




Speech By
David Janetzki

MEMBER FOR TOOWOOMBA SOUTH

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CRIME AND CORRUPTION AND OTHER LEGISLATION AMENDMENT BILL

 **Mr JANETZKI** (Toowoomba South—LNP) (4.34 pm): I rise to address the Crime and Corruption and Other Legislation Amendment Bill 2018 introduced into the Legislative Assembly by the Attorney-General and Minister for Justice on 15 February 2018 and reviewed by the Legal Affairs and Community Safety Committee. From the outset, I can say that the LNP will not be opposing this bill, although we will be raising concerns with elements of it, highlighted by the evidence given to the committee by key stakeholders both in submissions and at the public hearing to the previous committee.

As outlined in the explanatory notes to the bill, the key objectives are to widen the definition of 'corrupt conduct' and implement recommendations of report No. 97 of the Parliamentary Crime and Corruption Committee titled *Review of the Crime and Corruption Commission* and report No. 99 titled *Report on a complaint by Mr Darren Hall*. The PCCC review was a statutory review into the operations of the Crime and Corruption Commission, published in the report on 30 June 2016. The PCCC review was wide ranging and covered all aspects of the operation of the CCC, including: the overall performance of the CCC; the jurisdiction, responsibilities, functions and powers of the CCC; the application by the CCC of the principles in performing its corruption function; the CCC's role in the investigation of major crime; the CCC's handling of complaints of corruption; and the overriding responsibility to promote public confidence in the integrity of units of public administration.

The PCCC conducted public hearings and received submissions as part of their review, which produced a 121-page report with 29 recommendations. The explanatory notes detail that the bill implements the 2016 PCCC report by: lengthening the time frame for parties to seek a QCAT review of a reviewable decision; streamlining the process which must be undertaken when the commission commences disciplinary procedures against public sector employees; simplifying disclosure provisions so that the commission may work cooperatively with other relevant entities; addressing anomalies in relation to post-separation disciplinary proceedings; allowing the commission and public sector departments as well as the QPS to share information relating to the disciplinary history of current and former commission officers in prescribed circumstances; improving civil liability protections for the commission, its officers and Police Service review commissioners; providing for the chairperson of the commission to be the chair of the Crime Reference Committee and enabling the role to be delegated to the senior executive officer; removing the power for the commission to refer corruption investigation briefs to the Office of the Director of Public Prosecutions for the purposes of considering prosecution proceedings; providing express authorisation for the derivative use of compelled evidence obtained under the CCC Act; and requiring UPA, units of public administration, to keep appropriate records in relation to any decision not to notify the commission of an allegation of corrupt conduct.

I also note the Attorney-General's amendments that will be considered during consideration in detail which omit certain clauses, including clauses 94 to 96. These amendments occurred as a consequence of the commencement of the Public Service Regulation 2018. The opposition will not be opposing those amendments.

The Queensland Law Society noted in their submission to the previous Legal Affairs and Community Safety Committee that they had concerns with the new definition of 'corrupt conduct'. They noted in their submission—

The society is supportive of the inclusion of collusive tendering in the definition of corrupt conduct (proposed section 15(2)(b)(i) of the Act).

We understand the need for the Commission to have access to extensive powers in order to effect its functions. However, we do not consider these powers should be open-ended and limitless. The definition as drafted is exceptionally broad and may be open to being construed too broadly. As such, it is our view that the jurisdiction of the Commission should be restricted to corruption that:

- involves or affects a Queensland public official or public authority
- is deliberate or intentional (as opposed to negligence or mistake)
- is a criminal offence, or a disciplinary offence, or constitute reasonable grounds for dismissing or otherwise terminating the services of a public official, or in the case of a member of the Queensland Parliament or local government councillor, a substantial breach of an applicable code of conduct.

As outlined in the committee report as part of the background to the existing definition of 'corrupt conduct', section 15 of the act defines 'corrupt conduct' as adversely affecting the performance or exercise of power of a unit of public administration or an appointed person in circumstances where the conduct results in performance or exercise of power in a way that is not honest or impartial; involves a knowing or reckless breach of the trust placed in an appointed person; involves a misuse of information or material; is engaged in for the purpose of providing a benefit or causing a detriment to a person; and would be a criminal offence or a ground for termination of employment. Further, conduct that involves abuse of public office, bribery, extortion, secret commissions, fraud, stealing, forgery, perverting the course of justice, electoral donation offences, loss of state revenue, sedition, homicide, assault, prostitution, illegal drug trafficking and illegal gambling are listed in the act as examples of what could constitute corrupt conduct.

The bill proposes to widen the definition of 'corrupt conduct' to include conduct that impairs, or could impair, confidence in public administration in circumstances where the conduct would be a criminal offence or a ground for termination of employment and involves, or could involve, collusive tendering; fraud regarding an application for an authority associated with protecting health or safety, the environment, or the state's natural, cultural, mining or energy resources; dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment of public funds or the disposition of assets; evading a tax, levy or duty, or fraudulently causing a loss of revenue; or fraudulently obtaining or retaining an appointment.

QUT also raised concerns with the bill's intention to simplify the definition of 'corrupt conduct' and found that no such confusion was occurring between public sector agencies. They stated in their submission—

The explanatory notes to the Bill state on page 3 that '... the Bill simplifies the definition of 'corrupt conduct' by removing (i) the requirement that conduct is engaged in for the benefit of, or detriment to, a person under section 15(1)(c) because this element has caused confusion among public sector agencies'.

QUT has found no such confusion with this aspect of the definition of 'corrupt conduct' and has, in fact, found its inclusion helpful in considering allegations of corrupt conduct. QUT, therefore, does not see a need for this to be removed.

The Australia Institute also submitted to the committee that the proposed amendment in the bill 'contradicts the stated aim of the ... bill to "widen the definition of corrupt conduct"' and would instead 'limit' the definition.

While we will not be opposing these changes, we do note the concerns raised by these key stakeholders. It is fundamentally important that the chief corruption-fighting body in Queensland, the CCC, is not distracted from its core task and concerns have been raised about this new definition of 'corrupt conduct' being too broad. That was the genesis of the Callinan-Aroney recommendations that the operational focus of the CCC should be on investigating serious cases of corrupt conduct.

It is a definition of 'corrupt conduct' that the Labor Party should know well. It was appropriate that the Attorney-General talked briefly of the 30-year anniversary of the Fitzgerald report being handed down. I note that this morning in question time the Premier also noted he Fitzgerald report in answer to a question. It was misstated, however, in that the question, as I recall, related to the allocation of police resources. The allocation of police resources is a far cry from the concern that the Fitzgerald report actually had which was the potential for ministerial direction of police matters, police affairs.

Mr Lister: It is not what Fitzgerald was saying at all.

Mr JANETZKI: I take that interjection from the member for Southern Downs. There is a very grave difference, and it is further proof that the government do not fully appreciate the Fitzgerald report.

Thirty years is a good time frame in which to analyse these matters. For 25 of the last 30 years the Labor government have been in power in Queensland. On this side of the House we are regularly subjected to hectoring from the government in respect of the Fitzgerald report. I think on this the government lacks some integrity that should be raised in a debate of this nature. It is not good enough for the government to constantly hector the opposition on this matter when, frankly, over the last 30 years we have seen a culture grow of corruption, nepotism and malfeasance.

If we look back at the 25 of the last 30 years when the Labor government have been in power, in 1995 Anna Bligh, as a newly elected member of the Queensland parliament, mentioned one of her campaign workers Di Fingleton. Three years later—against every recommendation, against every thought of the Fitzgerald inquiry—Di Fingleton was appointed Chief Magistrate in Queensland in contravention of the process set down by the Fitzgerald report. In 1999 Labor MP Bill D’Arcy was charged with multiple sex offences. Before Bill D’Arcy was charged, the then premier, Peter Beattie, signed off on his superannuation entitlements, not forgetting that earlier in 1992 Keith Wright was convicted of serious child sexual offences.

By 2000 the Shepherdson inquiry brought about the resignation of the then Labor deputy premier, Jim Elder. Labor MP at the time Mike Kaiser admitted to electoral fraud. Anna Bligh would later appoint Mike Kaiser as her chief of staff and gave him a \$100,000 bonus on the basis that he could be a mentor to other ministerial staff. Another outcome of the Shepherdson inquiry was that Paul Lucas was found to be an opportunistic—

Mr Stevens: Sixteen people in total.

Mr JANETZKI: I take that interjection from the member for Mermaid Beach. Mr Paul Lucas, who went on to be deputy premier under Anna Bligh, was found to have an opportunistic enrolment at an address. As I said, he would go on to become deputy premier.

In 2005 how could we forget Gordon Nuttall, who went on to face five charges of corruption and perjury and was convicted in 2010. Let us never forget that it was Anna Bligh who seconded a special motion of state parliament exonerating Gordon Nuttall. As I recall, parliament was specially reconvened. What we witnessed there was minister after minister after minister get up and defend Mr Nuttall. As we recall, Mr Nuttall was facing criminal charges over lying. Let us not forget the ministers who got up to back Mr Nuttall.

Mr Hart: Is it open and transparent when they do that? I’m not sure it is.

Mr JANETZKI: There was a complete lack of openness and transparency. Let us not forget the ministers who got up to defend Mr Nuttall—Beattie, Bligh, Schwarten, Spence. They were the ministers who got up to defend Gordon Nuttall at a specially reconvened session of parliament to exonerate Mr Gordon Nuttall.

In 2006 the Labor government voted for laws that made it lawful to lie in parliament. How can this government ever lecture the opposition in respect of the Fitzgerald report with this track record over the last 30 years? It continues.

In 2007 a former Labor cabinet colleague of Anna Bligh, Merri Rose, was jailed for attempted blackmail. Later, in October 2007, Pat Purcell, the then member for Bulimba, was charged with assault. The minister later admitted to the assault and he lied about that as well. In October that year, Anna Bligh appointed her husband to a senior position—again, completely in contravention of the corruption-fighting Fitzgerald report that said that every senior position in the Public Service should be subject to public advertising.

In 2008—we have moved on from 2007; there is a long, long list—the Labor government appointed—would you believe it?—Peter Beattie to trade commissioner, again without any public advertising of a senior Public Service position, in clear contravention of the Fitzgerald report and clear contravention of the recommendations for transparent and accountable government in Queensland.

In 2009 it was revealed that members of the Queensland Labor Party were pocketing hundreds of thousands of dollars in so-called success fees for being awarded major Public Service contracts. There was a wide variety of people caught up in these success fees. By July 2009 when the current Premier was in Anna Bligh’s cabinet—

Mr Hart: When she sold QR.

Mr JANETZKI:—I take the interjection from the member for Burleigh—when all the assets were sold, \$21 billion of them, Tony Fitzgerald, the author of the report which the government constantly refers to, said this about the Beattie and Bligh Labor governments: Access can now be purchased,

patronage is dispensed, mates and supporters are appointed and retired politicians exploit their political connections to obtain 'success fees' for deals between business and government. That is a very long history of conduct right across Labor governments.

An honourable member interjected.

Mr JANETZKI: I am coming to the present now.

Mr DEPUTY SPEAKER (Mr Weir): Order! There has been a lot of chatter. I know there are some things that might be a little antagonistic, but the member for Toowoomba South has the call.

Mr JANETZKI: Let us not forget that this bill was originally introduced in its first iteration on 23 March 2017. We all know what happened throughout 2017: mangocube started causing a problem for the government. This bill has languished on the *Notice Paper*. Of course there was an election in between, but for 18 months this bill has been sitting on the *Notice Paper*. I will come to the member for Miller shortly, but I also want to acknowledge a couple of other interesting incidents that are occurring today. It is not just over the last 30 years. I expect other members of the opposition will speak about this, but who could ever forget Ipswich? There is a vast array of issues that could be canvassed, but I do not intend to go too much further there.

This bill applies to a whole range of parties, and I could not speak to the bill without mentioning the CFMEU. Let us not forget what a Federal Court judge has found about the CFMEU. I do not need to make anything up. I think it was Federal Court Justice Jessup who said that it was the worst recidivist in common law history. They have an egregious record of repeated and wilful contraventions. This is the company that the Labor Party keeps which determines preselections and which pushes up donations. It is not just these aspects of the CFMEU. Over the last few years there has been a range of unlawful conduct that has been established—

Ms Leahy: And funding.

Mr JANETZKI: And funding—across building sites in South-East Queensland. We have findings of unlawful conduct on building sites at Brisbane Airport, Pacific Fair, Gold Coast Hilton and QUT—even Brisbane Common Ground, which is a housing project for low-income earners. In the last 18 months the CFMEU has been fined \$2.4 million. This is the company that the government keeps.

Mr Hart interjected.

Mr JANETZKI: And a range of appointments. We have \$2.4 million in fines in 10 matters that have been brought. If I have raised anything, it is the culture of Labor Party politicians over the last 30 years—the disdain that they have for the Fitzgerald report. It is completely disregarded by the Labor government when it suits them, but when it doesn't they refer to it.

I should make a couple of comments now about the member for Miller. The CCC investigated and made some comments—very foolish is what the CCC has said about the member for Miller. We have seen the deletion of an email account at the commencement of an RTI request. What we have seen dribbling out over the last couple of weeks—and there have been more this week—are emails which have truly shown who runs the Labor Party and the depths to which they will go and the methods they will use. We have seen a private email channel from union officials through email accounts that were sought to be deleted by a minister of the Crown.

Mrs D'ATH: Mr Deputy Speaker, I rise to a point of order. I have been very patient but I rise on relevance. This is not about corrupt conduct. He is talking about matters that have been before the CCC. No corrupt conduct has been found. How about the member comes back to the bill? He has had 20 minutes to do it.

Mr Power interjected.

Mr DEPUTY SPEAKER: Order! Member for Logan, I have had a look at the speaking list and I cannot see your name. If you have something to say, I suggest you put your name on it. Member for Toowoomba South, you have drifted fairly broadly so please focus on the clauses in the bill.

Mr JANETZKI: Thank you for your guidance, Mr Deputy Speaker. I will return to the CCC annual report, because I believe the culture of openness and transparency in government starts at the top. With this Labor government, I believe that the fish rots from the head, whether that be the member for Miller. But I will move on because I understand the interjection.

The CCC report that was released on Black Friday revealed a couple of interesting features. Fish rot from the head. We have seen a sharp increase in corruption complaints in the last year. In fact, the number of corruption hearing days has more than doubled in the last year while corruption allegations have increased by 45 per cent in the last two years. I have spoken about this in the House before, but we see this in the report from the Queensland Ombudsman which recently outlined a range of reported

wrongdoing in the public sector. In the 2016-17 report of the Queensland Ombudsman, reported wrongdoing in the public sector has skyrocketed. There is no other word for it. It is up 36 per cent. In 2016-17 reported complaints have increased by 36 per cent. Of greatest concern is that of 798 public interest disclosures—that is, reported wrongdoing in the public sector—more than half of them, 53 per cent, was about corrupt conduct.

What we see over 30 years is a culture of conduct that shows the very heart of the Labor Party, and as I have gone through the issues over those 25 of 30 years in government we have seen that. Now we see it flowing through to the Queensland Ombudsman's report. It is not just Labor Party politicians; it is not just the CFMEU. The culture that is being led by the government is now filtering down. There are significant concerns here and we need to take them seriously.

As I mentioned earlier, we will not be opposing the new definition but we do note the concerns of the QLS and trust that the CCC will maintain its core focus on fighting major crime and corruption in Queensland. The other issue we want to raise as part of the debate relates to the derivative use of compelled evidence and the misuse of search warrants and compulsive powers. As noted in their submission to the committee, clause 18 of the bill seeks to amend section 197 of the act to provide express authorisation for the derivative use of compelled evidence obtained under the act.



Mr JANETZKI (Toowoomba South—LNP) (6.10 pm), continuing: As noted in the society's submission to the committee—

Clause 18 of the Bill seeks to amend section 197 of the Act to provide express authorisation for the derivative use of compelled evidence obtained under the Act. We understand that this would allow information to be used in other proceedings such as disciplinary proceedings.

The Society notes that the law relating to derivative use can be exceptionally complicated. As such, we consider that the proposed amendment may have unintended and adverse consequences.

...

The Society is exceptionally concerned about this proposal.

As outlined in the committee report, the CCC has the power to conduct coercive hearings that compel witnesses to attend and give evidence, and override the right to silence and the privilege against self-incrimination. Section 197 of the CCA provides that if a person claims privilege from self-incrimination prior to answering a question or producing a document or thing but is compelled to provide the evidence, the compelled evidence is not admissible against them in any civil, criminal or administrative hearing. The bill proposes to amend section 197 of the act to provide express authority for the use of derivative evidence, clarifying that, while the compelled evidence is not itself admissible in a civil, criminal or administrative proceeding, derivative evidence is admissible. We also note that the amendments to clause 18 are raised as a possible breach of fundamental legislative principles, specifically in relation to adversely impacting the rights and liberties of individuals, specifically in relation to important protections against self-incrimination.

Finally, I refer to issues raised by the Queensland Police Union of Employees at a public committee hearing. The QPUE raised concerns with the current proposal contained in clause 15 of the bill relating to the use of search warrants for the investigation of criminal offences being subsequently used to further complaints of misconduct. The QPUE believes that there could be a misuse of the search warrant powers in the process of the investigation.

Further to the previous point raised by the QLS regarding amendments contained in clause 18 of the bill, in the Attorney-General's second reading speech we would appreciate clarification of clause 15, as well as an address to the concerns raised by the QPUE. We note that amendments contained in clause 15 of the bill were raised as a potential breach of fundamental legislative principles, specifically that it may adversely affect the rights and liberties of individuals.

I thank the committee members for their review of this bill and those stakeholders who took the time to provide a written submission and/or attend the public hearing to share their views. The fight against corruption is an important one that we wholeheartedly support. The CCC needs to have the proper resources and powers to investigate any allegations. However, natural justice always needs to be afforded to anyone accused of an offence and, wherever possible, the CCC needs to be open and accountable to public scrutiny to the effect that it asks of agencies and individuals that it investigates.

Finally, I acknowledge the current CCC Chairman, Mr Alan MacSporran QC, for his leadership and for putting his hand up to take on what is one of the most difficult and challenging public sector agency leadership positions in Queensland. I look forward to the Attorney-General's response to some of the issues I have raised during my contribution.