and 58 of the Criminal Code and no longer make it a crime to intentionally lie in and to parliament—the Beattie government's 'licence to lie' bill. I am actually not sure what is more infuriating about this—the arrogance of the bill or the argument being mounted by those opposite to justify it. To attempt to justify 'lying' and 'disturbing the legislature' by calling on legally enshrined doctrines of freedom of speech and parliamentary privilege is a big stretch—even for this government. This government should not be allowed to hide behind statements such as 'this will bring Queensland into line with the position in the House of Commons and parliaments in other states' when it is the intention, not the position, that makes this bill so questionable and so objectionable.

The immunity afforded through parliamentary privilege has taken centuries to evolve, but the interpretation of it has been so skewed in the government's attempts to justify this bill that one could not be blamed for thinking that it needs another few centuries to get it right. Let us get clear what the intention of parliamentary privilege really is. Article 9 of the Bill of Rights 1688, as many other members have mentioned, contains one of the privileges of the Senate and of the House of Representatives under the Constitution. Article 9 states—

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

The justification of this privilege is thus—that a member of parliament should be able to speak in parliament with impunity and without any fear of the consequences because ministers might be inhibited in the performance of their duties and might be led, by the fear of possible consequences, to refrain from proper, open and democratic procedure.

Privilege promotes open dialogue, discussion and debate of issues, as it is thought that, through more open discussion expressed in parliament by elected representatives speaking without fear of reprisal, better results will be achieved for the community that the parliament serves. Therefore, there is sound policy behind parliamentary privilege. Article 9 of the Bill of Rights is mirrored in section 8(1) of the Parliament of Queensland Act. That also states that debates and proceedings of parliament ought not to be impeached or questioned in a court or place out of parliament.

Before labelling sections 56, 57 and 58 of the Criminal Code, which this bill seeks to remove, as inconsistent with this privilege, one must look to the intention of those sections. What becomes apparent is that these sections are justified by sound policy as well. Despite being, at face value, inconsistent with each other, the intention of these sections and the intention of parliamentary privilege are complementary in their pursuit of upholding the processes of parliament and democracy.

Let me explain this consistent aim to ensure that the processes of parliament are effective and efficient. Section 57 of the Criminal Code provides that any person who knowingly gives false evidence in the course of an examination before the Legislative Assembly or a committee is guilty of a crime and is liable to seven years imprisonment. Section 56 relates to disturbing the legislature. Section 58 relates to witnesses who refuse to attend or give evidence before parliament or a parliamentary committee. The

justification of this bill draws attention to the fact that these sections can no longer operate because article 9 states that 'proceedings in parliament should not be questioned in any place outside of parliament'—for example, in a court of law.

However, the intention of these sections is to seek to uphold the processes of parliament. Using section 57 as an example, false evidence given to the Legislative Assembly or one of its committees can potentially derail and delay its process. By making it a crime to knowingly give false evidence—to intentionally lie—the section sought to ensure the efficiency of the parliament. Lies can corrupt and delay the proper processes of parliament and that is what section 57 sought to make punishable.

Sections 56, 57 and 58 sought to make disruptions to the parliamentary process punishable. Let us recall that the intention of parliamentary privilege is that a member of parliament be able to speak in parliament with impunity. Therefore, ministers will not be inhibited in the performance of their duties in facilitating the parliamentary process.

Parliamentary privilege was always intended to allow a member to speak without fear of reprisal to the better end of the parliament's roles and processes. It was never intended to allow a member to intentionally speak untruths without fear of reprisal to the detriment of the parliament's role and processes.

Sections 56, 57 and 58 exist in the Criminal Code to ensure that the efficiency of parliament is not corrupted by lies and is not corrupted by an unreasonably wide interpretation of article 9 of the Bill of Rights, which this government seeks to justify. This bill needs to be seen for what it is: a licence to lie and a retrospective one, at that.

The passing of this bill will make it no longer a crime to intentionally lie to a parliamentary committee, which brings into question the whole point of committees, which seek to obtain the truth. The institution of the committee can be corrupted and its operation delayed. This bill does nothing but compromise the processes of parliament.

Parliamentary privilege was never intended to compromise parliament or to be used as a shield by a consistently naughty government that does not want to get into trouble anymore. Parliamentary privilege was developed to enhance, not compromise, the processes of parliament and its committees—not bastardise it.

Terry Sweetman of the *Sunday Mail* said it well. I will share with members his thoughts, which are undoubtedly shared by others, if not most Queenslanders. He stated—

By moving to amend the Criminal Code to allow ministers to lie with impunity to parliamentary committees, the government has taken the concept of political honesty to new levels of elasticity. This moral plasticity flows from the case of a certain former health minister of the Beattie government who gave his misleading answers to a Budget Estimates Committee, leading the Crime and Misconduct Commission to recommend that the parliament decide whether the former minister be prosecuted on a criminal charge (which the Criminal Code provides) or be dealt with by his parliamentary peers.

The government, not surprisingly, took the soft option. Had the parliament opted for a criminal action, the prosecution would have had some difficulty in demonstrating intent, with the likely defence revolving around unintentional error, bad advice, momentary inattention or even stupidity. Either way, the public would have been well served by the hearing that, if nothing else, would have been a public test of this government's incompetence.

Terry Sweetman went on to state—

Contrary to the views of the Beattie government, many Queenslanders would relish the prospect of ministerial honesty being placed on trial in a court of law, independent of political influence, as opposed to a stacked court of political expediency.

The practical exercise of accountability in this House cannot be afforded in any government with a majority. It is not independent and it is influenced by politics.

One doctrine that the Beattie government cannot manipulate to justify this bill is the separation of powers. Queensland Labor has often made a play that this side of the House did not understand it pre-Fitzgerald and does not understand the separation post-Fitzgerald. However, this bill is indicative of the opposite—that, in fact, it is Labor that needs a tutorial on the separation of powers.

The separation of powers has always reminded us that by keeping the legislature and judiciary separate adjudication in our courts cannot be dogged by political influence and is why the courts are the only way to achieve truly independent judgements. This is also why suggestions that prevailing contempt provisions to deal with questionable parliamentarians by the parliament itself—which may be in the midst of a majority government—are sufficient are very wrong. By removing the option to take lying, disruptive and absent parliamentarians to court, the effectiveness and efficiency of the committees and institution of parliament are put in doubt.

This bill will mean that members and nonmembers are subject only to the jurisdiction of the Assembly for contempt of parliament. The bill seeks to make the Assembly a court, a parliament judging its own and its own constituents. I know that the shadow Attorney has made points about this, as recently as during the extra day's sitting that we had, that this was not a place where we should be judging the constituents of Queensland.

I have already made the point that this situation disregards the separation of powers. Even if one was still to believe that the punitive powers of parliament to deal with parliamentary contempt could fulfil

the aims of sections 56, 57 and 58, one must recognise the concerns of the Scrutiny of Legislation Committee in regard to those powers. The committee notes that the granting of exclusive jurisdiction to the Assembly to prosecute for contempt of parliament leaves people vulnerable to punitive punishment with little, if any, scope for judicial review. The committee recommends that the Assembly's power to imprison be clarified to ensure procedural fairness. The punitive powers themselves, afforded to the parliament for contempt, require amendment.

It is quite astonishing that this government, the government that has been responsible for the health, water and transport crises in Queensland, a government bereft of moral or legal qualms, should so lightly turn its back on absolute honesty in public office, something it is always so scathing about when criticising past coalition governments.

How questionable is the conscience of a government that would employ the doctrines of freedom of speech and parliamentary privilege for its own political cause—to justify the untruths that it has already told the people of Queensland? By introducing this bill, the Beattie government is safeguarding itself against the future lies and scandal it will continue to give to the people of Queensland. Surely, any perceived conflict between the Criminal Code and the Parliament of Queensland Act should have been resolved in favour of the rule of law and the separation of powers.

There is only one truth about this bill—it is a shocker. I will be rejecting this bill and its unconscionable intention.