



Speech by

Mark McArdle

MEMBER FOR CALOUNDRA

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MOTIONS: DISSENTS FROM SPEAKER'S RULINGS (COGNATE DEBATE)

Mr McARDLE (Caloundra—Lib) (3.41 pm): I rise to support the dissent motions that are being debated in a cognate form today. I start by making this very clear statement: it is the function and obligation of this House to allow debate on behalf of the public on issues that are of concern to them and that right needs to be jealously guarded. We must never forget that that is the right and obligation of members of this House and that the public expect that to be upheld.

In many cases this is, in fact, the only place where these matters can be determined and the government's involvement scrutinised. No-one denies the decision of the guilt or innocence of an individual charged with a crime is the province of the judicial system. This place cannot and must not interfere with that process. At the same time, this House is the people's House. If we ever lose sight of that principle, the basic tenet of this House's existence is shattered. The opposition is charged and obligated to pursue the government and scrutinise its actions and inactions and every leeway within the confines of the standing orders needs to be given by the Speaker in his role to permit that obligation to be pursued. Without that it is the people's rights that are trampled, it is the people's rights that are being denied, and that is contrary to the basic principles under which this House operates and stands.

It is also the right of the members in this House to dissent from the Speaker's rulings and to have that dissent motion debated in the House. The Deputy Premier's comments that the opposition is being mischievous and questioning the authority of the Speaker is absolutely ridiculous. If the day ever arises that an opposition in this state, irrespective of which party it is, does not have the right of appeal then we have torn up the fabric of society and the democracy in which we live.

The real question is: where else can the people and the opposition go to bring the government to account? The questions posed yesterday were said to offend standing order 233. As explained by the member for Moggill, to constitute a contempt of court a matter must have 'a real and definite tendency to prejudice or embarrass particular proceedings', the test being 'the effect upon an ordinary, reasonable member of the community'. No-one denies that contempt of court in its many facets threatens our judicial system, but there is no way any comment or question raised in this House yesterday can be constituted as a contempt within the definition of the ordinary, reasonable man test that I have outlined.

The situation here in Queensland permits an Attorney-General to bring a prosecution of his own in relation to criminal matters that he or she so determines. It is not right for this parliament then to use its sub judice rules to block scrutiny of an Attorney-General or government's action in relation to the bringing of those charges, unless that action itself touches upon the matters before the court. To do so is to deny this House a fundamental right and to deny the opposition and the people of Queensland its entitlement to question and scrutinise the government.

When one considers the questions that were posed yesterday, not one touches upon the issues before the court. There is not one question that would interfere with or tend to interfere with the administration of justice. There is no way an ordinary, reasonable member of the community would consider the fact of leaking a report would have an impact upon the guilt or innocence of an individual. If

the debate was the content of the report that would be a different matter entirely. That would put this House into debating the guilt or innocence of an individual. That was not the case yesterday.

Similarly, there is no way questions as to why a report was leaked would constitute an interference with the court process, unless it is alleged that the leaking itself is part of a legal proceedings or in some manner itself touches upon the guilt or innocence of an accused. The fact of the leak has never been alleged as being part of a legal process.

This House must use sub judice rules in a manner in which they protect the legal process. There is no doubt about that. But equally this House must use sub judice rules in a manner that protects and enhances the role of this House. The questions yesterday did nothing more than probe the government. They did not transgress either in word or spirit the intent of standing order 233. One has to question why the government is so concerned about scrutiny. Why is the government so concerned about the process that it put in train that it has shut down debate?

The final point is this: never forget that the Attorney-General has the right to prosecute in this state. That means that the government selects the timing for the laying of the charges. Consider this: the *Courier-Mail* in Monday or Tuesday's paper lays out reasons why the charges should be laid. Suddenly, on that same day, the gentleman is charged with serious criminal offences. Can anyone possibly believe that that was not a manoeuvred, manipulated situation by a cynical—

Mr DEPUTY SPEAKER (Mr English): Order! I have just received advice that you are transgressing onto a specific matter. Were you here for my initial ruling?

Mr McARDLE: I was and I withdraw that comment. I apologise for any comment I may have made. The comment that I would conclude with is this: this House has a right, as every opposition has a right, to question the government. No-one within the rules of decency and sub judice should inhibit or in any way detract from that right.