



MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE

REPORT NO. 54

MATTER REFERRED BY THE SPEAKER ON 31 JULY 2002 RELATING TO IMPROPER REFLECTIONS BY A MEMBER ABOUT THE IMPARTIALITY OF THE SPEAKER

1. BACKGROUND

On 30 July 2002, during a ministerial statement by the Premier regarding salinity, the Member for Warrego, Mr Howard Hobbs MP, was named by the Speaker under Standing Order 123A(3)¹ and withdrew from the House. Mr Hobbs subsequently held a media interview regarding the salinity matter.

On 31 July, an article² was published in *The Courier Mail* that contained improper reflections on the impartiality of the Speaker, attributed to the Member for Warrego. The article quoted Mr Hobbs as claiming that the Premier had ordered the Speaker "to be unfair".³

In the House on 31 July 2002, the Speaker made a statement regarding the matter, and the following exchange ensued.

Mr Speaker: *Order! Honourable members, media reports indicate that the member for Warrego outside the chamber questioned my impartiality and suggested that I acted under instructions from*

the Premier. It is important that I reiterate that I am completely impartial and self-motivated in standing up for the rights of members from the National Party, the Liberal Party, One Nation, the Independents and Labor backbenchers who wish to hear the answers to questions put to ministers. The member for Warrego's reported statements constitute a serious disrespect for the chair and for the parliament. For the sake of those institutions, I now give the honourable member the opportunity to repudiate those reported statements or apologise to the chair and to the parliament.

Mr Hobbs: *Mr Speaker, one thing that I will not apologise for is standing up for my electorate. But there is another thing that I believe is important and that is the institution of parliament. If in some way I have offended the institution of parliament, I humbly apologise. But there is no way in the world that I will apologise for standing up for my electorate.*

Mr Speaker: *That does not constitute an apology to the chair and to the parliament.*

Mr Hobbs: *As I mentioned—*

Mr Speaker: *I want an unreserved apology.*

Mr Hobbs: *I respect the institution of parliament. Therefore, I give an unreserved apology to the*

¹ Standing Order 123A—Power to order withdrawal of disorderly member. See *Hansard*, 30 July 2002, at 2254-2256.

² Chris Jones and Matthew Franklin, 'House umpire stooge sledge', *The Courier Mail*, 31 July 2002, at 2.

³ Note 2.

parliament and to you, Mr Speaker, if you believe the words that I have said are offensive.

Mr Speaker: *Unreserved.*

Mr Hobbs: *That is what I am saying.*

Mr Speaker: *I am not accepting that. I will refer this matter to the privileges committee. The matter is now referred to the privileges committee.*⁴

In his letter dated 31 July 2002 concerning the referral of the matter to the committee, the Speaker wrote—

Further to my matter of privilege raised in the Parliament today, I write in relation to the Member for Warrego, Howard Hobbs MP, and his failure to appropriately apologise to the chair and Parliament for his comments outside the Chamber following his ejection on 30 July 2002.

...

*I gave the Member for Warrego the opportunity this morning to repudiate responsibility for the comments attributed to him. ... Unfortunately, the Member for Warrego chose to qualify his apology with reservations.*⁵

2. APOLOGIES AND RETRACTIONS

There is no standing rule or order in the Legislative Assembly's *Standing Rules and Orders* that governs the form of apologies in the House. Standing Order 333 of the Assembly states that in all cases not specially provided for by the standing, sessional or other orders, resort shall be had to the rules, forms and usages of the United Kingdom House of Commons, which shall be followed by the Assembly as far as possible.

Erskine May's *Parliamentary Practice* provides the following comment about the practice

⁴ Queensland Legislative Assembly, *Hansard*, 31 July 2002, at 2345.

⁵ Letter from the Speaker to the committee dated 31 July 2002.

adopted by the House of Commons concerning the retraction of offensive words, and the making of sufficient apology for using disorderly or unparliamentary words for which a retraction is sought.

*Where any disorderly or unparliamentary words are used, whether by a Member who is addressing the House or by a Member who is present during a debate, the Speaker will intervene and call upon the offending Member to withdraw the words. If the Member does not explain the sense in which he used the words so as to remove the objection of their being disorderly, or retract the offensive expressions, or make a sufficient apology for using them, the Speaker will repeat his call for the words to be withdrawn, and inform the Member that if he does not immediately respond to it, it will be the duty of the Chair to take action in pursuance of Standing Order No 43.*⁶
[Emphasis added.]

2.1 Retractions under Standing Order 120 of the Legislative Assembly

The only standing order of the Assembly that is relevant to this matter is Standing Order 120, which states that "... all personal reflections shall be deemed highly disorderly." The standing order, however, provides no guidance to members as to the appropriate form of a retraction; nor does it deal with the issue of apologies.

The established practice of the Assembly regarding personal reflections is that, if a member objects to certain words used by another member, those words must be withdrawn by the offending member. The

⁶ Sir Donald Limon and WR Mackay, *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 22nd ed, Butterworths, London, 1997, at 394. Standing Order 43 provides that the Speaker, or the chairman, shall order any Member or Members whose conduct is grossly disorderly to withdraw immediately from the House during the remainder of that day's sitting.

unqualified form of words used in such cases is generally, “I withdraw”.⁷

Retractions by members in the House have at times been accepted when they include a form of words such as, “I withdraw whatever the member finds offensive”. This is not to say, of course, that the practice of members making qualified retractions is appropriate. Unfortunately, the practice of allowing ‘qualified’ retractions under this standing order arguably complicates this issue.

2.2 Form of apologies

An apology by a member is only slightly different to a retraction. An apology should not be qualified by a subjective preface such as, “If you believe the words I said were offensive, I apologise.”

The clear implication given by such a qualification is that the member making the apology does not believe that the words complained of were, in fact, offensive.

The Concise Macquarie Dictionary defines ‘apology’ as “an expression of regret offered for some fault, failure, insult or injury”.⁸ A qualification, such as above, means there is no expression of regret offered. It is not an apology.

3. THE COMMITTEE’S INQUIRY

At a meeting on 31 July 2002, the committee resolved to seek a written submission from the Member for Warrego regarding the matter.

In his submission dated 6 August 2002, the member addressed the issue of his apology in the House and the accuracy of the comments attributed to him in the published article.

3.1 The member’s submission

Mr Hobbs advised the committee that he was given no notice of the matter of privilege raised by the Speaker in the House on 31 July 2002, the specific nature of the Speaker’s complaint or the statement in the article that was complained of.⁹ The member advised that his first reaction was to respond to the issue of which he was suspended—the issue of salinity. Mr Hobbs stated—

*Therefore, my first action was to refuse to apologise for standing up for my electorate on that matter. I was not addressing the issue of an apology to the Speaker in my initial statement.*¹⁰

Mr Hobbs advised the committee that, in subsequently addressing the issue of an apology he believed that he had offered a genuine apology to the Parliament. Mr Hobbs stated—

When the Speaker pointed out that the apology should be directed to himself, I accepted that point and offered a genuine unreserved apology to the Parliament and Speaker on any comments that I made outside the Parliament that Mr Speaker believed in his opinion were offensive or could have been a breach of Parliamentary procedures. This is the same form of apology that is offered by Members and accepted by the Speaker on a daily basis in the Parliament.

*... I was unsure if I had officially breached the procedures of Parliament [in regard to the attributed statements outside the House] at that time. Nevertheless, I was prepared at the time to let Mr Speaker be the judge on whether the words I was reported to have said were offensive and an unreserved apology was given. I was extremely surprised and disappointed that Mr Speaker rejected this genuine apology.*¹¹

⁷ See, for example, *Hansard*, 6 October 1981, at 2210; *Hansard*, 12 November 1981, at 3520-3521.

⁸ Delbridge A and Bernard JRL (eds), *The Macquarie Concise Dictionary*, The Macquarie Library Pty Ltd, Sydney, 1988, at 39.

⁹ Hobbs submission, 6 August 2002, at 2.

¹⁰ Note 9.

¹¹ Note 9.

The member rejected the assertion that his apology was qualified with reservations.¹²

3.2 Statements attributed to the member

In referring to the comments in the article attributed to the Member for Warrego, the Speaker stated in his letter to the committee that—

I gave the Member for Warrego the opportunity this morning to repudiate responsibility for the comments attributed to him. Specifically, that "... Mr Hobbs, said he believed Mr Beattie instructed Mr Hollis to eject him ...". He did not deny making such a statement.

The Member for Warrego, however, questioned the accuracy of the reported comments. Mr Hobbs advised the committee—

... The Courier Mail article referred to by Mr Speaker carried a headline and introduction designed by that publication to carry the story. Other comments regarding the Speaker that were attributed to me were general in nature. The phrases used in the Courier Mail story do not match the wording in the transcript and, it can be surmised, were so compiled to condense and present the story.

In his referral to your committee, Mr Speaker specifically made mention of the sentence in the Courier Mail that "... Mr Hobbs said he believed Mr Beattie instructed Mr Hollis to eject him ...". Again, that sentence was attributed to me by the newspaper. I did not state that the Premier had instructed the Speaker to "eject" me.

The Courier Mail story also states that I claimed the Premier had ordered the Speaker "to be unfair." An examination of

*the transcript again reveals that I did not use those words.*¹³

3.3 Seriousness of improper reflections on the Speaker

In a 1990 report relating to reflections on the Speaker published in a media release by the then Member for Roma, the Legislative Assembly's Select Committee of Privileges stated that the media release—

*... directly attacks the impartiality of the Speaker. ... Such comments in the form of a media release are highly injurious to the standing and authority of the Speaker and in direct contravention of the rule forbidding reflections on the impartiality of the Speaker.*¹⁴

That committee found that the then Member for Roma had committed a breach of privilege. The Assembly in that case imposed a penalty on the member of 7 days suspension.

The select committee's report serves as a guide to all members that the House may treat any improper reflections on the impartiality of the Speaker made outside the chamber as a contempt of the parliament's privileges.

4. ANALYSIS

The committee believes that the essence of this issue revolves around the form of words used in the apology by the Member for Warrego, and their acceptability to the Speaker.

4.1 The committee's responsibilities

The committee's consideration of this matter was complicated by the fact that there is no specific standing order dealing with the form and content of apologies in the House.

¹² Note 9.

¹³ Note 9.

¹⁴ Select Committee of Privileges, *Matter referred by the Legislative Assembly on 7 June 1990*, Queensland Legislative Assembly, 1990, at 16.

The committee recognises that the lack of guidelines for members in this area has the potential to create some difficulties for members. In practice, it is generally up to the Speaker or the Chair whether or not they accept the form of words offered for an apology.

Under s.92(1)(b) of the *Parliament of Queensland Act 2001*, the committee's area of responsibility about the ethical conduct of members includes—

the reform of legislation and standing rules and orders about the ethical conduct of members ...

The committee gave careful consideration to the standing rules and orders in connection with this matter. We also noted that the apology and withdrawal processes of the Assembly have been abused by members over time and have become an unfortunate 'cultural development' that has evolved into a practice that can bring disrespect and disrepute to the Assembly generally.

4.2 The member's apology

We believe that, whilst members have a duty to speak up for their electorates in the House, this can be done without reflecting on the impartiality of the Speaker and while still upholding the ethical standards and reputation of the House.

Although the Hansard indicates that the Member for Warrego did attempt an apology, it is clear that the Speaker did not accept the form of words offered ("*Therefore, I give an unreserved apology to the parliament and to you, Mr Speaker, if you believe the words that I have said are offensive*") as an appropriate apology.

It is also clear that the words "if you believe the words that I have said are offensive" were obviously taken by the Speaker as a qualification of the apology.

As stated above, these words, or similar, are often used by members in retractions in the House. Normally these words are said after a member withdraws an offensive statement or word.

We are concerned about the 'cultural development' that has evolved into a practice whereby members' retractions include unnecessary added elements, including qualifying words.

4.3 Comment

The standing orders in relation to retractions and apologies are unhelpful to members because they refer to personal reflections only in general terms.

The practices of the House are similarly unhelpful, because a degree of ambiguity and inconsistency has evolved as to the form of apologies and retractions.

The committee believes that there is a need to set out in the standing orders the requirement that an apology or retraction shall not be qualified. This standard should then be strictly enforced.

The committee takes this opportunity to emphasise, however, that improper reflections on the Speaker inside or outside the House may be treated by the House as a serious contempt and a breach of the parliament's privileges (see part 3.3 above).

5. CONCLUSION AND RECOMMENDATIONS

1. There is no standing order or rule relating to apologies of this nature, and the standing orders themselves are inadequate in this regard.

In line with its responsibilities outlined in part 4.1 above, the committee has

considered this deficiency and believes that the deficiency should be rectified.

2. The committee recommends that the Standing Orders Committee consider adopting a new standing order that makes it clear that an apology or retraction required under standing orders, order of the House or the Chair shall not be qualified.

The committee considers that a new standing order could be as follows:

Apologies and retractions

- (1) *A member required under these standing orders, or pursuant to any other order of the House or the Chair, to make an apology or retraction in the House shall make an unreserved and unqualified apology or retraction.*
- (2) *An apology or retraction is not unreserved or unqualified if it is phrased in a manner that:*
 - (a) *in the case of an apology, indicates the member does not regret their statement, or*
 - (b) *in the case of a retraction, does not accept that the words were offensive, unparliamentary or disorderly.**

*(*Example: An apology or retraction is not unreserved or unqualified if it includes "I withdraw whatever the member finds offensive" or "If in some way I have offended I apologise".)*

3. Taking the current deficiency of the standing orders into account, the committee has decided to recommend that, on this occasion, the Assembly take no further action in regard to the current matter of Mr Hobbs' apology to the Speaker. However, pending the recommended change to the standing orders, Mr Hobbs and all members

should be cautioned to exercise due care when making future apologies or retractions in the House.

Julie Attwood MP
Chair

21 August 2002

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