Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

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INTEGRITY BILL AND COMMISSIONS OF INQUIRY (CORRUPTION, CRONYISM AND UNETHICAL BEHAVIOUR) AMENDMENT BILL

Mr POWELL (Glass House—LNP) (5.09 pm): I, too, rise to contribute to the cognate debate on the Integrity Bill and the Commissions of Inquiry (Corruption, Cronyism and Unethical Behaviour) Amendment Bill. I will first address the Integrity Bill. In doing so, it is interesting to follow the path that has led to the introduction of this legislation in the first place. Some would say that it began 11 years ago, when this government first came to power—but more on that later. In essence, we see before us today a hasty, media-grabbing attempt by the government to appear to be doing something to address the public outcry and accusations of corruption and unethical behaviour.

In particular, in July of this year we saw a seriously questionable release of the SEQ Regional Plan. So strong was the stench of corruption and unethical behaviour associated with the SEQ Regional Plan that just one day later, on 29 July, the Premier announced a review of integrity and accountability. On 6 August the government released the discussion paper Integrity and Accountability in Queensland to prompt discussion on integrity and accountability issues and seek public input on proposals for integrity reform.

But let me return for a moment to the original cause of this flurry of seemingly well-intentioned behaviour, the SEQ Regional Plan. Interestingly, the electorate of Glass House and, more interestingly, my home town of Palmwoods featured significantly in that stench of corruption and unethical behaviour that I mentioned—so much so that the matter was identified in a *Courier-Mail* article on 4 August.

Madam DEPUTY SPEAKER (Ms van Litsenburg): Order! Can the member enlighten us on which part of the bill he is speaking to?

Mr POWELL: This issue refers to the role of lobbyists in aspects of the SEQ Regional Plan, which has to do with the Premier's Integrity Bill as it relates to lobbying.

Madam DEPUTY SPEAKER: I will give you some leeway.

Mr POWELL: Thank you, Madam Deputy Speaker. The *Courier-Mail* article of 4 August focused on certain land at Palmwoods. The article contended that the relevant parcel of land at Palmwoods was owned by Mr Terry Ell, or MCH Corporation—a company in which Mr Ell has an interest—and that Mr Ell has a long established link with some members of the Australian Labor Party, the possibility that the subject land might be included in the expanded urban footprint had not been referred to in the draft plan or in any earlier planning instrument, that Mr Ell scored a major financial windfall by reason of the inclusion of the land in the urban footprint, that Mr Ell was a client of a lobbying kingpin and a former deputy premier, Mr Jim Elder, and Mr Ell had acknowledged that Mr Elder had acted as a consultant for MCH but had no direct role in representing MCH in the subject land at Palmwoods.

In a classic knee-jerk reaction—something that is becoming somewhat of a tradition and trademark of this government—the Premier referred the additions to the urban footprint in Palmwoods and elsewhere in the SEQ Regional Plan to the Crime and Misconduct Commission. I will refer to the final CMC report into

the 2009 SEQ Regional Plan, including land at Palmwoods. I think it is important to note the scope of the CMC's investigation because, as we continue to debate these two bills, these comments will be pertinent. The report states—

Pursuant to the Crime and Misconduct Act 2001 ... the CMC has primary responsibility for continuously improving the integrity of the public sector and reducing the incidence of official misconduct.

The term 'official misconduct' is defined within the CM Act. In essence, it involves conduct relating to the performance of a public servant's duties:

- that is dishonest or lacks impartiality, or
- involves a breach of the trust placed in an officer by virtue of his/her position, or
- is a misuse of officially obtained information.

In the case of a public servant, the conduct in question must be a criminal offence, or constitute a disciplinary breach serious enough to justify the public servant's dismissal.

I note the comment that the CMC undertakes investigations where there is a suspicion of official misconduct. In the Palmwoods addition to the urban footprint there is certainly a suspicion of official misconduct. Whilst I note that the CMC is unable to examine the technical merits of the decision of the Department of Infrastructure and Planning, those technical merits are worthy of brief discussion because, again, they allude to the fact that the role of the lobbyist in this process may have had something to contribute.

The SEQ Regional Plan's operational principles—the principles by which it decides whether an area should added to the urban footprint—list the following criteria—

New Urban Footprint areas should be located to:

- achieve a balanced settlement pattern across SEQ and within sub-regions over the planning period
- maintain a well-planned region of distinct cities, towns and villages
- maintain the integrity of inter-urban breaks
- minimise impacts on natural resources
- maximise the use of committed and planned major transport and water infrastructure
- enable the efficient provision of physical and social infrastructure, including public transport
- have ready access to services and employment
- ensure significant non-residential activities achieve specific locational, infrastructure and site requirements.

While I must acknowledge that I am not a town-planner, I have enough knowledge of these criteria and their application to the parcels of land in question to make some simple comparisons. The land owned by Mr Terry Ell, or MCH, may achieve a balanced settlement pattern across South-East Queensland and within subregions over the planning period. It may well maintain a well-planned region of distinct cities, towns and villages, but only just because it is certainly reducing the integrity of the interurban break between Palmwoods and Woombye to the extent that these two historic railway towns are nearly one and it is converting potentially profitable agriculture land—a much needed natural resource—to housing. The land will build on the major transport and water infrastructure that Palmwoods enjoys with the rail corridor and water from Lake Baroon. However, there are limited local services and potential residents will need to commute—by car, mind you—to the larger centres of Nambour and Maroochydore, if not further afield, for employment. Finally—and potentially most telling—it will require significant investment in road and immediate water and sewerage infrastructure, which are issues that the Sunshine Coast Regional Council and Main Roads are already trying to come to grips with. Interestingly, that does not factor in that the land is sloped, reducing the number of house blocks that can be developed, and it is extensively vegetated, including a Land for Wildlife corridor.

If I compare this parcel of land with some of its neighbouring parcels, say the land of Ken and Muriel Webb on Taintons Road, it simply does not stack up. Their land is more gradual in slope, it has no remnant vegetation and it has extensive road and water infrastructure at its doorstep thanks to the investment made as part of the adjacent Plantation Rise development. If I compare the land with other parcels, particular those supported by the Sunshine Coast Regional Council submission, such as the parcel of land owned by the Skermans at Beerwah, the technical merits wilt even further. The Skermans's property is flat, it is cleared and it is adjacent to the rail line. It is in close proximity to a major activity centre at Beerwah, with a multitude of services and employment opportunities. That land does not have the same impact on interurban breaks and there is water and sewerage infrastructure to the doorstep.

Given these so-called technical merits, why was Mr Ell's parcel of land included in the SEQ Regional Plan and the land of the Skermanses and the Webbs not included? Despite the CMC's ruling that there was no apparent misconduct, the cynic would say that because the Webbs and the Skermanses did not have the lobbying power of a former deputy premier, their well thought out, well-documented cases were ignored and that is despite their ability to tick all the boxes that the SEQ Regional Plan set for itself.

The inability of the CMC to investigate the technical merits of these ludicrous decisions again demonstrates its limitations. Instead, the CMC was left to make the following recommendations—

There is no evidence to challenge Mr White's assertions and no reason to suspect that any person committed an act of official misconduct.

The available evidence reveals that the Department, as represented by Mr White—an experienced planning professional—recommended the MCH property be included within the urban footprint at Palmwoods ... on the basis of Mr Ell's written submission which was based upon the extensive technical data prepared by Conics (Sunshine Coast) Pty Ltd.

While there may be differing opinions among interested parties about the merits of the recommendation, there is no evidence that Mr White or any of his subordinates were influenced by any representation made by a professional lobbyist. Certainly, there is no reasonable basis to suspect there was any act of official misconduct on the part of any person. Any inference to the contrary is purely speculative.

The report continues—

Of those matters, there is no reasonable basis to suspect there has been any act of official misconduct committed by any person.

The CMC is concerned, however, at the Department's general lack of record-keeping, particularly as to representations involving lobbyists.

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The CMC recommends that urgent consideration be given to implementing a procedure whereby some written record is made of all communications with registered lobbyists and other interested parties. The extent of the record necessary will no doubt vary according to the matter and type of representation. As a minimum, however, the record should confirm the fact of the communication, the issue to which the representation relates, and the Department's response, if any, to the communication.

My concern and the concern of members on this side of the House is that, because the CMC is confined to investigating official misconduct, it will never go far enough. Just because something is legal—that is, it is not a crime—does not mean it is right and does not mean it is ethical, which is why the opposition is calling for a commission of inquiry—a commission that will have the full powers to investigate not only official misconduct but also the integrity and accountability of the government. But I will say more on that later.

I acknowledge that this government has looked to address the lobbyist loopholes, in part addressing the recommendations I just read from the CMC report, but it again has not gone far enough. In its haste to be seen to be doing something—anything—this government has again at worst completely neglected and at best delayed implementing key recommendations from its own community consultation on integrity and accountability in government, which again makes one wonder whether this was just another example of consultation for consultation's sake. The government never had any intention of considering submissions other than its own. Its decision had been made.

Let us look at some of those key recommendations from such eminent organisations and individuals as the CMC, the Ombudsman, the Integrity Commissioner and the Clerk of the Parliament. The CMC quoted Kenneth Wiltshire, a professor of public administration at UQ Business School. He states—

The causes of political corruption can be addressed only through systemic accountability and transparency with a vibrant parliament at the heart of the system and an independent grandparent body watching over the whole system of government to ensure it is behaving in the public interest.

CMC recommendations aim to build confidence in the system of government, especially where public perception sees areas capable of corruption. Government must be transparent. In the green paper there is no mention of examining transparency of cabinet decision making. The government must ensure the public is much more informed about factors influencing decisions. Transparency equals adequate explanations. Secrecy arouses public suspicion, causing the public to ask what influence lobbyists have had on this decision. The CMC has some problems with support provided by agencies to whistleblowers currently.

The Ombudsman suggested that the Ombudsman and the CMC should have jurisdiction over government owned corporations. Currently the Ombudsman has no jurisdiction to investigate complaints made about administrative actions of GOCs. This is out of step with the community's expectations of how the Ombudsman can intervene, especially considering that the function of the Ombudsman is to investigate alleged maladministration on the part of government authorities. The Integrity Commissioner commented—

... transparency is not achieved merely by making large amounts of information available.

Instead, we need to work on—

... improving communication between government and the people—not so much pushing material out from government, but genuine interaction ...

The Integrity Commissioner also suggested—

Some changes have already been made but I think it desirable that the Government should revisit the proposals in the review by the Electoral and Administrative Review Commission of Parliamentary Committees. In particular, it is important in a unicameral Parliament that most legislation should be considered (after initial review by the Scrutiny of Legislation Committee) by committees organised according to public policy subject groupings. EARC proposed—

The Queensland Parliament should establish a comprehensive system of investigatory Standing Committees which have the capacity, authority and responsibility to examine policy and administration across all areas of public administration in Queensland. In particular the new committee system should be structured so that it can review policy proposals and activities in the following areas:

(i) proposals for new or amending legislation, including Bills and subordinate legislation;

(ii) budget estimates and financial administration generally; and

(iii) policy and administration in all areas of public policy.

This is the system that operates very effectively in a comparable legislature, the New Zealand Parliament.

The Integrity Commissioner also suggested—

When the Parliamentary Committee for Electoral and Administrative Review recommended that EARC be closed down, it made it clear that it should be replaced by a body modelled on the Commonwealth's Administrative Review Council. The Goss Government decided to close EARC down, but not to create any new body.

This left a gap in the system that Mr Fitzgerald had recommended. I believe a new review body would be of considerable benefit in allowing the Government to maintain and further develop its integrity system. It need not be expensive. A unit with, say, eight people, would be able to conduct possibly three simultaneous inquiries/reviews at a cost of less than $1 million a year. To avoid the problems that some people working for EARC experienced towards the end of its life, it should be set up for at least five years.

…

This would be an appropriate body to further investigate and make recommendations concerning issues that have arisen during the green paper/round table process, but where it has not been possible to reach a conclusion.

I turn to some of the submissions made by the Clerk. In his submission the Clerk spends a lot of time discussing the fact that the perception of ethics and integrity in government is as important as the reality. Perceptions are reality for politics. The Clerk questions the role of parliamentary secretaries, who earn an extra $22,000 a year assisting ministers. The Clerk acknowledges that perhaps we are a bit too dependent on the CMC, submitting that it is a great establishment and has been successful; however, it was never designed to be a watchdog of government actions. It has been misused by all sides of politics, having matters referred to it over which it had no jurisdiction. The Clerk also talks about leadership. He states—

Leaders must sometimes choose between 'political' solutions and correct ethical decisions. When proper process is cut short or circumnavigated for a quick 'political solution' then the whole ethics regime suffers.

Years of building trust can be wiped away in a flash with careless leadership, so we as leaders must be careful. The Clerk talks about increasing the number of members and the fact that since 1986 no additional members have been added yet the population has increased by 30 per cent. The Clerk, too, recommends that an effective parliamentary committee system be established. Characterised as a place of bipartisanship, compromise and respect, it is the jewel of parliamentary democracy. He says that we should have a committee system that encompasses and scrutinises the array of functions and portfolios of government. Currently, committees are hampered in scrutiny activities, being used toward policy, not scrutiny of government action.

I reiterate the fact that the government itself acknowledged that this bill is part 1 of a two-stage process. But I see little to convince me that any of these sensible suggestions and recommendations by these organisations and individuals will be acted upon under stage 2.

That brings me to the second bill we are debating—the Commissions of Inquiry (Corruption, Cronyism and Unethical Behaviour) Amendment Bill. What we have seen in the examples I raised earlier about the SEQ Regional Plan, appointments, decisions and ministerial behaviour, is a disturbing pattern of behaviour—a pattern of behaviour that is tainted. As the *Courier-Mail* reported, it 'demonstrates slipping ethical standards—in all its various forms—that has been slowly and insidiously undermining the state's good name in recent years'. The *Courier-Mail* continues—

Perhaps it took the prosecution and jailing of former minister Gordon Nuttall, perhaps it was this newspaper's uncovering of the hefty success fees being paid to lobbyists, or maybe it was Tony Fitzgerald's pungent analysis of the amount of backsliding that had occurred since his groundbreaking inquiry into corruption two decades ago.

The *Courier-Mail* goes on to commend the Premier for the proposed reforms, the reforms we have just discussed. I do not. We need to go further. Tony Fitzgerald's contribution to the debate is telling. We need a commission of inquiry—one that can go beyond investigating official misconduct and criminal behaviour, one that can investigate unethical behaviour, one that can fully investigate the integrity and accountability of members of parliament and public servants alike.

As I said before, just because something is not criminal misconduct does not make it right, does not make it ethical. There is a taint on this government. A sensible government would commit to a commission of inquiry. A government that does not leaves itself open to suspicion. A government that does not appears to have something to hide. Try as it might to distract attention from the taint that shrouds it, only a commission of inquiry will determine once and for all whether this government does have something to hide.