



Speech by

Mark McArdle

MEMBER FOR CALOUNDRA

Hansard Tuesday, 31 October 2006

PATEL, DR J

Mr McARDLE (Caloundra—Lib) (11.55 am): I start by also joining with the Acting Attorney-General in wishing the member for Kurwongbah a very speedy recovery. He was absolutely right when he made the comment that this House can be very harsh and unforgiving. For people who are of a nature which means they cannot cope with that well, it can be critical to their health. I hope she and her family recover speedily and she is back in this House exceptionally soon.

Of late we have seen the role of the Office of the DPP and indeed the role of the director herself come under intense scrutiny as a consequence of actions by this government and, in particular, comments made by the Premier. One may ask: has the role itself been denigrated to the point that the office no longer maintains the independence expected of it? In my opinion, it is time to renew the expected and required roles of the Office of the DPP and the position of the Director of the DPP.

Equally, it is time for this House to renew and confirm the independence of that office. The Office of the DPP has a critical role to play in our own criminal justice system and is charged with ensuring that serious crime is prosecuted through the court and bringing to justice those who flout our laws. The office has many other duties and obligations but I would like to focus on its role in the criminal justice system. If the Director of the DPP is to perform, she must be financed and resourced adequately. Equally importantly, she must be independent from outside sources which attempt to interfere with that role. Without that independence the office becomes merely an extension of the government and the public perception and regard for the office falls. This not only results in a loss to the criminal justice system as a whole and the Office of the DPP but also attacks a cornerstone of the judicial system. It becomes a dependent body of this House.

It is important to look at what has recently occurred and what brings us to this very poor situation. In or about February this year the Office of the DPP was given a brief of evidence relating to Jayant Patel. The issue became alive in June this year when a meeting was held between the DPP and the then Attorney-General. The facts then become a little blurred, but suffice it to say that the former Attorney received advice from the DPP and then sought the advice of the Solicitor-General on the same topic.

The first point here is that the Attorney rejected the advice of the DPP—the sole officer charged to investigate the matter on behalf of the people of Queensland. The second point is that the former Attorney then sought advice from a second legal officer who is not, as far as can be judged, in possession of the brief of evidence and that officer's advice was preferred to that of the DPP.

It is interesting to note that the Acting Attorney-General today stated that the brief of evidence before the DPP consists of some 35,000 documents and that that documentation has been with that officer since February 2006. It is somewhat difficult to understand how a second legal officer, without full access to all those documents, was able to prepare a legal advice that was preferred over that of the DPP.

There has been a clear decision made to reject the advice of the independent body charged with determining this very important question. This can only be seen as depreciating the role of the DPP and is

seen as a fishing expedition to obtain advices to sustain a desired position. It is interesting to note that Sue Lappeman in the weekend bulletin of 21-22 October quotes the Premier as saying—

I have to be frank here, if you have the advice of the DPP and the advice of Walter Sofronoff—you have to make a choice.

In my opinion, in making that statement the Premier perpetuates the lack of independence of the DPP, depreciates that person's and that officer's role and, in fact, attacks the very cornerstone of our criminal justice system. If that is the case, why have a DPP at all? In essence, why not farm out the documentation to various barristers throughout Brisbane and obtain the advices that he seeks to satisfy his political gains? The Premier's statement perpetuates the decreased role of the DPP in this state and critically undermines the further action that that office may take in regard to this matter or, for that matter, in other matters.

Finally, in 1994 the New South Wales Court of Criminal Appeal said—

What is the object of having a Director of Public Prosecutions? Obviously, it is to ensure a high degree of independence in the vital task of making prosecution decisions and exercising prosecution discretions.

Time expired.