



Speech by

## Rosemary Menkens

MEMBER FOR BURDEKIN

Hansard Thursday, 25 May 2006

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### CRIMINAL CODE AMENDMENT BILL

**Mrs MENKENS** (Burdekin—NPA) (6.21 pm): I rise to speak to the Criminal Code Amendment Bill. I vehemently oppose this legislation and all the other members of the coalition also vehemently oppose it. Government is ultimately about accountability. That is why we are all here. The government should be accountable to the people of this state whom it represents. But the government should also be accountable to the members of this assembly.

The stated intent of this bill certainly does not go against that principle of accountability. That stated intent is honourable. It is to have the same effect as article 9 of the Bill of Rights 1688. Article 9 provides that the freedom of speech in debates or proceedings in parliament ought not to be impeached or questioned in any court or place outside of parliament. There is absolutely no doubt that freedom of speech and parliamentary privilege must be protected and preserved at all costs. It forms the basis of our democracy. In essence, parliamentary privilege is the freedom of the House to conduct its proceedings without interference from outside bodies and without interference from the courts. To a certain extent, the immunities and rights that attach to parliamentary privilege flow from article 9 of the Bill of Rights 1688. Article 9 allows members of the House to speak freely in the House without fear of subsequent legal action on the grounds of libel.

Within parliament the rights and privileges of all members are overseen by the Members' Ethics and Parliamentary Privileges Committee, which has as one area of its responsibility the ethical conduct of members. That is consistent with the tenets of the Parliament of Queensland Act 2001 and the intent of article 9. It is in tune with the democratic tradition of checks and balances in government and it is an intrinsic part of a member's right to freedom of speech within the House.

However, there is a huge difference between maintaining freedom of speech to protect a member from libel and using freedom of speech to knowingly give false answers to the House or to a committee of the House. It is the difference between privilege and contempt. We should give very careful consideration to this difference.

Members of this House have privileges that must not be abused. The ethics committee monitors and reports on suspected breaches. No doubt, inadvertent breaches are an occupational hazard in the high-pressure environs of the floor of the House when a member perhaps has had no time in which to properly undertake research in order to construct an answer. But that is not the concern of this bill. This bill is concerned with a member knowingly and willingly giving a false answer to a lawful and relevant question to the House or to a parliamentary committee.

A major concern is when this conduct occurs in committee hearings. There is no defence for the indefensible. Inadvertent slips or mistakes are inevitable and forgivable. They have often happened. But deliberately misleading and false behaviour is avoidable and it is inexcusable. There can be no acceptable reason for such behaviour, and such breaches of privilege should be punished to the fullest extent by this House.

We in this House operate in a very robust and sometimes very entertaining environment. Often no quarter is asked for or given. But implicit in the dealings of this House is an expectation on all members in this House of honesty, integrity and ethical behaviour. As members of this parliament, we are responsible

and accountable to ourselves, to our fellow members and to the public of Queensland. Just as we support freedom of speech, so should we decry the abuse of freedom of speech. Freedom of speech is a right of the members of the House. The expectation that at all times we are honest should be balanced with the responsibility that goes with it. We cannot have one without the other; otherwise the proceedings and the deliberations of the House become open to suspicion and open to derision. All that occurs in the House can become tainted and open to question.

If this bill is passed—and I have no doubt it will owing to the numbers in the House—the removal of sections 56, 57 and 58 of the Criminal Code will remove the powers of the court to decide if a false answer has been given to a lawful and relevant question to the Legislative Assembly or to a committee of the Legislative Assembly. This bill will also subsequently remove the court's ability to impose punishment if a charge is proven.

All members of this Legislative Assembly have taken an oath of office or made an affirmation of allegiance in which they sincerely promise or swear to perform the duties and responsibilities of a member to the best of their abilities and according to law, be it the law of the land or the law of the parliament.

Sitting suspended from 6.29 pm to 7.30 pm.

**Mrs MENKENS:** This amendment sends the wrong message to the community. It sends a message that Queensland politicians and public servants are above the law of the land, and this is totally incorrect.

I have heard tonight quite a lot of spirited debate on this bill. I have heard it said that this legislation brings us into line with the Commonwealth parliament and with other states. But, as opposition members have said, this is a unicameral parliament. We do not have the backing of a second house of parliament. I have heard it said that no other parliament has a section 56. That is fine, but there again we do not have a second house of parliament to give us that accountability. Regardless of how righteously the government supports this legislation and how great its argument is, ultimately it will be the constituency, the people of Queensland, who will judge us as members of parliament.

It is rather difficult when we consider what the average person thinks of politicians. Very sadly some years ago I looked at an Australia-wide survey of who people trust the most.

**Ms Molloy:** Your mum.

**Mrs MENKENS:** You trust your mum. The people who came out at the top of the list of who was trusted most—

**Mr Langbroek:** Dentists.

**Mrs MENKENS:** Yes, dentists were up there, weren't they? If I rightly remember—and correct me if I am wrong—ambulance personnel were at the top.

**Ms Molloy:** And nurses.

**Mrs MENKENS:** And nurses were up there and dentists were up there, too.

**Mr Rickuss:** Where were politicians?

**Mrs MENKENS:** Politicians were way down at the bottom, and that is tragic. Public servants were also at the bottom. Having been one of each, that was not very encouraging for me to see. But that is the perception of politicians out in the community. It is a tragedy, and this legislation is not going to help that perception. This bill is about perceptions in the community, be they right or wrong. We cannot put government members and public servants above the law of the land. That is a dreadful message to send.

Tonight we have heard, as I have said, quite a few speeches in this debate. The Attorney-General is a very genuine person. She has brought this legislation to the parliament. Looking at the speaking list, I am quite astounded at how little support she has from government members on this bill, as the member for Callide commented. We heard a very learned speech from the member for Murrumba which I enjoyed. I did not agree with it all, and I probably did not follow it all, either, but it was an extremely good speech. I certainly congratulate him for that. It was well done. I note that the other two government members who will speaking—how can I tactfully put this—would probably be described as the hard hitters of the other side. I am not sure how much their participation is going to add to the government's support of the bill. However, we will wait and see.

I feel very sorry for the Attorney-General. She is out there. She has put this bill up. She is going to be known as the Attorney-General who brought this bill into parliament. And where is all the hot air from that side of the parliament? Who is supporting her? Nobody. Why? Because they do not want to go back to their constituency and say that they have voted for this bill. It is all about perceptions and they do not want their names on it.

**Mr Malone:** They'll vote for it.

**Mrs MENKENS:** They will vote for it, but they will not speak on it. And why not? As I say, I feel sorry for the Attorney-General.

**Mr Hopper:** They aren't intelligent enough to make a contribution that the Premier can trust.

**Mrs MENKENS:** Is that what it is? Thank you. I take that interjection. However, I am disappointed from that perspective.

We have heard quite a bit about the fact that the Members' Ethics and Parliamentary Privileges Committee will make the judgement on the rights and wrongs of any issue. I question the ethics of why a parliamentary committee can be seen to be making a judgement on citizens and public servants. I query the processes that are going to be involved in that.

Supporting freedom of speech does not condone, allow or excuse knowingly false or misleading information. It is the members' responsibility, individually and collectively, to assist and support the Members' Ethics and Parliamentary Privileges Committee in ensuring that these amendments do not alter the expectations of what constitutes ethical and honest behaviour. We do not want to be seen to impugn the integrity or alter the public's faith in how elected members carry out their duties and meet their responsibilities. I am extremely concerned about the perceptions in the community and the effect that this bill will have and is having on the community at large. To that extent, I cannot support this bill.