



Speech By
Tim Nicholls

MEMBER FOR CLAYFIELD

Record of Proceedings, 20 August 2024

CRIME AND CORRUPTION AMENDMENT BILL

Second Reading

 **Mr NICHOLLS** (Clayfield—LNP) (5.30 pm): I move—

That the bill be now read a second time.

In his introduction to the report titled *Report of a commission of inquiry pursuant to orders in council*, otherwise known as the Fitzgerald report, the chairman, Tony Fitzgerald, said—

Another recurring theme is the need for a free flow of accurate information within a society. Such a flow of information is needed if public opinion is to be informed. Public opinion is the only means by which the powerful can be controlled.

However, there is a conflicting right of individuals to privacy. In some circumstances, such privacy results in the secrecy which allows corruption to breed and official misconduct to escape detection.

Today is decision day for the Miles Labor government. Today Premier Steven Miles either stands for openness and transparency in government and supports this very simple and straightforward bill or he stands for cover-up, complacency and political cowardice and refuses to support the bill. That is the decision for Premier Miles and the Labor government today.

Here is the question for Premier Miles and the Labor government: do they support the Crime and Corruption Commission reporting on investigations or not? Do they support releasing the reports of past investigations by the CCC into the actions of Peter Carne and Jackie Trad or not? If they do not, why not? Is it because each report is into the public administration of the Labor government? The question is: what is this government so afraid of that the Palaszczuk government and ministers of this government approved funding for Jackie Trad to take the CCC to court to try to stop the release of the CCC's report? Why is this government afraid to do what the CCC chair, Mr Barbour, said as recently as estimates this year needs to be done? Why, despite protestations and promises made at the end of last year and the beginning of this year, has this government continued to delay taking action? The answers can only be that it is a protection racket by a desperate government.

I turn to the submissions that were made to the bill, and I want to thank the committee and those submitters to the bill for making those submissions. There were only three submitters to the bill, noting that the Department of Justice and Attorney-General made no submission. The issues raised were very minimal. Retrospectivity of the bill was an issue raised by former Labor MP Glen Milliner, who was the member for Everton and Ferny Grove from 1977 to 1998, and he opposed the passage of retrospective legislation to enable the publication of reports made by the CCC. He was concerned about the passage of retrospective legislation and said it is 'rarely done and should only be considered in extreme circumstances'. The CCC countered this perspective by informing the committee in its response that it has been historically done in cases where the intent is curative or validating, which is exactly the circumstance we find here.

Amendments to reverse the 2018 amendment to section 49 of the CC Act were also raised. It was raised in the public hearing that, while the bill addresses some of the recommendations to reverse those 2018 recommendations, it did not implement the requirement for the CCC to seek the advice of

the DPP prior to bringing charges arising from the corruption investigations as stated in the explanatory notes. I have today circulated amendments in my name to cure this situation and I also note that the government addressed this in its bill earlier today.

The Crime and Corruption Commission in its evidence to the committee was highly supportive of the bill and stated in the public hearing that it just wants the problem fixed. It also stated that the review commissioned by Premier Miles was in its view not needed. The CCC also suggested amendments to the bill, including explicit provision that the commission may report at any time before, during or after the conclusion of an investigation, noting that this power is held by other similar types of bodies in Australia. It wants clarification on what can or must be included in public reports, consistent with section 149(2) of the National Anti-Corruption Commission Act 2022 of the Commonwealth, and an inclusion to retrospectively validate the preparation of the reports, not just the publishing of the reports, to ensure the CCC is protected in that respect and authorised to do what it has done, and the amendments I have circulated address these matters.

Not only did the CCC support the bill at the committee stage as the report reveals; as recently as estimates on 26 July Mr Barbour, the chair of the CCC, reiterated his support for the bill. I asked him—

Would you like to see legislation introduced and for the matter to be regularised or rectified as soon as possible?

Mr Barbour responded—

I would, provided what is introduced is appropriate.

Then I asked—

In that respect—I think you have probably answered this—is the delay in getting that rectification or that rectification legislation frustrating to the CCC?

Mr Barbour's response was—

I think it is frustrating beyond just the CCC. I think it is frustrating to parliament. I think it is frustrating to the Queensland community. I think it is not in the public interest. I think there could have been a far speedier resolution to the matter than what there has been. Certainly our concerns about the process and our concerns about recommendations that have been made in the review by the former chief justice, Justice Holmes, have been made clearly to the Attorney.

Here it is as plain and as simply as it can be said—

The private member's bill is a very brief and very clear bill designed with one specific intention in mind, and that is to put the Crime and Corruption Commission back into a position which it and everybody else dealing with the commission understood to be the position for almost 30 years. As I indicated to the committee considering that bill, there are certainly areas that could be improved in relation to the bill.

I accept that. He continued—

However, from our perspective it does the job. It allows us to publicly report. It retrospectively endorses and clarifies the situation in relation to previous reports that have been prepared. That was what we understood would be an appropriate response to the decision in Came. When that decision came down and I urged for a quick and immediate response, it was with such a bill in mind.

Mr Barbour, in response to a question about the Holmes commission of inquiry, said—

We cannot effectively, in my view, fulfil our obligations, fulfil our statutory responsibilities, give confidence to the community, to parliament, to elected representatives if we are prohibited from making effective public reports that contain commentary, that contain opinion, that contain recommendations.

His view was supported by the parliamentary commissioner, who, in evidence to the Parliamentary Crime and Corruption Committee in February, said—

In terms of the nature of the amendments, as I said, the bill that has been put forward is one way to do it.

He went on to say—

I think the common view from Mr Barbour—and it is a view I hold—is that the act does require amendment to allow the CCC to report on matters that it wants.

There is no good reason this bill cannot pass. We cannot let the perfect be the enemy of the good. We know what the problem is. We know how to fix it. The obligation of the elected representatives in this place is to ensure the law works as intended and as understood for the 26 years leading up to the High Court decision in 2023. A failure to act leaves Queenslanders in the dark. A large number of corruption investigations where no prosecution is recommended but where valuable anti-corruption and public administration lessons can still be learned will be kept secret. A failure to act will mean those wrongly accused in investigations or who have had their name tarnished will not have the opportunity to have a public report clearing their names published. A failure to act will effectively mean the antiseptic of sunlight will not be shone into all corners of government administration and ultimately corruption and maladministration will creep back into the halls of power and Queenslanders will pay the price.

A failure to act will condemn the Miles Labor government as the party of secrecy and cover-ups in this state. It is in the interests of all Queenslanders that this bill passes and takes effect without delay. It is time for the government to respect the request of the CCC chair, Mr Barbour, seeking urgent legislative amendments.

I want to refer to commentary made by a very respected source, the Clerk of the Queensland Parliament. In a paper he published a little while ago, he said—

It has long been alleged that the CCC has been used by governments as a 'clearing house'. Issues of public concern are sent for investigation and when no criminal conduct is found, governments then imply there was no wrongdoing—even though wrongdoing that falls short of criminal conduct is often revealed.

He went on to quote Aristotle—

To say of what is that it is not, or of what is not that it is, is false, while to say of what is that it is, and of what is not that it is not, is true.

Unless and until the statute is remedied, for anyone to say that the CCC has investigated and no outcome has occurred and therefore there was no wrongdoing is not necessarily speaking the truth. The public is capable of handling the truth. The test for this Labor government is this: will it act in the interests of Queenslanders and support the prompt passage of that bill or will it act out of self-interest and delay and ultimately reject it? Tonight is the test for this Labor government.