Speech by

Rosa Lee Long

MEMBER FOR TABLELANDS

Hansard Wednesday, 24 May 2006

JUDICIAL PROCEEDINGS, PUBLIC INVESTIGATION

Ms LEE LONG (Tablelands—ONP) (5.56 pm): I rise to support the motion moved by the member for Gladstone for the appointment of a special prosecutor to examine both the Heiner affair and, importantly, the alleged pack rape of a 14-year-old girl. Critically important to this debate are these words in the March 1990 cabinet submission relevant to the Goss cabinet's decision to shred the Heiner inquiry documents. The submission states—

Representations have been received from a solicitor representing certain staff members at the John Oxley Youth Detention Centre. These representations have sought production of the material referred to in this submission. However, to date, no formal legal action seeking production of the material has been instigated.

Clearly, at the time the Goss cabinet took the decision to destroy those records it unquestionably knew that it was destroying evidence that may be required in foreshadowed court proceedings and was getting in quickly before the expected writ arrived. That was the cabinet submission that Premier Beattie refused to provide to Mr Tony Morris QC in 1996—the same person who as Premier in 2000 said on the floor of this parliament that he believed anyone who breaks the law in his party should go to jail.

I will read what the CJC chief complaints officer, Mr Michael Barnes, stated at page 4 of a highly confidential internal memorandum dated 11 November 1996 to his bosses at the time, Messrs Mark Le Grand and Frank Clair, about Mr Morris's interpretation of section 129 of the Criminal Code, which deals with the destruction of evidence. He states—

While the authors refrain from making any findings of guilt in relation to Cabinet on the basis that they are unaware of the state of knowledge of these ministers concerned, memoranda from Matchett to Warner strongly suggest that the knowledge which Messrs Morris and Howard deem sufficient to inculpate the departmental officers involved was shared by the politicians who gave the order to shred the Heiner documents.

The Queensland Court of Appeal ruled in R v Ensbey that the relevant judicial proceedings did not have to be on foot before section 129 could be triggered. The question needs to be put: was section 129 of the Criminal Code so difficult to understand? It states—

Any person who, knowing that any book, document or other thing of any kind, is or may be required in evidence in a judicial proceeding, wilfully destroys it or renders it illegible or indecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour and is liable to imprisonment with hard labour for three years.

In R v Ensbey, Pastor Ensbey was found guilty just on a reasonable suspicion. In other words, he had to reasonably know that the diary in which a girl recounted being abused and which he guillotined into strips would be required for any future police investigation.

In Heiner, all those involved unquestionably knew that the records were required when they ordered their destruction to prevent their use in those anticipated court proceedings. Given that they also knew or suspected that the records included evidence about the worst kinds of abuse of children, they ought to have sent the evidence to the police or the CJC. If this had happened, those records would be available now, in 2006, for the police to use as contemporaneous probative evidence for Ms Annette Harding, the then 14-year-old pack rape victim, as she seeks to bring her alleged assailants to justice.

In fact, now that a police investigation is underway into Ms Harding's rape allegations, we have an Ensbey scenario repeating itself. The police ought to act consistently in respect of those who destroyed

relevant evidence all those years ago. In short, what is good for a minister of religion is good for the minister of the Crown, even an entire cabinet.

A matter as potentially as serious as this very seldom comes before parliament. It is an unavoidable test for us all as to whether we are prepared to put the rule of law before party political allegiances. Today as a parliament we have an opportunity to unite to remove the foul stain left by what is now known as the Heiner affair.

Finally, we must not forget where all this began. It began with the pack rape of a 14-year-old-girl. That case was compounded by alleged subsequent brutal assaults on other child victims. It became a stain on the government of this state when decisions were taken to shred the evidence.

Members must do the right thing. We must let justice be done and remove this taint. I urge members to vote to appoint a special prosecutor to let the administration of justice take its unhindered course and support this motion.