



Speech by

## John-Paul Langbroek

MEMBER FOR SURFERS PARADISE

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### CRIMINAL CODE (HONESTY AND INTEGRITY IN PARLIAMENT) AMENDMENT BILL

**Mr LANGBROEK** (Surfers Paradise—LNP) (Leader of the Opposition) (9.41 pm), in reply: In rising to sum up the second reading debate on the Criminal Code (Honesty and Integrity in Parliament) Amendment Bill, I want to quote this line—

In considering ethics and integrity, it must be appreciated that the perception of ethics and integrity in a system of government is as important as the reality. Indeed, perceptions are reality.

These are the opening lines from the Clerk of the Queensland parliament's submission to the Premier's green paper on integrity and accountability in parliament. Isn't this a reflection on this Labor government? They are opposing honesty and integrity, and don't those members hate it. Tonight, we have heard contributions from the member for Rockhampton, the member for Sunnybank and the member for Lytton and, of course, three weeks ago we heard from the Attorney-General, the member for Greenslopes, and the member for Murrumba—senior members of the government—and don't they just hate it. They normally will not amend the Criminal Code at all, but what did they do in 2006? They came in and changed something for the supposed reasons we have heard tonight that I will deal with in a minute.

This bill has its origins in the total abuse of parliamentary process that occurred in December 2005, which the Premier played a significant role in. Again, it was the Clerk of this parliament whose assessment of that act by this government was—

The recall of Parliament on 9 December 2005 to deal with a matter arising from a CMC investigation and report is an example of how dealing with an ethical issue can easily become hopelessly partisan if normal procedure is not followed.

That day in this House was the darkest this parliament had seen in my time here. The then Deputy Premier, and now the current Premier, seconded a motion to let a man off a charge of deliberately misleading an estimates committee, and this man has since been found guilty of official corruption. What a great judge of character the Premier showed herself to be.

What is truth without honesty? As politicians, truth and honesty in our spoken word is the end product of why we are here. We come into this House to pass laws and set policy agendas on the words we speak in this place. Why should we not be bound by law to tell the truth? That is what we are elected to do and what the people of Queensland expect. If members have nothing to fear in what they say as being the truth then supporting this bill should not be an issue. We as members of parliament enjoy parliamentary privilege, so why shouldn't that privilege be bound by a legal obligation to make sure it is the truth? People can make mistakes and no-one is denying that, but if there is a deliberate intent to provide false evidence to avoid scrutiny or to hide the truth, then that is no different to fraud or any other criminal act of deception and should be punished accordingly.

When we talk about parliamentary privilege, it was John Waugh who wrote in 2004 in the *Media and Arts Law Review*—

Australian parliaments have some remarkable powers and privileges. Among them, varying from place to place, are powers to imprison without fair trial and without appeal, to expel members by a majority vote, and to punish criticism of parliament. In a

Dickensian touch, standing orders of some parliaments even prescribe fees to be paid by their prisoners for the privilege of being arrested, transported to gaol and fed in custody.

Waugh went on to say—

Only disuse saves the most extreme of these powers from the widespread condemnation they deserve. Media lawyers might be reassured to know that the Victorian Legislative Assembly hasn't arrested a newspaper publisher since 1899, but it ordered the detention of four in the nineteenth century, and its powers haven't changed since. The House of Representatives' three month imprisonment of a newspaper proprietor and editor in 1955 is better known. The most recent prisoner of parliament was Brian Easton, sent to gaol by the Legislative Council of Western Australia in 1995 for failing to comply with an order to apologise for drawing up a misleading petition.

He went on to say—

The daily reality of parliamentary privilege is less striking. The immunities that protect MPs' freedom of speech, and the rules and practice of parliamentary inquiries, are more important in practice than the little used penal powers. MPs can't, of course, be sued for what they say in parliament, but their protection goes further.

In May 2006, this Labor government destroyed the last vestige of perceived honesty and integrity in this House when it repealed the old laws relating to providing false evidence to parliament or its committees. Now all the public sees is Caesar judging Caesar. We know that surveys show that 80 per cent of Queenslanders do not trust this Premier, and I wonder how many of her own Labor colleagues harbour that same distrust. Many Queenslanders feel betrayed by the secret plan to sell off Queensland's assets or to slug Queenslanders with a 9c a litre fuel tax.

The amendments moved in 2006 were a quick headline fix to avoid the Nuttall crisis, but that cancer has left a permanent scar on the corrupt history of this Labor government and it will be the main thing people remember of Premier Bligh and her colleagues when they reflect on the last 11 years. People will all say, 'She let him off.' This begs the question: given we cannot trust what the Premier says, we can now assume with some degree of confidence that maybe she did have some knowledge of the dealings of her Labor mate and now convicted criminal, Gordon Nuttall. Where else but under a Queensland Labor government could you be forced to resign over electoral rotting only to return as the chief of staff and key political advisor to the government? It is no wonder the government has removed the provision we are now debating, when criminal behaviour seems to be in its DNA.

If, as the Premier and Deputy Premier claim, they never supported the actions of Gordon Nuttall, they now have a chance to stand up and admit they made a mistake in supporting the course of action they took in 2005 and 2006. It is time this Premier and this Labor government stopped trying to construct the truth around getting out of a negative headline and actually reclaimed the truth. The first step would be to support this bill and restore some integrity to government.

As we debate this bill, I want to reflect on something the Attorney-General, the member for Greenslopes, said during estimates this year. In that hearing he said—

All members of this parliament are subject to the rules that apply in all other parliaments in the Westminster tradition, including the United Kingdom House of Commons, the Commonwealth parliament, the parliament of New South Wales, the parliament of Tasmania, the parliament of South Australia, the parliament of Western Australia and the assemblies of the ACT and the Northern Territory, which regulate the behaviour and conduct of members of parliament.

I want to reflect carefully on this statement of fact given to the estimates hearing, because if we go to section 57 of the Western Australian Criminal Code, which is still in force as of this day, what does it say? Section 57, under 'False evidence before Parliament', says—

Any person who in the course of an examination before either House of Parliament, or before a committee of either House, or before a joint committee of both Houses, knowingly gives a false answer to any lawful and relevant question put to him in the course of the examination, is guilty of a crime, and is liable to imprisonment for 7 years.

The member for Rockhampton said the same thing today—that there were no other parliaments in which this provision applies.

It seems to me that, based on the statement given by the Attorney-General during estimates, when compared to the truth he could be said to have provided false evidence to a parliamentary committee on the very issue that we are debating here today.

**Mr DICK:** Mr Deputy Speaker—

**Mr DEPUTY SPEAKER** (Mr Wendt): Is this a point of order?

**Mr DICK:** It is a point of order. It is grossly offensive what the Leader of the Opposition has been saying. He has made no reference to my speech in the second reading debate in this parliament.

**Mr DEPUTY SPEAKER:** Order! Attorney, that is not a—

**Mr DICK:** He should withdraw the imputation that I misled the parliament.

**Mr DEPUTY SPEAKER:** Are you saying that it is personally offensive?

**Mr DICK:** Personally grossly offensive.

**Mr DEPUTY SPEAKER:** You have been asked to withdraw, Leader of the Opposition.

**Mr LANGBROEK:** I withdraw, Mr Deputy Speaker. The member for Greenslopes, who slipped up on his first major outing, could not even provide the facts. It is very different from what Gordon Nuttall did, and that is where we get the perspective that with the original intention there is always the discretion of police and the DPP about prosecutions. That is exactly what the government has been arguing here tonight—that these sorts of things should not apply, including what the member for Rockhampton said in his argument.

Let us go back to what started this issue—the deliberate providing of false evidence to an estimates committee by former health minister and now convicted corrupt Labor mate Gordon Nuttall. During the debate in December 2005 the Deputy Premier made it very clear—

I know the member for Sandgate well and I believe that he is a good and honest man.

With the advantage of hindsight, we can say that the Deputy Premier provided false evidence to the parliament on that occasion as we now know the truth about Gordon Nuttall. It surprises me that the Deputy Premier suddenly proclaimed his own naivety towards Nuttall when he made it very clear to the parliament in 2005 that he knew him well. It begs the question: how much of Gordon Nuttall's actions were known by the Deputy Premier at the time, particularly when, despite deliberately misleading the estimates committee and committing a criminal act at the time, the Deputy Premier was willing to go out on a limb and make such a bold statement? More concerning is that in the incorporated part of the Deputy Premier's speech he puts the whole incident down to parliamentary privilege. I can hardly see how deliberately misleading parliament or a committee is parliamentary privilege.

When I look back at the comments of the member for Keppel, who is now the head of the PCMC, I am disturbed. He claims that the CMC did not know what it was doing. To quote his words, 'The CMC obviously did not quite know what to do.' I note that the member for Keppel adopted the comments made by the member for Greenslopes about the derision that the actions of the CMC would bring upon the parliament. This comes from the man who now heads the committee responsible for oversight of and referral to the CMC. I want to turn to what the CMC said in its original report under the heading 'The law'. It states—

If a minister were to knowingly give false answers while appearing before an estimates committee, such conduct would amount to an offence against section 57 of the Criminal Code. The false answer must be to a question that was both lawful and relevant to the examination.

Equally, such conduct would support a finding that the minister committed contempt of parliament (within the meaning of section 37 of the Parliament of Queensland Act 2001).

Under the next heading 'The CMC's Position' it states—

On the basis of the evidence identified in the investigation, the CMC has decided that prosecution proceedings within the meaning of section 49(1) of the Crime and Misconduct Act 2001 should be considered.

In accordance with legal advice accepted by the CMC, this report is therefore furnished to the Attorney-General for her to bring it before parliament for its decision as to the course that should be followed.

Parliament may direct the Attorney-General to prosecute the minister for the offence created by section 57 of the Criminal Code. Alternatively, if parliament concludes that the more appropriate course is to deal with the matter as a contempt of parliament, it may direct that the matter be dealt with in accordance with Part 2 of Chapter 3 of the Parliament of Queensland Act.

And that is exactly what happened. It was the disgraceful actions that followed which showed how the Labor government misused the parliamentary process to let off a Labor mate. The CMC had sought independent legal advice before reaching its decision. Despite all the crowing from this government that the CMC is a standing royal commission, we only have to look at how it trashed it during that debate and how it treated its decisions with disdain to see more reasons for the establishment of a royal commission into this Labor government's corruption and cronyism over the past 11 years.

I now want to turn to comments of members made during the debate tonight and a couple of weeks ago. I want to thank my colleagues, first of all, for their support in their speeches, especially the considered contribution by a former Leader of the Opposition, the member for Toowoomba South. The first point the Attorney-General made, in the fourth line of his speech, was a statement that goes to the very heart of the bill that I am proposing. In his first statement the Attorney states as fact—

Excluding a new title, not a single, solitary word has changed in the bill.

Let us examine clause 5 of this bill, which states—

However, if a person, during an examination before the Assembly or a committee of the Assembly, knowingly gives a false answer to a lawful and relevant question put to the person during the examination, the person may only be proceeded against for the offence against the Criminal Code, section 57.

Now let me examine clause 5 of the bill introduced in August 2008, which states—

However, if a person's conduct is both a contempt of the Assembly and an offence against the Criminal Code, section 57, the person may only be proceeded against for the offence.

*Note—*

Criminal Code, section 57 (False evidence before Parliament).

**Mr Cripps:** Misled the House.

**Mr LANGBROEK:** Mr Deputy Speaker, as you can see, and as the member for Hinchinbrook points out, these clauses are very different, utilising different wording. Clause 5 in this bill now provides a more clear and concise application of this clause in conjunction with the new section 57 of the Criminal Code. It is the second time that the member for Greenslopes has come in here and misrepresented the information in this bill. But more seriously, we have the state's first law officer misleading parliament on statements of fact that are clearly false. Either he or his advisers have failed to read the new bill introduced into parliament and now he faces having to explain why he either did not even bother to read the bill—

**Mr DICK:** I rise to a point of order, Mr Deputy Speaker. I find the comments made by the Leader of the Opposition grossly offensive and I ask him to withdraw.

**An opposition member:** You have a glass jaw.

**Mr LANGBROEK:** I withdraw, Mr Deputy Speaker. But he does have a glass jaw for a new boy who clearly has not bothered to read this bill. It shows lazy, cheap politics that the so-called first law officer of this state has displayed. It shows that, despite having been in this parliament for only seven months, he is happy to be tarred with the same brush as his Labor mates, who let off a subsequently convicted corrupt Labor minister for deliberately misleading parliament.

The Attorney failed to even mention the reason the original section of the Criminal Code was repealed or the fact that former Labor mate Gordon Nuttall has since been found guilty of official corruption. We have heard nothing from the Attorney-General that would give us any comfort that this government has learned anything from the Nuttall experience and that the same unaccountable, questionable conduct that has been a trademark of Labor over the last 11 years will not continue.

We heard next from a former Attorney-General, the member for Murrumba, whose speeches I often enjoy. He gave us I think the quote of the year. Perhaps it was the lateness of the debate, but his statement was—

Truth is not something for mortals to determine; truth is something for reality to determine.

I am not sure what reality the honourable member is living in, but in Queensland before the law it is mortals that decide truth. I think the Deputy Leader of the Opposition made the point clear when he said—

The last time I looked at the record of who comprised the courts of Queensland I saw that they were made of mortals. They were not made up of supernatural individuals.

**Ms Jones** interjected.

**Mr LANGBROEK:** The member for Ashgrove is interjecting in that great way she does. She then ducks down after making an interjection because she is a bit fearful of getting jumped on.

The member for Rockhampton wanted to speak about the old regimes of Queensland but he did not want to speak about December 2005. Incredibly, he still justifies the actions. It was staggering. He used as an excuse that, because Labor at their poorest in the seventies did not use elements of the Criminal Code when in power, it should not be amended since. He did not realise it is still in Western Australia. He also thinks we should carry on in parliament like it is a football game—leave it on the field. There was no consideration for the seriousness of what Gordon Nuttall did on that day when a number of times he was asked to give the right information and he preferred not to.

The member for Rockhampton also argued about section 56. Section 56 is not a part of this bill. He also said that it was a matter that could have been dealt with by the MEPPC. The events of December 2005 were being dealt with by the MEPPC, and this government came in and deliberately overrode the MEPPC on that day when they allowed Gordon Nuttall to apologise to the parliament and let him off before subsequently amending the Criminal Code, which we are now trying to amend.

Then the Deputy Premier came in tonight frothing at the mouth and gave a sanctimonious rant with a lack of understanding. He does not even understand that the executive is answerable to parliament and the law. That is what the provision had in it. He likes to think that people at the Wynnum IGA may not be talking about it. People at the Wynnum IGA do not think it is okay to come in and tell untruths to parliament. He is clearly in an ivory tower from having been in this place for too long.

The fact that no-one has been prosecuted under this law does not make it a bad law; it made it an effective law and it had clearly been a deterrent. What we are trying to do tonight restores the original intention, allowing for the discretion of the police and the DPP to prosecute should they see fit.

Privilege is not a double standard for parliamentarians. It is composed of those rights without which parliament and its members could not discharge their functions. It is something that should be used sparingly and only to the extent absolutely necessary. If it is accepted that, as in courts of law, witnesses before parliamentary committees should be honest and not give false testimony, then it is impossible to discern any legitimate reason a double standard needs to apply to parliamentarians. What possible argument can be put forward that it is 'absolutely necessary' for the due execution of parliament's functions for ministerial witnesses to be able to tell untruths to parliamentary committees.

In Queensland, as other members have pointed out, the absence of an upper house means that the parliamentary committee system is an essential part of responsible and accountable government. Apart from question time, it is the only oversight mechanism that the parliament has over the executive government. As a matter of principle and practice, the public must be assured that witnesses will not tell untruths to parliament or to its committees.

Like so many so-called reforms instituted by the Beattie government and perpetuated by the present government, nobody believes the spin anymore. The parliament, the media, the general public know that what they do, or more often say, is merely whatever it takes to get them out of their latest political scrape. The amendments to the Criminal Code amendments—and they can read it in *Hansard* as we can read it tomorrow—were a short-term fix to avert one particular crisis involving Nuttall, who had been caught out telling untruths to the parliament. We know what sort of a man Minister Nuttall was, but we should not let the government use him as a convenient scapegoat to distract attention from the institutional failings that have occurred in this state under its watch.

This is the slide in public sector accountability for which Tony Fitzgerald QC called the government out in his recent address, where he observed that the present Labor government considered accountability to be collateral damage in its fight to retain power. That is no surprise in Queensland. We have ourselves lived with government by headline for 11 years now. But we have also watched how it is practised elsewhere and we know how the sad burlesque plays out, when eventually the lines fall flat and the audience stops clapping. We have watched developments in New South Wales, where our Premier's chief of staff honed his craft in the lemma government and where we now see the end game of a government that imploded long ago but cannot be got rid of because of a fixed term.

But it is the UK 'new Labour' government of Tony Blair and Gordon Brown that is the intellectual home of the Bligh and the Rees governments. There, the spin has run out and the proponents of the new way have been unmasked as false prophets. The distinguished political journalist Peter Osborne in the 2009 Keith Joseph Memorial Lecture labelled it the first postmodernist British government, in which he stated—

The purpose of public argument has moved right away from truths that can be proven to narratives that can be constructed. This is formally recognised by the ruling elite. Peter Mandelson, one of the inventors of the new politics, speaks of the need to 'create the truth'. Apologists for the new ruling elite celebrate this proposition.

One of the themes of Peter Osborne's lecture was that appearance had taken over from reality. He argued—

This has led to a startling state of affairs. Britain has never enjoyed such an apparently active central government as over the last ten years. There have never been so many initiatives, press releases, New Deals, action plans. The key thing to understand is that all of this activity carries on almost entirely independently of life as it is lived by ordinary people. Despite official statistics produced by state employees to prove that they work, this blizzard of activity is actually part of a parallel universe. Douglas Carswell and Daniel Hannan have noted this phenomenon of virtual government in their new book and they summon up Tony Blair's toe-curling memo calling for 'eye-catching initiatives' as evidence. 'The memo contained one sentence which bears particular contemplation,' the authors note: 'We also need a far tougher rebuttal or, alternatively, action'. As Carswell and Hannan observe: 'Blair had grasped that, in the contemporary political climate, rebuttal is action.'

...

Passing legislation that you never mean to enforce undermines respect for the rule of law, because it sends out the message that law-breaking has been sanctioned by the government. Announcing and reannouncing initiatives to solve pressing problems facing ordinary people that are never designed to take effect may gain an incumbent government a short term advantage. But in the medium to long term this constant building up of false expectations causes ordinary voters to lose their faith in politics, and to look elsewhere.

These comments are completely apposite to the Queensland government. This year, it emerged that the state government is the largest media employer in Queensland. With more than 420 spin doctors on the staff at an annual cost of more than \$40 million, that amounts to four times the number of journalists employed by the *Courier-Mail* and 19 more than the whole of the ABC workforce in Queensland.

Peter Beattie commended the Nuttall amendments to the Criminal Code to this House as a reform designed to protect and enhance democracy in Queensland. The current Premier, eager to distract attention from the failings of the government that she inherited, has been on *Celebrity MasterChef*. She is probably oblivious to the irony that she is resorting to the old bread and circuses routine—a favourite trick of the Roman emperors to placate their disaffected citizens.

It is time to stop constructing the truth and time to reclaim it. Part of that process is to restore the institutional integrity of the Queensland parliament and to insist that those who speak to the parliament do not mislead it. I commend the bill to the House.