



Speech by

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CRIMINAL CODE AND OTHER LEGISLATION (MISCONDUCT, BREACHES OF DISCIPLINE AND PUBLIC SECTOR ETHICS) AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—LNP) (Leader of the Opposition) (12.58 pm): I rise to lead the debate on the Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Bill 2009. I am as surprised as other members in this House that this bill has jumped up the order of government business from No. 11 to the first order of business. Once again, we see the Bligh government making empty gestures so that it is seen to be doing something to address the chronic and systemic corruption that plagues this government. Clearly, one only needs look at the title of the bill to know that it wants to be seen to be doing something about breaches of discipline and public sector ethics and have that reported in the paper tomorrow.

Mr Dick: That would be a CMC report we are implementing.

Mr LANGBROEK: I take the interjection from the honourable Attorney-General who says that it is fine to bring a bill from No. 11 to No. 1, even though the staff were not ready for it. That is fine. I start with a quote from John F. Kennedy.

A government member: How did your press conference go?

Mr LANGBROEK: I am still to do it and I am looking forward to it. In 1962 during an address at Yale University, John F. Kennedy said—

For the great enemy of truth is very often not the lie—deliberate, contrived and dishonest—but the myth—persistent, persuasive ... of our forebears ... We enjoy the comfort of opinion without the discomfort of thought.

Of course, he also said that the time to repair the roof is when the sun is shining. Those principles within this bill, I am happy to say, the Liberal National Party will be supporting, although we do have reservations about some aspects of it and I will raise those. We will be supporting the bill in its vain attempt to improve the process by which the Premier and the members opposite govern Queensland.

Sitting suspended from 1.00 pm to 2.30 pm.

Mr LANGBROEK: As I indicated before lunch, while I welcome the measures in the bill and I applaud the intent of the bill, I have serious doubts about the Bligh government's commitment to reforming the inherent problems within government. I want to speak to the objectives of the bill which I note are comprehensive. I thank the staff for the briefing I had at 12 o'clock. Admittedly it was at very short notice because the bill has come up suddenly. I thank the Premier's department and the Attorney-General's department for the briefing and the staff who provided it.

The bill amends the Criminal Code to include a new offence of misconduct in relation to public office to prohibit any public officer from abusing their office to dishonestly obtain a benefit for themselves or another or cause a detriment to another. The new offence will also prohibit former public officers from using any information gained because of their former position to dishonestly gain a benefit or cause a detriment.

The bill amends the Crime and Misconduct Act 2001 to allow the CMC to lay disciplinary charges for official misconduct against certain Public Service officers and members of the Police Service whose employment in the public sector has ended. It amends the Misconduct Tribunals Act 1997 to extend the jurisdiction of the misconduct tribunal to include certain Public Service officers and police officers whose employment in the public sector has ended.

The bill amends the Police Service Administration Act 1990 to enable disciplinary action, in the form of disciplinary declarations, to be made against former police officers who resign, retire or otherwise cease employment following serious breaches of discipline or misconduct; to require persons who apply to become members of the Queensland Police Service to disclose any previous serious disciplinary finding made against them in their previous employment in the Queensland Police Service or any other Queensland public sector agency; and to enable the Commissioner of Police, in determining a person's suitability to be employed in the Queensland Police Service, to obtain disciplinary information about a person who has been previously employed in the Queensland Police Service or any other Queensland public sector agency.

The bill amends the Public Service Act 2008 to repeal the definition of 'interest' in schedule 4 and clarify that references to interests and conflicts of interest have their ordinary meaning under the general law; to enable disciplinary action, in the form of disciplinary declarations, to be made against former Public Service officers whose employment in the Public Service ends following serious breaches of discipline or misconduct; to ensure that disciplinary action can be initiated and continued against officers who move to another department; to require people who apply for Public Service positions to disclose any previous serious disciplinary action taken against them in previous public sector employment, including the Queensland Police Service; to enable chief executives, in determining a person's suitability for appointment, to obtain disciplinary information about a person who has been previously employed in the Queensland public sector, including the Queensland Police Service; and to provide that the Office of the Integrity Commissioner is not a statutory office holder who may be removed from office by the Governor in Council under the Public Service Act 2008.

Finally, the bill amends the Public Sector Ethics Act 1994 to provide that all members of the Legislative Assembly are considered a designated person under the act and are able to seek the Integrity Commissioner's advice on conflict of interest matters involving themselves. I will deal with that issue later in my presentation.

The origins of this bill date back to a report conducted by the then Criminal Justice Commission into allegations of sexual misconduct between teachers and students. The findings of that investigation were handed down more than nine years ago, yet only now are we seeing changes to the law dealing with misconduct against former public servants.

Eight years later a second major report into misconduct by public servants was handed down following a major investigation into the conduct of Scott Flavell, who abused his position as the director-general of a department and misused information for his personal benefit without disclosing a personal interest. This investigation led the Crime and Misconduct Commission to conclude that Mr Flavell had in fact placed himself in a position of conflict of interest with respect to the company that he had agreed to work with in the future whilst still in his role as director-general. Members may recall significant publicity about this matter.

It seems that a culture of not declaring significant conflicts of interest is part of the Labor DNA. Just this week we have seen information come to light that suggests that two more ministers—the infrastructure and planning minister and the local government minister—have kept a meeting about a Sunshine Coast development secret to preserve the integrity of decision making. There are still government members who could be said to have a conflict of interest, which the tough talking but slow walking Premier has done nothing to address.

In 2007, the Premier's predecessor stood in this House and announced that all ministers and parliamentary secretaries would be required to relinquish their shares and directorships in companies. Eighteen months later the Premier assured Queenslanders that all ministers and parliamentary secretaries in her government were complying with the rules or making arrangements to comply with the rules. That was almost a year ago. Yet a quick look at the Register of Members' Interests shows nothing much has changed. It just goes to show that the Premier will say anything to deflect attention away from her failings. While she is jumping up and down about billboards, there are members of her government flouting the rules as if they do not apply to them. There are Queenslanders who are now struggling to balance their weekly budget because the Premier did not have the decency to be honest with them about a fuel tax before the election. The title of the bill talks about public sector ethics. I suggest the Premier give her own ethics a good hard look because the people of Queensland are not happy, Anna.

There can be no question that a person in public office who misuses their position for personal gain has committed an offence that hits at the heart of government integrity. The amendments contained in this bill address some but not all of the issues at stake, and therefore the opposition will support the measures

in this bill. We need to do everything possible to ensure that the people of Queensland can have faith in the honest, open and accountable delivery of services through our Public Service and this parliament.

Sadly, this government is more concerned about being seen to do something rather than actually doing what is right and in a timely manner. The Premier's manipulation of parliament's agenda demonstrates this. This government has had nine years to introduce recommendations made by the Criminal Justice Commission to end the practice of public servants avoiding disciplinary action by resigning or retiring from their position. For nine years this government did nothing and then all of a sudden it is the No. 1 priority of government coincidentally on the same day it is facing allegations of corruption.

My office was never offered a briefing on this bill and, despite the bill being introduced by the Premier, a call to her office this morning seemed to have caught the Premier's staff off guard. Finally, after being thrown between the Premier's office and the Attorney's office, I was offered a briefing at midday—just 2½ hours ago—for which I am very thankful and I have expressed my thanks.

The laws made in this House affect Queenslanders every day. Therefore, it is important that all members of parliament are given the opportunity to debate the rules which this government imposes on the people. The Premier's behaviour in the House today demonstrates everything that is wrong about the way Labor governments govern: they make it up as they go along. How can members seek to make a meaningful contribution to public debate when the government withholds relevant information and pushes bills through parliament without proper scrutiny? Is it really surprising that people are dying on waiting lists when the Premier spends more time manipulating the media than coming up with positive solutions to the problems Queenslanders face?

The Premier has shown her contempt for this parliament by abusing proper processes just so that she can be seen to be doing something to address the inherent problems of corruption and cronyism in her government. Since our snap briefing, I have been advised that, despite these amendments to the Criminal Code, the justice department intends to conduct a full review of chapter 13 of the Criminal Code corruption and abuse of office provisions. The justice department has never conducted an audit of this section of the Criminal Code. I find it somewhat incredible that after the three inquiries over the past 10 years—from teacher abuse to Jayant Patel to senior public servants exploiting their government positions to earn a bit of extra cash on the side—the government has not deemed it necessary to look into the abuse of office provisions.

The private sector has long been aware of these issues and has addressed some of the problems associated with conflicts of interest, both in their internal processes and codes of conduct and within the courts. Over the past decade we have seen a number of directors of companies prosecuted for breaching their duties in law and in equity as a result of material conflicts of interest, yet the Bligh government has only just realised that conflicts of interest should be avoided. I welcome the justice department's audit of the current laws pertaining to the abuse of office, and I look forward to the implementation of its recommendations.

This bill is about closing the gap that currently exists when members of the Public Service who have been found to have engaged in misconduct can avoid charges of official misconduct by resigning from office. The amendments contained in this bill mean no-one is above the law. Until now we have seen instances where officials who have committed immoral and illegal acts in the Public Service can get off scot-free by resigning from their position before police can investigate the claims. No-one can forget the fallout from this government's handling of the Bundaberg Hospital scandal, where this government offered Jayant Patel a one-way ticket out of Queensland to escape deadly allegations. Even following the intense scrutiny and political fallout after the Forster review and the Davies inquiry, this Labor government failed to close the loophole that gave Public Service criminals a get-out-of-jail-free card.

The failure to amend legislation before Bundaberg allowed senior Queensland Health bureaucrats—a chief health officer, a hospital district manager and director of medical services—to walk away from the Bundaberg Hospital inquiry without being held accountable for their appalling actions. That was in 2005. In 2009 we continue to hear allegations about public servants resigning from public office to avoid scrutiny and potential criminal charges.

On 7 May in the *Fraser Coast Chronicle* there were featured allegations about a long-serving prison officer being escorted from Woodford prison after she was found to have been trafficking drugs to prisoners. While this type of offence would be investigated by police and prosecuted by the courts, in this instance the prison officer had resigned the week before she was caught trafficking drugs for outlaw bikie gangs, so no further action was taken. A similar incident occurred at Townsville prison, where an officer was allowed to resign after his home was raided by the police. Despite the bill before the House, resignations are still being used by public servants under investigation to avoid misconduct charges. It is my hope that this bill will close the loophole that has allowed this sort of misconduct to go unpunished.

At this point I would like to make it clear that, while these laws raise the bar in relation to the standard of conduct expected of public servants, in no way does this bill reflect poorly on the vast majority of public servants who do the right thing. There are some 200,000 public servants employed by the

Queensland government who work hard to deliver services for Queenslanders despite a lack of leadership from this Labor government. I am not surprised that the Bligh government is seeking to once again use the Public Service for political purposes by fast-tracking the debate on this bill. This is a clear attempt by this government to be seen to be doing something to address the growing public concern about misconduct by members of this Labor government.

As I mentioned earlier, back in the year 2000 allegations of sexual misconduct by state school teachers against students prompted the government to establish a task force to address the issue. Queenslanders were promised that the Queensland Teachers Union and the Queensland Public Sector Union as well as principals, teachers, parents and district office personnel would work to address the issue of sexual misconduct and protect Queensland students from teachers abusing their trust. Queenslanders were promised that the task force would work closely with the precursor to the Crime and Misconduct Commission to improve ethical behaviour education in the department.

The commission responded to community concerns about sexual misconduct by state school staff in its report entitled *Safeguarding students: minimising the risk of sexual misconduct by Education Queensland staff*, which contained 34 recommendations for improving accountability and the protection of Queensland state school students. One of these recommendations was that the Public Service Act 1996 be amended to provide an extension of power to allow a disciplinary finding to be made after resignation in appropriate cases. The intent of this recommendation was to end the use of resignation and retirement to escape punishment for misconduct, but despite the fact the safety of Queensland's children was at stake this government has failed to act on this recommendation. This government even introduced a whole new Public Service Act in 2008 but, sadly, and as we have come to expect, nothing was done. Nine years have passed since the original recommendation was made, and in this time we have seen countless public servants retire or resign from their posts to avoid penalty. In that time Labor did nothing.

I want to turn now to speak to the proposed amendments to the Integrity Commissioner. On 26 May 1999 former Premier Peter Beattie introduced the Public Sector Ethics Amendment Bill, which established the office of the Integrity Commissioner. According to the former Premier, the role of the Integrity Commissioner would be established to instil community confidence in government and public institutions by helping ministers and senior officials avoid conflicts of interest. At the time Premier Peter Beattie said—

This government is committed to ensuring that ministers and other public officials responsible for public resources meet high ethical standards.

Unfortunately, Mr Beattie's commitment to high ethical standards has been shown to be a farce, given the recent criminal conviction of one of his closest ministers and the allegations of corruption which have subsequently been made public. Mr Beattie's eyeballing scrutiny measures clearly did not work. Thankfully, the office of the Integrity Commission has been more effective in its role than either the former Premier or this Premier has been. In his annual report tabled in this parliament last year, former Integrity Commissioner, Gary Crooke QC, raised concerns over former politicians and senior public servants taking up jobs as lobbyists or government relations executives in corporations. He raised questions over whether the information and influence they gained whilst working in the Executive Building could be used for some other purpose than providing the best possible outcomes for Queenslanders.

In November last year, Queensland's Integrity Commissioner said that the issue of post-separation employment was a matter that should be of consuming public importance, but what action have we seen from the Premier? Nothing. This Premier has taken a leaf out of Mr Beattie's idiot guide to governing in Queensland—spin, evade, deny, obfuscate and blame someone else. Instead of demonstrating true leadership and addressing the issues which the Integrity Commissioner raised, the Premier endorsed the dodgy practice of doing deals with lobbyists by allowing lucrative government contracts to go to companies represented by her Labor mates. Let us contrast the former Integrity Commissioner's comments with how the Premier runs her government. On page 7 of the commissioner's annual report Mr Crooke says—

It would be quite inappropriate for a former Minister or senior official to hold out that he or she could obtain privileged access to a current Government official because of his or her previous position.

I wonder how the Premier consolidates this with the business of her former colleague and friend Terry Mackenroth. We know that the Premier has met with Mackenroth's clients, including Tower Holdings. How can the Premier defend her actions when the Integrity Commissioner clearly says—

Not only is this—

advantage obtained by ministers and senior public servants—

not available to any person to sell, for personal gain; it also offends the basic concepts of public administration which call for a process founded upon equal access to decision-makers for all interested citizens.

We know there is not equal access to decision makers for all interested persons because David Marriner, a respected businessman and former Victorian of the Year, blew the whistle on how the Bligh government operates. Those who do not play the game by hiring Labor mate lobbyists, by paying exorbitant success fees and by hiring unemployed former ministers, find the door to doing business in

Queensland slammed shut. Mr Marriner has said that it is easier doing business in South America than it is in Queensland. To quote the Integrity Commissioner, perception is reality.

That was one of the key questions Mr Crooke urged the Bligh government to ask itself when engaged in dodgy deals and cronyism. Is a perception likely to arise when competitors for a tender, opponents to a proposal or any interested person who does not hire a lobbyist or attend cash-for-access functions are at a disadvantage as a result? I think we can safely say that those who do not play Labor's dirty games are at a disadvantage.

The other key question Mr Crooke urged the Bligh government to ask is: what is the likely understanding or expectation that arises as a result of hiring a lobbyist or attending a cash-for-access function? Correct me if I am wrong, but I believe that question was recently answered by the courts in Gordon Nuttall's case. Indeed, Gordon Nuttall answered the question himself when he said, 'Nothing is for nothing.'

Now more than ever Queensland needs an Integrity Commissioner. I note that the Premier will be circulating an amendment to the bill in response to our concerns about the potential politicisation of the office of the Integrity Commissioner if the Premier were allowed to refer non-government members for alleged wrongdoing. I am pleased that the bill will be further amended to ensure that the Premier and the Leader of the Opposition can only refer their own members to the Integrity Commissioner for investigation. I thank the Premier and the Attorney-General for addressing these concerns.

The office of the Integrity Commissioner is one in which a great deal of responsibility now rests. Queensland's new Integrity Commissioner, Dr David Solomon, is the guardian of integrity in what is supposed to be a House filled with integrity and select statutory office holders and other designated persons. The role was a significant one prior to these amendments given the continual allegations of conflicts of interest and corruption shown by those opposite. Now, as this parliament broadens Dr Solomon's role with these amendments, he will be even busier.

The amendments currently before the House achieve equal access to the Integrity Commissioner by members on both sides of the House. Dr Solomon will be pleased to know, however, that the LNP will not add to the commissioner's workload. That is because we are committed to upholding the integrity of the institution of parliament. I know the people of Queensland can trust us to be an honest government.

Last weekend's poll unequivocally confirms that the people of Queensland do not have faith in this Premier and this Labor government to fix the problems Queenslanders now face—problems such as those which arose out of the Crime and Misconduct Commission's dangerous liaisons report. The CMC recently handed down findings of a significant investigation into allegations of police misconduct, highlighting allegations involving police officers misusing informant funds and establishing inappropriate relationships with criminals. The CMC noted in its report that despite the fact that evidence was emerging of possible criminal behaviour it would be difficult to prosecute. In the course of this investigations five officers were found to have resigned or separated from the service before disciplinary matters could be finalised. This is the type of behaviour that this bill seeks to stamp out. I have said earlier, and I will say it again: no-one is above the law.

I note that the CMC also released a research paper on how increased workforce mobility creates more opportunities for conflicts of interest and information security breaches to arise. I hope the Premier and Attorney-General will keep a close eye on the developments in this area and be prepared to amend the laws as necessary to ensure the integrity of the Queensland Public Service.

In concluding, I would like to remark that the Liberal National Party, the opposition in this state, welcomes these amendments which establish tighter parameters to cover the actions of a very small minority of people who do the wrong thing and then seek to avoid punishment. I find it somewhat ironic that this government expects the highest level of integrity from the Public Service yet does not seem to consider it as the standard for its own government.