Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard Thursday, 25 May 2006

CRIMINAL CODE AMENDMENT BILL

Hon. PD BEATTIE (Brisbane Central—ALP) (Premier) (9.03 pm): I want to make a number of comments which I think put this in perspective. The first thing I want to say is that it is pretty clear that the members of the opposition want to filibuster so that they come back here tomorrow. The Leader of the House and I have had a discussion. My concern is that we need to start at 8.30 in the morning and I am not going to have the staff of this parliament finishing in the wee hours just because of some filibustering.

Opposition members interjected.

Mr DEPUTY SPEAKER: Order! The Premier has the floor and the Premier will be heard.

Mr BEATTIE: I make the point that the staff of this parliament are employees and I believe that they need to be given appropriate—

Opposition members interjected.

Mr BEATTIE: This is just typical of the rabble opposite. They are into personal attacks. They never want to say anything positive. Those opposite have to be the greatest whingers of all time.

Mr CALTABIANO: I rise to a point of order.

Mr SPEAKER: What is the point of order?

Mr CALTABIANO: I will wait until the Premier has resumed his seat. I take personal offence at that remark and ask that it be withdrawn.

Mr SPEAKER: The Premier did not direct it to you personally.

Mr CALTABIANO: I take offence under standing order 234 and ask that that remark be withdrawn.

Mr SPEAKER: Take your seat. He did not refer to you personally.

Mr BEATTIE: That is typical. Those opposite have no understanding of the privileges of this parliament. The Liberal Party used to stand for principle and the institution of parliament; it no longer does, nor does it stand for the rule of law. There are staff in this parliament who deserve to be treated with courtesy. Hence I have agreed with the Leader of the House that when I finish my contribution we will adjourn and we will meet tomorrow. Of course I have no concerns at all about the government's position on this amendment. I fully support it. We are happy to come back here and debate it tomorrow because what we are doing is sensible and is consistent with the principles of parliaments in the rest of Australia.

If the opposition had a serious point, what is it? Let us look at the precedents. If there were any sense of argument in what the opposition is talking about, then we would find jurisdictions federally and in the other states with a similar provision. Are there any in application? The answer is no, there are not.

Opposition members interjected.

Mr BEATTIE: The rabble opposite who seek to destroy the institution of parliament should at least have the courtesy to listen, like we did in terms of their contribution. Let us talk about the Commonwealth.

Mr Seeney: You haven't listened to any of it. You haven't been here.

Mr SPEAKER: Order! Member for Callide!

Mr BEATTIE: The member for Callide may know that there is a thing called a television. I will introduce him to the 20th century one today. Let us look at the issues here. Is there a valid case for what those opposite are saying either here or in some of the media commentary? The answer is no. What is the position of John Howard, the Liberal Prime Minister? Does the Commonwealth have a similar provision? The answer is no. What is the position federally? 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. What is good enough for John Howard has got to be good enough for the Queensland parliament. What is good enough for the National Party federally has got to be good enough for the Queensland parliament. If there is validity in the argument of those opposite, then why aren't John Howard or the National Party doing the same thing? It is an open and shut case and those opposite know it.

Opposition members interjected.

Mr SPEAKER: Order!

Mr BEATTIE: The Senate does not have a criminal offence and nor does the lower house. Let us not have any more hypocrisy. Is there a position federally that supports the view of those opposite? The answer is no. Frankly, that is the end of the argument. But there are more examples. In relation to the United Kingdom, the advice I have been given is this: it is clear that a member who gives false evidence on oath in parliamentary proceedings would in any case be protected by parliamentary privilege against any criminal proceedings. In the mother of all parliaments is there a similar provision? The answer is no, no and no. So there is no provision in the Commonwealth and there is none in the mother parliament. They are the two precedents—none—that is, no similar provision in either of these parliaments.

Let us move on to New South Wales. What is the New South Wales provision? A Privy Council decision in 1886 held that the powers of the Legislative Assembly do not extend to the punishment of contempt or the unconditional suspension of a member during the pleasure of the Assembly. New South Wales has never enacted general powers to punish for contempt of its parliament. Whilst there are sections for dealing with the giving of false sworn evidence, these do not apply to members, which was what was always intended in Queensland until the opposition sought to distort it. Consequently, there are no provisions which purport to make members of the New South Wales parliament subject to criminal sanctions for knowingly giving false evidence. So we have the Commonwealth, we have the United Kingdom and now we have New South Wales, none of whom agree with the position taken by the opposition.

Let us move on to Victoria. The Constitution Act 1975 provides that every person examined under oath before the Council or the Assembly who wilfully gives false evidence shall be liable to penalties for perjury. The Crown Solicitor is of the opinion that the act protects members from criminal action. So, are members subject to this? The answer is no. We have the Commonwealth, the United Kingdom, New South Wales and Victoria—

Mr SPEAKER: Order! Member for Darling Downs and member for Warrego, please have some courtesy. Take your seats and allow the Premier to continue in silence.

Mr BEATTIE: Let us move on to South Australia. The Criminal Law Consolidation Act 1935 makes it an offence for a public officer to act improperly and makes it an offence to make a false statement under oath, with the penalty being perjury. However, there is no provision about the powers of a house or a committee to place a person on oath to give evidence. Importantly, the Criminal Law Consolidation Act 1935 specifically provides that nothing derogates from parliamentary privilege. Therefore, it appears that even if perjury offences can apply to giving evidence on oath in parliament it cannot apply to members.

I turn to Western Australia. Western Australia adopted Queensland's Criminal Code with some alterations, and section 57 was adopted in its entirety. The act goes on to provide that the House can direct the Attorney-General to prosecute any person instead of proceeding summarily. However, the Crown Solicitor's opinion is that the section that enables the House to direct the Attorney-General to prosecute is drafted in a way where it appears to apply to nonmembers. Western Australia adopted our section 57 and yet its Crown Solicitor says that it does not apply to members; it applies to nonmembers only. Therefore, section 57 of the Western Australian Criminal Code could be construed as applying to only nonmembers because the House could not direct the Attorney-General to prosecute a member for a breach of section 57. When they took our act, they determined that it applies to nonmembers, not to members.

Opposition members interjected.

Mr SPEAKER: Order! I have been fairly lenient when I have been in the chair tonight. There are members on my left-hand side who are trying to make a mockery of this parliament. I have had enough. I am going to start asking people to leave this chamber. Have you all got the message loud and clear?

Mr BEATTIE: Let us move to Tasmania. Although Tasmania adopted the Queensland Criminal Code, substantial modifications were made. Section 57 does not appear in the Tasmanian code. In the ACT, there is no legislative equivalent to section 57 of the act.

What does this summary really prove? What it proves is that there is no application in any of those jurisdictions that I referred to that would apply section 57 to a member. It is an absolute nonsense and, frankly, some of the media commentary on this is nothing but simply an antipolitical, antigovernment position. There is no foundation. I challenge the National Party, the Liberal Party and any media commentators to find any jurisdiction in Australia that applies a similar provision to section 57, because there is none.

Let us not have any more nonsense about this. It is a dishonest argument that is put forward by those opposite for nothing more than cheap political purposes to target a former government minister. That is what this is all about. It is about personal denigration—nothing else. Anyone who comes in here and tries to put forward a credible, ethical argument has none, because where is a similar provision in the Commonwealth? Where is a similar provision in the United Kingdom, the mother parliament? Where is a similar provision in New South Wales, Victoria, South Australia, Tasmania or Western Australia?

It does not matter who wants to score cheap political points—whether they are an Independent member or not. The reality is that this provision was never meant to apply to members. Anyone who suggests otherwise is simply dishonest. I am not interested in the dishonesty and the fraud that exists in this place. The reality is that this provision was never meant to apply to members of parliament, and that is a fact.

Those two jurisdictions which applied our provision when it was drafted by Griffith, who was a great Premier of this state and a learned jurist, have applied it in such a way that it does not apply to members. That is a fact. It does not matter how those opposite try to interpret it for some silly reason. That is a fact. Anyone who wants to argue otherwise is doing so for some cheap political purpose—either to grandstand in their own electorates or to be party political, and that is the end of it.

The final point I want to make is this: if those opposite want to take these provisions to their final extent, have a look at section 56. Section 56 of the Criminal Code provides that it is a misdemeanour to disturb the Assembly. Half the National Party would be in jail tomorrow if that were the case and some of the Liberal Party as well. What a nonsense!

A government member interjected.

Mr BEATTIE: That is right. And the member for Nanango and others who poured milk down the front of this parliament.

A government member: You would be in jail.

Mr BEATTIE: She would be in jail under this provision. The member for Nanango would be in jail, yet she is one of the people who has the hypocrisy to come in here and oppose this amendment. She would be in jail.

The reality is that we are absolutely consistent on this. Members of parliament should have the ability to express their views, which is what the parliament was designed to do. Find me one legislature in Australia that implements section 57 or section 58 the way those opposite want. These are antiquated pieces of legislation that were designed to protect the parliament in an era that is different from today. They were never meant to apply to members. They were meant to apply to nonmembers who come here to disrupt the parliament or its committees.

Frankly, the lack of understanding in the political debate by members of parliament about privileges and the law is nothing short of appalling. If we have this sort of ignorance about these institutions, then God help us, because we are supposed to uphold these institutions. If they believe in these institutions, they have to understand them. There is no excuse to sit here in an uninformed way. Members of parliament have an obligation to learn about the parliament, understand the traditions and understand the history.

Mr Rickuss interjected.

Mr BEATTIE: I say to the member for Lockyer: ignorance is no excuse. He has an obligation to inform himself. Being ignorant of the law is no excuse. Being ignorant of the traditions of this place is no excuse. Frankly, there used to be a day when the conservatives actually stood for the institutions. When I grew up, the conservatives—the Liberal Party in particular—actually stood for something. The Sir Gordon Chalks of this world were great Queenslanders who made a very significant contribution.

Mr Schwarten interjected.

Mr BEATTIE: People like Sir William Knox as well, I agree, made a significant contribution to the public life of this state. I did not always agree with them, but Sir Gordon Chalk was one of the great Queenslanders who led the Liberal Party. If they had Sir Gordon Chalk in here, he would be appalled at the ignorance and the cheap point-scoring we are seeing from the Liberal Party. The National Party has always been a waste of time when it comes to institutions, but the Liberal Party would have stood for something. Frankly, I find it an appalling state of affairs that those members do not understand the law. The ignorance of the traditions of this parliament is simply appalling.

I know that those opposite are going to try to score cheap political points. I understand that, but they have an obligation to learn about this parliament and its institutions. If they do not, then they are not worthy of being a member. For God's sake, look at what applies in the rest of Australia. Do not come in here with knee-jerk reactions. Get some information, some education and learn about this parliament, of which those opposite are supposed to be learned members.

At the end of the day, we will support this legislation because it is right. It is about time that we got rid of some of these anachronistic provisions that have been around since Adam and Eve were in shorts. It is about time that we had some modernisation. We should do some of that to the standing orders as well. This is about modernising the operations of the Queensland Parliament and, frankly, it is long overdue.