



Speech by

Annastacia Palaszczuk

MEMBER FOR INALA

Hansard Wednesday, 29 November 2006

CRIMINAL CODE AMENDMENT ACT

Ms PALASZCZUK (Inala—ALP) (6.00 pm): I rise to support the amended motion moved by the Attorney-General and Minister for Justice. It is interesting that the opposition wants to cover old ground. Over the past two days we have witnessed an extraordinary event in this parliament where the Leader of the Opposition has made comments in this House that he would dare not utter outside the chamber. As the member for Nicklin stated earlier this morning—and I have the greatest respect for him—

Today, I have not heard one credible piece of evidence to substantiate the allegation—not one.

Parliamentary privilege should be used wisely. It should not be used recklessly or with the intention to mislead. All members should be treated with the utmost respect. If a member is to use this House to make statements, that member needs to be able to back them up with evidence. In any court of law evidence is produced to put a case with a judge making a decision as to whether or not that evidence is admissible. Over the past two days we have witnessed an extraordinary situation in which the Leader of the Opposition has produced not one single piece of evidence and has decided that he alone should be judge and jury. In relation to the matters that he raised in this House, let me repeat this: there is not one shred of evidence, and for that reason alone the Leader of the Opposition should be ashamed.

I turn to the matter in question, the amendments to the Criminal Code. The Members' Ethics and Parliamentary Privileges Committee Report No. 78, which was tabled in this House on 11 August, clearly stated—

The Criminal Code Amendment Act 2006 repealed s 57, which had provided that false evidence before a parliamentary committee was a criminal offence.

Let me also add from the same record. It states—

Section 57 of the Criminal Code provided that a person is liable to imprisonment for 7 years for knowingly giving a false answer to any lawful and relevant question put to the person in the course of an examination before the Legislative Assembly or one of its committees. The Criminal Code Amendment Act 2006, assented to on 1 June 2006, repealed s 57. False evidence before a parliamentary committee is now no longer a criminal offence, but remains liable to be dealt with as a contempt of parliament.

This is the correct decision and brings Queensland in line with the rest of the states. For the benefit of members, I point out that it has brought Queensland into line with the position of the House of Commons and the federal houses of parliament and other states and territories. It would be useful at this stage to go through the other relevant jurisdictions and detail their positions in relation to contempt of parliament and criminal offences in this regard. In the Commonwealth parliament the giving of false or misleading evidence by members and nonmembers can be punished as contempt of the Senate or the House of Representatives, but there is no legislation making it a criminal offence. The Leader of the Opposition may wish to apply the kinds of statements that he and his colleagues have made in this place to his federal government colleagues. I will wait to see his media release.

Article 9 of the United Kingdom Bill of Rights will protect a member of the House of Commons or House of Lords with regard to the criminal law in respect of anything said in parliament. The giving of false evidence can be treated in the relevant house as a contempt.

A Privy Council decision in 1886 held that powers of the New South Wales Legislative Assembly did not extend to the punishment of contempt or the unconditional suspension of a member. New South Wales never enacted general powers for the punishment of contempt of its parliament. There are no provisions which purport to make members of the New South Wales parliament subject to criminal sanctions for knowingly giving false evidence.

In Victoria the Constitution Act 1975 provides for a penalty of perjury where evidence is given under oath. However, that act protects members from criminal sanction in this regard. In South Australia the Criminal Law Consolidation Act 1935 specifically provides that nothing in it derogates from parliamentary privilege. In Western Australia criminal prosecution does not apply to members of the House.

Under the Tasmanian Parliamentary Privileges Act, each house has the power to punish certain incidents of contempt in a summary way. However, section 12 of that act states that the privileges of either house will protect members in relation to an offence if the conduct concerns a proceeding of the House. As the former Attorney-General stated in her speech on the original bill—

This bill is not about giving the green light to lying. Misleading the parliament or a committee of the parliament is wrong—pure and simple. What this bill is about is the appropriate sanction for misleading the parliament and the appropriate body to deal with issues surrounding the running of parliament and parliamentary procedures.

In Queensland today members and nonmembers are liable to be dealt with for contempt of parliament under the Parliament of Queensland Act 2001. The repeal of sections of the Criminal Code remove an anomaly that existed in this House and had no foundation in the Westminster system. It is interesting that, if we followed what the member for Maroochydore and the member for Caloundra were arguing today, we would never amend any section of the Criminal Code; we would keep it as it was in the late 19th century. I thoroughly support the amendment proposed by the Attorney-General.