



Speech by

**Mike Horan**

**MEMBER FOR TOOWOOMBA SOUTH**

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## **CRIMINAL CODE AMENDMENT BILL**

**Mr HORAN** (Toowoomba South—NPA) (9.32 am): Yesterday in this parliament we saw the shameful and disgraceful introduction of the Criminal Code Amendment Bill. We saw the weakness of the government case. Last night we heard from only four government speakers. No-one from the Socialist Left spoke. It was all left to the Attorney-General, the member for Murrumba, the member for Stafford and the member for Rockhampton. Only at the end, after a passionate speech by the member for Darling Downs, did we flush out the Premier from his hollow log. He came in with a minor contribution last night.

The Premier's contribution in this parliament was also disgraceful. He started with some pious comment that they were going to close the parliament after his speech out of consideration for the staff. That is the first time we have ever seen any consideration given to the staff by the Premier. How many nights have we sat late in this parliament without any consideration given to staff? Everybody had been told that the parliament would sit for four days this week. Everybody, including the staff and members of the parliament, had been told that we would be going to 10.30 last night and 10.30 tonight.

The Premier went on to talk about the fact that other states did not have this specific reference within their criminal codes. He seemed to indicate that, because they did not have it, we should not have it. I would point out that we do not have an upper house whereas other states do, although that seems to be quite all right with the Premier. I can also refer to some other things that we have in the Criminal Code that they do not have.

**Mr Reynolds** interjected.

**Mr HORAN:** Is the member for Townsville going to continue with the abuse that he carried on with last night? It is in *Hansard*. While the Speaker was on his feet, the member was screaming hysterically accusing people of lying. That is the standard of debate that we hear from ministers of the Crown in this Beattie Labor government. That is the way that the member carried on, and it is all recorded in *Hansard*.

**Mr DEPUTY SPEAKER** (Mr Fouras): Order! I was diverted while speaking with the member for Tablelands. I would suggest that the member for Toowoomba South returns to the bill and addresses his comments through the chair. Let us take the heat out of this and discuss the bill.

**Mr HORAN:** Thank you, Mr Deputy Speaker. During the eight years of the Beattie Labor government there have been two major reviews of the Criminal Code. In neither instance did they see fit to take out of the Criminal Code this particular provision, which prevents members who are answering questions at estimates from giving false evidence.

Former learned Attorney-General Mr Foley said in parliament that there had been an extensive review of this issue, yet he did not see fit to change the legislation. Then Attorney-General Welford brought in changes to the code, but he actually took parts out of the Electoral Act and put them into the Criminal Code because of roting by previous Labor members and the scandal that resulted in the Shepherdson inquiry. He put things into the Criminal Code. He said that the government had introduced Australia's toughest penalties for electoral offences and, to reflect the seriousness of the crime, had relocated them in the Criminal Code. He said that the change brought new standards of honesty and accountability, which is what we are debating today.

Then Attorney-General Welford said that the changes that he was bringing to the Criminal Code were new to Queensland and Australia. They were not in any criminal code. Therefore, it is all right to have something unique in Queensland when it is necessary because of Labor rotting, but when it comes to accountability and the image of the estimates process and the committee process generally in the eyes of the public, they want to take out that particular reference.

Today in question time the Premier talked about the rule of law and how he would always stand by the rule of law. Obviously, if the rule of law does not suit him, he changes it. He will only stand by a rule of law that suits him. That is what we are seeing here today. The rule of law does not suit the Premier because of the embarrassing incident that happened last year during estimates, so now he wants to change it.

In this parliament we have talked about how important it is to have traditions. Last night the Premier spoke about the traditions of the parliament. Members on both sides spoke about the traditions of parliamentary privilege and how people can stand in this parliament and speak on behalf of others about any issue and we can do that without any fear. I have seen that tradition trashed in this parliament. After the Joh case, the prosecutor stood outside the courthouse and said certain things. The then Attorney-General ran down George Street to this parliament and read those comments into the parliamentary record to give immunity to the person who had made them. If anything trashed the traditions and the institution of this House, which the Premier spoke about last night, it was that action. The Premier was a member of that government. He was a part of that, as were a number of other members of the current Labor government.

If we are going to talk about institutions and traditions, let us be fair dinkum about it. That particular shameful and disgraceful incident is part of the track record of the Labor Party. The privilege of this parliament is meant for the members of this House so that they can stand up on behalf of their electorates and the people they represent and speak fearlessly. It is not meant to enable members to bring stuff in from outside to save someone else's skin and give them immunity after they have discussed certain aspects of a court case.

There is a vast difference between proceedings in this parliament and the taking of evidence at the estimates committees. Yesterday General Cosgrove came to this place, which was a great privilege afforded to the general. In the history of this parliament, since 1869, on only three occasions have outsiders—that is, people who are not members of parliament—been allowed into the parliament. On one occasion the Prime Minister of Singapore entered the parliament, although I understand that he did not address the parliament. He sat at the chair. Twice General Cosgrove has come into this parliament and addressed us. That is a great honour.

There have been people called to the bar, but they have not been allowed inside the parliament. That certainly happened in the case of Judge Vasta. He was called to the bar but was not allowed inside the parliament. He had to address the parliament from the bar. So that indicates that this parliament is special and the privileges of this parliament are special. None of those privileges are affected by the legislation as it stands. Members opposite have tried to say in this debate that those privileges will change. They will not. As the legislation stands now, all the privileges of this House and all the rights that members have in this House remain and are not affected whatsoever.

What we are talking about is estimates committees, which involve the taking of evidence. It is not about members giving speeches in adjournment debates or MPIs or speaking to bills or giving opinions. It is about the facts. It is about taking evidence in relation to a \$24 billion budget. It is about taking evidence not only from members of parliament or ministers but also from members of the public—and normally they are the senior staff of the Public Service. So that is the very clear difference between the parliament and estimates committees. If you are going to be doing something as serious as taking evidence, then that is why there are two levels of accountability that relate to the taking of evidence outside of this chamber—in another room altogether in the parliamentary precinct. If the public are to have confidence in the estimates process then that process of having the matter dealt with under the Criminal Code has to remain.

Bear in mind that, if a matter is to be dealt with under the Criminal Code, it first of all begins with the laying of a charge. Then there is an investigation by the professional people in the Queensland Police Service. And then there is further professional investigation by the DPP. If it goes any further, the matter goes before a court where judgement is made by peers and the judiciary in a totally independent way under the separation of powers. So there is a long process before anything ever actually comes to fruition. At the same time, there are also the penalties and sanctions applied by the Parliament of Queensland Act.

Under these amendments that we are debating here today, members of parliament will be required to sit in judgement of members of the public. It is a big enough onus on and responsibility for members of this parliament to sit in judgement of their own peers through committees such as the MEPPC. That is a big responsibility, and it is one that has to be undertaken in a bipartisan way. But for members of this parliament to sit in judgement on members of the Public Service or members of the general public, that is something that really should be left to the independent judiciary. We are here as legislators. We are not

here as jurists. We are not here as magistrates. We are here as members of parliament to uphold the accountability of our own members of parliament and to keep our own house in order.

If outsiders, through the estimates process, give false evidence, then that should be dealt with under the Criminal Code where the process involves the laying of a charge, an investigation by the Police Service, who take evidence from both sides and decide whether there is a case to answer or not, and that is then judged further by the DPP. If the DPP considers that there is a case to answer, then it goes on to a court for judgement in the proper independent way. So there is a vast difference.

Over the years there have been calls by various members of parliament and the media to have a committee system. The first committee that was introduced was the Public Accounts Committee. We have committees such as the public accounts and public works committees that could also be examining very serious matters of spending millions of dollars of public money. If they, or the PCMC, are conducting an investigation, then they need to get accurate and honest answers; otherwise, what are we paying these committees for? It is one of the checks and balances of the process. We do not have an upper house. In this place, if you win the election, you have supreme power because you have the numbers and the numbers count. The numbers count in this House, the numbers count in committees and the numbers count in estimates committees.

The estimates process in this parliament is limited enough as it is. Most opposition shadow ministers get in the order of two or three 20-minute segments to ask questions. Each question is limited to a three-minute answer from the minister. Most ministers take the full three minutes to answer a question, so they limit the shadow minister to asking about six questions per 20 minutes. One of the few ministers I have ever seen in this place who had to ability to just answer yes or no and answer 70, 80 or 90 questions was former Treasurer Mr Mackenroth. But most other ministers take up the full three minutes, so there is at best around 20 to 21 questions. If in answer to your question the minister is waffling on and taking up the full three minutes, if you interject—bearing in mind that the government has the numbers and the chair is a government member—generally the chair will say that that is another question and the minister has another three minutes to answer it. That is how it goes. The estimates process in the parliament is very, very limited. When a question is asked about something that is very important, we must get an accurate and honest answer.

I think the public of Queensland are going to be appalled that this parliament is going to water down the system of accountability and openness of the estimates committees and general committees by the deletion of this clause from the Criminal Code. Those committees hold public hearings and take evidence from members of parliament and members of the public to ensure that the spending of public moneys is accountable and questions have to be answered honestly and accurately. The public must have confidence in the parliamentary process. We must maintain the tradition of this House of members being able to speak openly and fearlessly. Many times members stand up in this House and make mistakes. But many times members in this House are close to the mark.

Because of the privilege extended to members of this House, we can stand up and say what we have been told or what we understand or what we have researched and found out to be the truth, and very often things are unearthed in this parliament or things are fixed up through this parliament as a result of that privilege. That privilege remains absolutely with the current arrangements of the Criminal Code. But what will change if these amendments go through is that we will have reduced the accountability—we will have reduced the handbrakes that operate in our system of parliamentary estimates committees—of members of parliament and members of the public in the way they answer questions. I think that is a shame for this parliament, because, as I say, it is a unicameral parliament and once something is decided in this place there is no other system of review. The public do need to have confidence in the estimates process and in the committee process.

As I have said again and again, the taking of evidence is a very serious matter. The taking of evidence in relation to a \$24 billion budget is a very serious matter. The giving of false evidence is just as serious and does require more serious sanctions, more serious punishments and referrals than would apply to other systems. This bill today is a disgrace. It is a shame because it is reducing the accountability, the accuracy and the honesty of our system of estimates committees, which is so vastly different from the way in which this House itself operates.