



Speech by

Mr BRUCE LAMING

MEMBER FOR MOOLOOLAH

Hansard 5 October 2000

MR SPEAKER'S RULING

Mr LAMING (Mooloolah—LP) (10.26 p.m.): I rise to speak in support of these motions of dissent. Various Opposition members asked questions only vaguely associated, if at all, with a current inquiry. These questions were ruled out of order on the basis of matters before the CJC.

I refer initially to our own Standing Orders which are, unfortunately, silent on this issue. As it usually the case, we then refer to the House of Commons. The first point in Erskine May at page 377 says—

"Subject to the discretion of the Chair and to the right of the House to legislate on any matter or to discuss any matters of delegated legislation, matters awaiting the adjudication of a court of law should not be brought forward in debate."

It is clear that the Chair has a discretion and is not tightly bound by precedent. It is therefore even more important to ensure that these discretionary rulings are made in line with current thinking. We should not therefore be pursuing old precedents, as it is clearly a matter of discretion of the Chair.

I then sought a more recent ruling from the House of Representatives and I quote Speaker Snedden in 1977, when he said—

"The question of sub judice rule is difficult. Essentially it remains in the discretion of the presiding officer. Last year I made a statement in which I expanded on the interpretation of the sub judice rule which I would adopt. I was determined that this national Parliament would not silence itself on issues which would be quite competent for people to speak about outside the Parliament. On the other hand, I was anxious that there should be no prejudice whatsoever to persons faced with criminal action. But I was not prepared to allow the mere issue of a writ to stop discussion by the national Parliament of any issues. Therefore I adopted a practice that it would not be until a matter was set down for trial that I would regard the sub judice rule as having arisen and necessarily stifle speeches in this Parliament."

However, honourable members would be well aware of the report of the Members' Ethics and Parliamentary Privileges Committee report of July 1997. One of that committee's conclusions was—

"During its review of the sub judice convention, the Committee received no evidence to suggest that the right of the House to legislate on any issue, and to debate any matter in the public interest, should be diminished.

On the contrary, submissions to the Committee reinforce the Committee's view that the current application of the sub judice convention in Queensland is unduly restrictive on the rights of the House, and that its application in particular circumstances may need to be relaxed."

The committee went on to say—

"The Committee is of the opinion that if members continue to be prevented from discussing matters of public interest by the application of the sub judice convention, particularly concerning proceedings which may be freely ventilated in the media, parliament could be seen as being irrelevant. The parliament should not be a secondary forum for public discussion."

Honourable members will be well aware that these issues are canvassed daily in the metropolitan print and electronic media. The member for Caloundra's question has been printed word for word in the Courier-Mail. Should matters going to the CJC be regarded as sub judice?

I refer again to the committee's report where it states—

"Evidence before the Committee clearly indicates that the Queensland parliament's privileges of free speech in respect of royal commissions, tribunals, or other bodies exercising similar functions are unduly restricted through the application of the sub judice convention as recommended by the Select Committee of Privileges in its 1976 report.

Indeed, the Committee is not convinced that there is any reason for the convention to apply to royal commissions and similar bodies.

. . .

Accordingly, the Committee recommends that the sub judice convention no longer apply to the proceedings of royal commission, tribunals, or other bodies exercising similar functions."

Who was on that committee and did not present a dissenting report to my knowledge? The member for Ashgrove and the member for Currumbin! I hope to see them be consistent and vote with the Opposition tonight. I expect them to vote that way tonight. If they do not it will left to the casting vote of the Speaker. Mr Speaker, it might come to your casting your vote against your previous rulings so that this matter can be rectified.
