



Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 3 March 1999

ATTORNEY-GENERAL BILL

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (5.53 p.m.), in reply: I will deal firstly with the concerns raised by the member for Gladstone. As to restoring confidence in the rule of law, this Bill deals in general terms with enshrining the independence of the Attorney-General—it does so on the basis of the report of the Electoral and Administrative Review Commission—rather than with the specific issues which caused the motion of no confidence in the former Attorney-General. The Fitzgerald report stressed the need for impartiality of the office of Attorney-General, and that is what led to EARC's report. The Labor Party went to the last election promising to introduce legislation along the lines of the EARC report, and it intends to honour that promise.

The question was asked by the member: what has changed since the PEARC report? What has changed has been a profound shaking of public confidence in the office of Attorney-General as a result of the former Attorney-General having had a royal commission struck down in the Supreme Court for bias and then demonstrating his contempt of this Parliament by refusing to resign, notwithstanding a motion of no confidence. The Bill seeks to strike a balance between what the honourable member refers to as the concerns of lawyers and the concerns of the community. Its concern is with the public interest as manifest in the terms of the Bill. As to the member's concern about whether it would extend the opportunity for malicious or vexatious litigation, the Bill makes it clear that it neither extends nor reduces the opportunity for judicial review of decisions of the Attorney-General. With respect to the question raised by the member for Indooroopilly, yes, the two roles of Attorney-General and Minister for Justice can be separate.

I thank the member for Kurwongbah, who spoke eloquently on this Bill. What has changed since the EARC report may be summarised in two brief matters. Firstly, with respect to the Director of Public Prosecutions, issues relating to potential conflict with the Director of Public Prosecutions Act 1984 have been ironed out, and I table a copy of a letter from Mr Royce Miller, QC, the Director of Public Prosecutions, dated 8 August, confirming that there is no conflict between any of the provisions of that Act and the final draft of the Attorney-General Bill. Secondly, with respect to the evolution of the office of Attorney-General, that is made clear from clause 8 and clause 9 of the Bill. If one looks at the Explanatory Notes, in particular at clause 7, one notes that it does not operate as a code. With respect to consultation, there has been extensive consultation through EARC, PEARC and then initially upon the Government coming to office. With respect to the issue of precedents, there are precedents in the Federal arena in Canada, and I table the Department of Justice Act which sets out in section 5 certain powers, duties and functions of the Attorney-General. There are precedents in other Canadian Provinces.

With respect to the complaint by the member for Warwick that this would lead to the politicisation of the Attorney-General's office and the unnecessary debating in this House of issues such as the fiat, let me just say that that is pretty rich coming from the member for Warwick, who threatened publicly to bring on a debate in this House over the conduct of an appeal in a specific criminal case. He now comes in here and argues completely inconsistently that it might lead to the politicisation of debate in this House. That is pretty rich.

The Government opposes this delaying tactic on the part of the Opposition. Today is the first time that the Opposition has sought to refer this matter. It is a can't do tactic from a can't do Opposition. This Government has a mandate to introduce this Bill. It was an election promise and we intend to honour our promises.