

(MR SPEAKER)

SPEAKER'S RULING – ALLEGED CONTEMPT OF PARLIAMENT

MR SPEAKER Honourable members,

On 21 March 2024, the Member for Glass House wrote to me alleging that the Minister for Education and Minister for Youth Justice (Minister) deliberately misled the House on 20 March 2024.

The matter relates to a statement made by the Minister while answering a Question without Notice.

Specifically, the Minister stated:

'... We know he is going to support the big, shiny, new \$3.5 billion stadium and we know that he does not support progressive coal royalties.'

The Member argued that this statement was deliberately misleading because when the question of progressive coal royalties was put to the House in the Revenue Legislation Amendment Bill 2022, the legislation passed without division and the Leader of the Opposition did not oppose progressive coal royalties during the debate.

I sought further information from the Minister about the allegation made against her, in accordance with Standing Order 269(5).

The Minister submitted several statements from members of the opposition made outside the House, arguing that those statements were evidence that the Leader of the Opposition does not support coal royalties.

Standing Order 269(4) requires that in considering whether such a matter should be referred to the Ethics Committee, that I should take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter.

I consider that while this is a debate on coal royalty policy, it differs from previous matters where members have provided me with conflicting evidence, on the same matter, to support their positions. In this case, there was insufficient evidence put forward to support the Minister's proposition.

However, I note that on 21 May 2024, the Minister made a clarifying statement in the House, and this is recorded at page 1690 of the Record of Proceedings.

Accordingly, I consider the Minister has made an adequate explanation and apology.

Therefore, I **will not** be referring the matter for the further consideration of the House via the Ethics Committee.

I table the correspondence in relation to this matter.



Andrew POWELL MP

Member for Glass House

21 March 2024

Hon. Curtis Pitt MP
Speaker of the Legislative Assembly

By email: speaker@parliament.qld.gov.au

Dear Mr Speaker

I write regarding a matter of privilege requesting you refer the Hon Dianne Farmer MP, Minister for Education and Youth Justice, to the Ethics Committee for consideration as to whether she has committed a contempt of the House.

The Minister has misled the House in relation to her answer to a Question Without Notice on 20 March 2024 at page 739 of *Hansard*.

Background

The Minister claimed that the Leader of the Opposition opposes the current regime of mining royalties.

Substance of the allegations

The member for Mount Ommaney posed the question:

Can the minister outline to the House how the Miles Labor government is listening to Queenslanders and ensuring our young Queenslanders have the best possible education, and is the minister aware of any risky alternative approaches?

The Minister responded, in part, at page 739 of *Hansard*:

We know that he is going to support the big, shiny, new \$3.5 billion stadium and we know that he does not support progressive coal royalties ...

I contend this statement constitutes contempt as it is a deliberate misleading of the House in relation to the position held by the Opposition on the current royalties regime.

The regime under consideration was the subject of the *Revenue Legislation Amendment Bill 2022*, introduced on 21 June 2022 and passed on 24 June 2022.

The Explanatory Notes at page 2 indicate that:

The Mineral Resources Regulation 2013 (Mineral Resources Regulation) is amended to implement a 2022-23 State Budget measure to adjust the coal

royalty rate structure by introducing additional tiered rates of 20 per cent, 30 per cent and 40 per cent on that part of the average price per tonne of the coal sold, disposed of or used in a return period that is more than A\$175, A\$225 and A\$300 respectively, with effect for liabilities from 1 July 2022.

On 23 June 2022 during debate on the Bill, the Leader of the Opposition referred to the government's approach to taxation by pointing out that the increases in taxes constituted a broken promise and that increased taxation revenue was being wasted by the government.

This theme was pursued by the Shadow Treasurer, David Janetzki MP, in debate on the same day.

At no time during that debate did the Leader of the Opposition or Shadow Treasurer indicate it was an Opposition policy to oppose the royalty increases.

Indeed, following debate, the Bill passed through all stages on 24 June 2022 without division.

This position was acknowledged by the Hon Cameron Dick MP, Treasurer and Minister for Trade and Investment, in a media release headed "Queensland parliament united on new progressive coal royalties" dated 26 June 2022. (see attached)

The Treasurer noted:

I am pleased there were no votes cast against progressive coal royalty tiers from members representing the Liberal National Party (LNP), Katters Australian Party (KAP), One Nation or the Greens political party.

The Treasurer's acknowledgement of the Opposition's position indicates that the government is aware that any allegation to the contrary would be untruthful.

Contempt

There are three elements to be proved to establish that a member has committed the contempt of deliberately misleading the House:

1. The statement must have been misleading;
2. The member making the statement must have known, at the time the statement was made, that it was incorrect; and
3. In making the statement, the member intended to mislead the House.

The Statement was misleading

Without the benefit of proof, the Minister asserted that the Leader of the Opposition was opposed to a progressive coal royalties regime.

This is entirely misleading.

There is no evidence to support the Minister's claims. Indeed, it is direct contrast to the Opposition's actions on this matter and the acknowledgement by the Treasurer in June 2022. The Minister's statement of 20 March this year is little more than an invention with no basis in fact.

Mere assertion does not constitute proof and, in this instance, the Minister has resorted to mere assertion.

At no time did the Minister present cogent evidence to support her claim.

As has been indicated, the Leader of the Opposition and the Shadow Treasurer highlighted the way the royalty increase was announced without consultation and the Government's consequent lack of fiscal restraint.

The Leader of the Opposition said:

The new payroll tax will impact Queenslanders who rely on industries like food, retail, construction—there are many more. Let's be up-front: this is a tax on Queenslanders and should have been foreshadowed with Queenslanders before the last election. The same goes for the other new taxes the Treasurer has announced on gaming and mining.

(Hansard, 23 June 2022, page 1667)

The Shadow Treasurer said:

In this budget the Treasurer had an opportunity to use rivers of royalty and transfer duty gold to begin to repair the budget, but Labor cannot resist spending. They are addicted to it. Total expenditure is up by \$7 billion this year and 90 per cent of the windfall coal royalties has been squandered on increased operating expenses and grants.

(Hansard, 23 June 2022, page 1681)

Nowhere in these speeches is there anything to support the Minister's allegation in relation to the Opposition's stance on the mining royalties.

The member was aware that the statement was misleading

The Minister's response to the question was contrary to publicly available information.

In fact, the Minister's failure to produce evidence of the claim is further proof that his allegation was built on shifting sands rather than solid foundations.

The Minister would have been aware of the Opposition's views on the way the royalty increase was introduced and the view of the Opposition in relation to how revenue was being spent.

To extrapolate these views into an Opposition intention to oppose and then cut these royalties lacks intellectual rigour. The fact that the Opposition did not oppose the

Revenue Legislation Amendment Bill 2022 makes it even more difficult to accept that the Minister was not aware her statement was misleading.

The fact that this matter has been the subject of considerable discussion for nearly two years supports the contention the Minister was aware her statement was misleading.

In view of the existence of evidence to the contrary I can only conclude that the Minister was aware at the time that the statement was misleading.

The member intended to mislead the House

As stated in McGee on Parliamentary Procedure, whether a member intended to mislead the House can be inferred from the formality of the circumstances.

Given that the Minister made these statements during Question Time, and they were not off the cuff comments during a debate but made during a time of proceedings specifically set aside for scrutiny of the government, it is reasonable to assume the Minister intended to mislead the House.

Having had time to prepare an answer to the question to be asked and having access to comments surrounding the royalty regime, the Minister's intentions are clear. The fact that the remarks were appended to the answer to a question on education is compelling evidence of the Minister's intentions.

That the Minister had an opportunity to verify her assertions – but failed to do so - highlights the fact that this misleading was intentional.

I acknowledge that I raised a similar issue with you in a letter dated 16 May 2023 in relation to a statement by the Hon Cameron Dick MP, Treasurer and Minister for Trade and Investment. While you declined to refer these statements to the Ethics Committee, I submit that the Education Minister would have been conscious of this matter and would have been conscious of the inaccuracy of her allegations against the Leader of the Opposition.

This behaviour strengthens the argument that you should consider referring the Minister to the Ethics Committee.

Yours sincerely



Andrew Powell MP
Manager of Opposition Business
Member for Glass House



The Queensland Cabinet and Ministerial Directory

Queensland Parliament united on new progressive coal royalties

Published Sunday, 26 June, 2022 at 01:23 PM

Treasurer and Minister for Trade and Investment

The Honourable Cameron Dick

Progressive coal royalties will commence on 1 July 2022 following passage of enabling legislation through the parliament without opposition.

Treasurer Cameron Dick said no member of parliament voted against progressive coal royalties, nor did any party express opposition to the substance of new progressive coal royalty tiers.

"I am pleased there were no votes cast against progressive coal royalty tiers from members representing the Liberal National Party (LNP), Katters Australian Party (KAP), One Nation, or the Greens political party.

"This can be contrasted to the 2019 budget revenue bill, when the LNP voted against higher gas royalties.

"This demonstrated support for progressive coal royalties from across the political spectrum is good news for coal producers, promising policy stability as these arrangements will not be politicised either now or in an election environment.

"With royalty arrangements now settled with support across the political spectrum, Queensland's partnership with industry will be renewed through the new Queensland Resources Industry Development Plan.

Mr Dick said new progressive coal royalties ensure a fair return to the people of Queensland when profits are extraordinary, but will protect coal producers and coal jobs should prices decline.

"Unlike the LNP Government's actions in 2012, we have not jacked up coal royalties on low prices in the middle of a downturn, and we're pleased all parties have seen the good sense of Labor's approach," he said.

"Financial markets also agree, with continued strong investment interest in Queensland resources, including coal.

"Share prices for our coal producers continue to perform strongly, demonstrating our royalty changes are good for Queensland and good for business.

The Revenue Legislation Amendment Bill 2022 passed the Legislative Assembly on Friday 24 June 2022 without opposition. The Revenue Bill is distinct from the Appropriation Bills, which are voted after completion of the estimates process.

ENDS

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Your Ref:

Our Ref: 240328-OUT-Farmer

28 March 2024

Hon Di Farmer MP
Minister for Education and Minister for Youth Justice

By E-mail: educationandvouthjustice@ministerial.qld.gov.au

Dear Minister

The Office of the Speaker received correspondence on 21 March 2024 from the Manager of Opposition Business, raising a Matter of Privilege. The said matter concerns whether you have deliberately misled the House. A copy of this correspondence is attached.

Deliberately misleading the House is listed as an example of behaviour that the House may treat as a contempt (see *Standing Order 266 (2)*).

Standing Order 269 (5) provides that in considering whether such a matter should be referred to the Ethics Committee, the Speaker may request further information from the person the subject of the allegation. Accordingly, I am writing to you pursuant to that Standing Order.

Standing Order 269 (4) provides that in considering whether the matter should be referred to the Ethics Committee, the Speaker shall take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter.

I wish to stress that I have not yet formed a view as to whether this particular allegation should be referred to the Ethics Committee. However, as a matter of course, I remind all members who are the subject of such allegations of the long established convention that should a Member become aware they have inadvertently misled the House, they should, at the earliest opportunity, correct the record and apologise for their inadvertence.

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Should you wish to provide me with further information to assist me in making a determination as to whether the matter should be referred to the Ethics Committee under *Standing Order 269* please provide your response by COB 15 April 2024.

In the meantime, should your office have any queries relating to this matter, they may be directed to my Executive Officer, Coral-Leah Kemp, by email to Speaker@parliament.qld.gov.au or on 07 3553 6700.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Pitt', written in a cursive style.

HON CURTIS PITT MP
Speaker of the Legislative Assembly

Enc.



Minister for Education and Minister for Youth Justice

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Hon Curtis Pitt MP
Speaker of the Legislative Assembly

Email: speaker@parliament.qld.gov.au

Dear Mr Speaker

Thank you for your email dated 28 March 2024 regarding correspondence from the Manager of Opposition Business, raising a Matter of Privilege. The Member for Glass House alleges I deliberately misled the House on 20 March 2024.

I submit my statements, during Question Time, were not unreasonable or misleading of the House. The Manager of the Opposition Business' argument is premised on the assumption that I misrepresented the Opposition's current position on coal royalties. The Manager of the Opposition Business selectively quotes Hansard and does not show the wider context in which I made my statements in response to a question from the Member for Mount Ommaney. I stated on pages 739 and 740 of Hansard, extracted below:

"I thank the member for her question. What a great advocate she is for her local schools. I know how excited she was to announce the new \$28 million STEM lab and admin block at Corinda State High School. Schools all over Queensland are getting new and upgraded facilities like those in the member's electorate because we know how important those sorts of facilities are to create a new, positive learning environment. It is our kids' futures we are talking about, and that is why we have invested \$11.8 billion into those sorts of facilities since we were re-elected in 2015, including 27 new schools so far and our program to make sure we are planning for future population growth. Our nearly half a billion dollar Cooler Cleaner Schools Program saw every classroom, library and staffroom air-conditioned, and we know how excited the member for McConnell was about that. It was announced and done within two years."

"When opposition members were elected in 2020 they said kids were going to get air conditioning in 2028. That means that if you were a kid in year 5 at the time you would have graduated from primary school and secondary school before you saw an air conditioner in any of the schools. That is their vision for Queensland schools."

"What we are facing now is the very real possibility that the LNP could actually get to government and the Leader of the Opposition could be the premier, so we have to look really seriously at what they might do in education. We know that for them, when it comes to balancing the budget, schools are in the firing line. When they were in government they closed six schools—Fortitude Valley State School, Old Yarranlea State School, Toowoomba South State School, Charlton State School, Stuart State School and Nyanda State High School—and they had a hit list of another 50 schools that they were going to cut. We have no word from the opposition leader now on what he would do to fix the budget black hole that he would create."

"We know that he is going to support the big, shiny, new \$3.5 billion stadium and we know that he does not support progressive coal royalties, so what would he cut? Do you know what the risk is, Mr Speaker? Schools are just a line item on the budget. You can see them going through the list: "Will we cut widgets? Yes. Will we cut chairs? Yes. Will we cut trucks? Yes. Will we cut schools across Queensland? Yes. They simple do not care. What is he going to say to schools in Everton? What is he going to say in Currumbin? What is he going to say in Lockyer?"

"What is he going to say to the schools in Logan and Mackay? We need him to come clean and say whether he is committed to our kids' future."

As seen by the wider context of my statements, I was clearly outlining how the Miles Labor Government is listening to Queenslanders, ensuring our young Queenslanders have the best possible education and my awareness of risky alternate approaches should the LNP be elected in October.

In answering the question from the Member for Mount Ommaney, I was referencing the Opposition's track record of cutting the services that Queenslanders rely on when they're in government and the continuous change in policy position. The LNP's record is undeniable, with 6 schools closed and a further 50 schools identified for closure and/or cuts whilst elected in 2020.

Statements made by LNP members that followed the introduction of progressive coal royalties have led me to form the firm conclusion that the LNP does not in fact support them, or if they ever did, the LNP has changed its position.

These events informed my honestly held belief on the LNP's position, including my statement to the Parliament on 20 March 2024.

The Leader of the Opposition

On 7 July 2022, in a press conference, the Leader of the Opposition called a press conference to attack progressive coal royalties.

In that press conference, he was asked directly whether he would repeal them. Rather than clearly and simply state "no," the LNP leader instead made statements about the need to lower the tax burden, including:

"We will wake every day and look at ways to lower... taxes for business... we will look at every opportunity to lower tax on Queensland families and business."

"If a government isn't waking up every morning lowering taxes on business... when you lower taxes you drive investment."

"Every day we will look to spend people's money with people with respect, that it deserves, and if you do that you can lower taxes on people."

"Good governments should always look at... lowering taxes on business. When you lower taxes on business, you drive investment."

A public copy of the relevant is available online via the following link https://www.facebook.com/watch/live/?ref=watch_permalink&v=1029541827931380

In my view, it is reasonable to interpret the Leader of the Opposition's foreshadowing 'every opportunity to lower taxes' in a direct reply to a question about his policy on progressive royalties, as both a lack of support for the program as it stands and a statement of intention to remove or reduce the existing progressive coal royalties.

Member for Burdekin

On 20 July 2022, opposition frontbencher and Shadow Minister for Rural and Regional Affairs, the Member for Burdekin, was reported to have publicly declined to say that the LNP supported the royalties and instead promised to "*sit down*" with the mining lobby.

This was reported by the Mackay Daily Mercury as meaning "*the LNP has indicated it might walk back its support*".

Member for Condamine

Subsequently, in an article dated 9 December 2022, the current LNP Shadow Minister for Resources, the Member for Condamine, gave an interview to the IndustryQld publication.

The Member for Condamine is reported as stating "*We didn't support the royalties tax per se,*" before stating, inaccurately, that the LNP was "*required*" to vote for royalties measure as part of the appropriation.

Mr Weir was asked as to whether the LNP would rescind the royalties. Mr Weir did not deny this, instead saying "*as to where we stand, that will be closer to the election.*"

Mr Weir went on to say:

"...until we actually see the state of the books, it's very hard for us to just come out and say we'll knock it on the head immediately, because I think we'll be facing a big black hole."

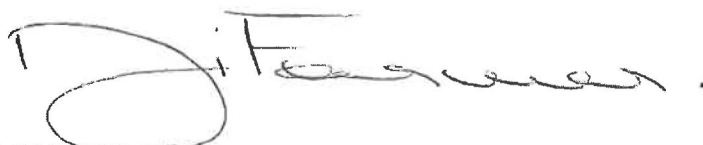
In a broader context, the LNP members have made a number of comments indication dissatisfaction with the royalties, detailed at Appendix 1.

My statements were not, as a matter of fact, misleading. I refer to previous Speaker's Rulings where it is stated: "*the nature of political debate is that members engage in argument by discussing opposing viewpoints or different opinions, oftentimes using different expressions, statistics or methods of calculations*".

For the reasons above, my statements were not misleading, and are consistent with political debate; where opposing sides express different expressions and opinions, based on past fact.

Given this, I respectfully submit that the matter should not warrant the further attention of the House.

Yours sincerely



DI FARMER-MP
Minister for Education and
Minister for Youth Justice

Your Ref: 240328-OUT-Farmer

APPENDIX ONE – LNP QUOTES

Indiscriminate, unplanned and uncommunicated changes of this nature and magnitude make Queensland a less attractive place for companies to invest in. There is no denying that whatsoever.

David Janetzski MP, Shadow Treasurer, 24/06/2022 (Hansard pp 1912)

During the debate on this bill I pointed out that the resource companies in this state, the ASX listed resources, took a massive hit because it was seen that the government had changed the rules on them. That is what sovereign risk is.

...

Sovereign risk is when companies make a decision based on what a government has told them and then the government changes the rules. This is what has happened in this case.

Coalmines, for instance, have made a decision to invest in a coalmine, to dig that dirty black stuff out of the ground and to sell it to somebody, and at the end of the day the government comes in here and changes the rules on them.

Michael Hart MP, Member for Burleigh, 24/06/2022 (Hansard pp 1916-1917)

The other thing you have to realise about royalties is that, while you have increased royalties and the price is high, resources companies have high input costs...

The margins are very slim at the moment, so just be a little bit careful. ...

Lachlan Millar MP, 24/06/2022 (Hansard 24/06/2022)

Former resources minister Keith Pitt confirmed he had put in an urgent request for the issue to be debated at the LNP's annual state convention this weekend. ...

He said the State Government's Budget hike was unacceptable, considering estimates it would take a \$15 billion bite out of investment into Queensland's resources sector due to a slide in business confidence.

The Courier Mail online, 8 July 2022, 'Qld Budget 2022: Mining royalties hike naive, says LNP'

The Opposition Leader also would not say whether he supported the coal royalties increase, instead slamming Treasurer Cameron Dick for breaking an election promise that there would be no new or increased taxes.

The Courier Mail online, 9 July 2022, 'Qld Politics: LNP leader David Crisafulli won't be drawn on gender quotas'

They put contracts in place, they make agreements with somebody who is going to spend money and bring business to this state, and then they change it after the money has been spent. It is the same as what they did with coal royalties. They got companies which have in good faith built coalmines and then they changed the rules...

Michael Hart MP, Member for Burleigh, 14/10/2022 (Hansard pp 2845-2846)