



Speech by

Mrs J. SHELDON

MEMBER FOR CALOUNDRA

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STANDING RULES AND ORDERS

Mrs SHELDON (Caloundra—Lib) (12.18 p.m.): As a member of the Members' Ethics and Parliamentary Privileges Committee during both this term and last term, I certainly will support the motion before the House today. I have been privileged in serving as deputy chair to both of those committees and I would like to state how well I felt the previous chairman, Mr Mickel, ran that committee as well as the current chairman, Mrs Attwood. It is a harmonious committee. We work well. I know we have another previous member here, Mr Reeves, the member for Mansfield. Everyone contributed very well to that committee.

Many people may think that the committee does not meet often. However, I can assure the House that we have had countless long meetings, sometimes all day, in camera. Many issues have been brought up by both members in this House and the public who have accessed the facilities of that committee. We have been asked to report on the comments of strangers to the House and as to whether or not privileges and ethics of the House have been broken by members. Citizens' rights will also be incorporated in *Hansard* in a form that the committee has agreed to which covers their issues of concern. These are all big advantages.

Before I proceed further, I do have to comment on the words and behaviour of the Premier this morning. I was a minister in government when Mr Beattie was first a member of the opposition and then the Leader of the Opposition. To say that robust debate happened in the ranks of the opposition back then would be to put it mildly. It was more like a rabble. To hear the Premier stand up and say, 'This performance is terrible. We can't have the opposition interjecting. That is not the role of parliament,' is a nonsense. It would seem that there is one rule in this House for the opposition and one rule for the government under Mr Beattie. What a prima donna performance we had this morning. No wonder he is a member of Actors Equity, and I have to say that this morning he would have got full value from his membership fees.

This House is for robust debate. Of course interjections will occur when, as usually happens in this place at the moment, our questions are not answered by ministers or Mr Beattie. The greatest load of waffle I have ever heard has come from that side of the House, particularly since the last election and the fact that the government has 66 members. Arrogance is the pervasive attitude. It would be nice to have equal rules for both sides of the House. We are happy to conform to that, but let us have none of the hypocrisy we had in here this morning—members standing in here with their lips clenched between their teeth and all the other rot, which would not happen unless we had the cameras here.

A government member interjected.

Mrs SHELDON: This is an issue, because we are debating standing orders, matters concerning members before the House and issues that members have to raise and must raise. So I think it is appropriate that those things be said. I had no intention of saying them in this debate until I saw the behaviour and heard the words of the Premier this morning.

The issue dealt with in this cognate debate is very important. I do congratulate the government on bringing these motions on for debate. Issues such as these have been hanging around this parliament for a long time. It is important that the work of the committee, which is bipartisan, and the reports that have been issued are included in the requirements of the House. If they are not, people can rightly say, 'Why do we have these committees and why do they sit?' It is most appropriate that at

the end of the day every member in this House has a right to speak to a motion to say whether or not they agree with the content and whether or not they believe it should be adopted, because we are a committee of the House. We are certainly not autonomous.

The issue of sub judice has been one of controversy in this House over a number of years. Similarly, the question as to what is and is not sub judice has been raised by both sides of the House. It is more often that this issue arises when oppositions try to raise questions and governments do not want them raised, regardless of the political persuasion of the government of the day. Therefore, it is commonsense that the sub judice convention and rule outside this House be the rule applied inside this House. Essentially, the rules of sub judice were put in place so that juries could not be adversely affected in a case—usually only a criminal case—where what was said and reported in the media may be adverse to a fair finding. This House should abide by those principles. However, sub judice has been used in here to gradually suppress any issue the government of the day did not want raised in relation to royal commissions, commissions of inquiry and civil cases. In fact, what has happened in this House with regard to the rule of sub judice has become a nonsense.

Mr Fouras interjected.

Mrs SHELDON: The convention, Mr Fouras, was breached in this place. The convention used was not the convention set up outside the House for very right and dutiful purposes. Rather, at times it was used for political advantage in this place. I am not putting blame on any particular shade of government. It is right that the sub judice convention be adopted. It is an interesting and important convention, particularly for new members of the House. There are many complexities in this place and more and more onus is placed on members to ensure that they have it right. There has also been an increase in media coverage, and that has been mentioned earlier.

It is interesting to note that the media has the right to cover everything done in parliament, but it does not. It is only ever present at question time, which is the theatre of this House, and that is why the public thinks that that is all we do. As all members know, most of the work of this House is quite sober and dedicated. Members make speeches pertaining to issues of interest to their electorates and legislation is passed. It is often a great pity that debates such as that are not shown to the public so that it can get a broader concept of what happens in parliament and the role and functions of our parliament.

There were a number of recommendations of the committee regarding the practice of sub judice applying to the Legislative Assembly and, therefore, I intend to touch on them in general. I think it is important that they are enshrined in *Hansard* so people know what they are. The report relating to the sub judice convention states—

- (a) In general, care should be exercised to avoid saying inside Parliament that which would be regarded as contempt outside Parliament and could jeopardise court proceedings.

I have already mentioned that. It continues—

- (b) Matters awaiting or under adjudication in all courts exercising a criminal jurisdiction should not be referred to (in motions, debate or questions) from the moment a charge is made. The convention shall cease to have effect when the verdict and sentence have been announced or judgment given, but shall again have effect should a Court of Criminal Appeal order a new trial, when this would be regarded in the same light as an initial hearing.
- (c) Civil cases in courts of law where a jury is to be empanelled should not be referred to (in motions, debate or questions) within the period of four (4) weeks preceding the date fixed for trial. (NOT from the time a writ is issued.)
- (d) The convention does not apply to other civil proceedings.
- (e) The convention does not apply to the proceedings of royal commissions and similar tribunals.
- (f) The convention does not apply to in camera committee proceedings. However, committees should ensure that any evidence taken is not published until after the criminal or civil proceedings are finalised, unless the committee believes that there is an overwhelming public interest in the release of the evidence.
- (g) The convention is always subject to the right of the House to consider and legislate on any matter.

I believe that these are very good recommendations. I would urge the House to support them in a bipartisan manner.

The second issue pertains to procedures for raising and considering complaints of breach of privilege or contempt. The committee certainly took quite a long time to consider these issues. The report and attachment A, which we are talking about, is quite comprehensive. If members are not too sure exactly what is contained in that report, I suggest that they get a copy of report No. 36, because there is too much to go into in full detail here. In a nutshell, it talks about matters of privilege suddenly arising, committee reports and the Speaker's initiative. It talks about other matters of privilege. It sets out how a member can go about asking that a matter be sent to the Members' Ethics and Parliamentary Privileges Committee. Attachment A to the report states—

- (1) A member should write to the Speaker at the earliest opportunity stating the matter of privilege and requesting that the matter be referred to the Members' Ethics and Parliamentary Privileges Committee.

- (2) An allegation of breach of privilege or contempt must be formulated as precisely as possible so as to give any person against whom it is made a full opportunity to respond to the allegation.
- (3) The Speaker considers a matter of privilege and determines if a question of privilege is involved.
- (4) In considering if a question of privilege is involved, the Speaker takes account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in the House in respect of the matter. No question of privilege is involved if the matter is technical or trivial and does not warrant the further attention of the House.
- (5) The Speaker ... may request further information for the complainant.

I do believe that in the past—it was alluded to by a previous speaker—members on both sides of the House indulged in trying to get things through to the privileges committee that, frankly, should never have gone there, and some of them succeeded. A lot of the time of the privileges committee was taken up in dealing with what were particularly political issues, frankly.

It was also stated that the Members' Ethics and Parliamentary Privileges Committee is a bipartisan group. Now there are Independents and members of other minor parties on it. It is not a political committee, so it should not be treated as such. There was a fair degree of anger amongst all members at some of the matters that were coming before us when there were other vitally important things that had to be considered. That does not mean to say that we should not be looking at matters of privilege, because that is obviously part of what the committee does.

Hopefully the recommendations of the committee will be followed because certainly matters of privilege of this sort have not been coming to the committee as often. I think it is important that the House follows the procedure recommended by the current committee. Otherwise the whole committee process becomes a laughing stock. I think this is much more evident when the numbers in the House are very close. When there is a majority of one the situation becomes very political, but it should not be allowed to because enough politics goes on in here, outside and everywhere else. I think the procedures of the House need to be sanctioned from that. It may well happen—politics is cyclical—that the parties get back to the situation of having very narrow margins. I would like to think that in that case those procedures would not be followed again and that the House would look very clearly at what it is doing. I think the procedures have been clearly spelt out in terms of lodging a complaint and what has to happen.

The report talks about contempt of the House. In essence, contempt of the Assembly means a breach or disobedience of the powers, rights and immunities of the Assembly or its members or committees. Conduct, including words, is not contempt of the Assembly unless it amounts or is intended or likely to amount to an improper interference with either the free exercise by the Assembly or a committee of its authority or functions or the free performance by a member of the member's duties. The latter is very important.

Any members who experiences any interference with what they are trying to do as a member of parliament should report that. There have been incidences of it in the past and I think often new members are not sure whether they can report it. If it is not something that should come before the committee, then it will be dealt with. But members should not be interfered with in any way in terms of the fair carrying out of their work as members of parliament, regardless of their politics, because they are elected primarily to represent constituents, although in our political system one sometimes wonders. But that, I am sure members would all agree, is their primary function. People elect them to the House to represent them on matters and issues of concern to them that they want seen to. I do not think we should ever forget that.

The third issue involved the Standing Orders Committee reviewing the current standing rules and orders with respect to the declaration of pecuniary interest in debate and other proceedings. There has been a lot of debate on this recently, too, particularly in the previous parliament. Again, a lot of it was based on political issues. Nevertheless, it is very important that a very clear guideline on the pecuniary interests of members is available to the members and set down very clearly so that there can be no misinterpretation of that.

I think sometimes in the past members have been caught up because the guidelines were too flimsy, frankly, and those who really were honest and genuine and looked at these issues said, 'Where are we supposed to go with this?' Unless there are very clear guidelines, it can be very difficult. I think it is very important.

I am pleased that the Premier is supporting the recommendation that the Standing Orders Committee review those current standing rules and orders and that part of that review consider placing all standing rules and orders dealing with the conduct of members in one chapter or part so that members can go to that chapter and see what is required of them. The consequences of not meeting those requirements are pretty drastic. Sometimes I think people in sheer ignorance do not meet the requirements. It is not that they are trying to create a contempt of the House; because they do not know what those requirements are, they have not addressed them. If the provisions are all mixed up

and people have to really seek them out, sometimes it is very difficult. So if all the relevant standing rules and Orders are in one part, members can look at them very easily.

I will quote the proposed new convention that the committee recommended in terms of the declaration of pecuniary interest in debate and other proceedings. It states—

- (1) Notwithstanding compliance with any other order of the House concerning the disclosure of interests, a member shall, in respect of any question in the House, declare any pecuniary interest (of which the member is aware) (whether or not it is a matter of public policy) that the member or a related person has in the question if such pecuniary interest is greater than the interest held in common with subjects of the Crown or members of the House generally.
- (2) The declaration in (1) above shall be made—
this is important to realise—
 - (a) at the beginning of their speech if the Member participates in debate on the matter in the House, Committee of the whole Legislative Assembly, or a Committee of the Legislative Assembly; or
 - (b) as soon as practicable after a division is called for on the matter in the Legislative Assembly, Committee of the whole Legislative Assembly, or a Committee of the Legislative Assembly, if the member proposes to vote in that division.

Quite often with the work members have on hand they are not in the House. Unless they are listening to the broadcast, members may not know that a debate about an issue in which they have a pecuniary interest is under way. I think it is very important when bills are introduced that members look at the bill, look at what it is about and look particularly at the explanatory notes, for example, and ask themselves, 'Do I have a pecuniary interest in this?' They should know in advance and take particular notice from the orders of the day where the bill is. This issue was raised: 'We did not know that debate was on. How could we declare a pecuniary interest when we did not know it was on?' This became an issue not so much if the person had not participated in debate on the bill but if they came in to vote and they were voting on something in which they did have a pecuniary interest and they did not really realise the implications.

Members can get advice on this matter, particularly from the Clerk or the Speaker. It has to be a reasonable pecuniary interest and one that could be beneficial to members, in terms of voting in a particular manner on that bill, or could be so interpreted. When members look at the bill they might say, 'That seems a pretty dry issue,' but it is not really when it pertains to members here in the House, where it could be a problem.

I think members would agree that these are very worthwhile recommendations. It is important that they are accepted. I do believe that they will be accepted by the House. I certainly commend them to the House.
