



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**DISSENT FROM RULING**

**SPEECH**

**Tuesday, 7 December 2004**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Tuesday, 7 December 2004  
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**Questioner**  
**Speaker** Gillard, Julia, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Ms GILLARD** (Lalor—Manager of Opposition Business) (2.48 pm)—Mr Speaker, I second the motion and I concur with the Leader of the Opposition. This is a shameful day on which you have made a ruling which would protect the worst forms of corruption in government and leave them unaccountable to the House of Representatives. Let us be very clear about what has happened here, Mr Speaker: this minister has sent a letter to the member for Capricornia dated 2 December. She only had two capacities on 2 December: she was the Minister for Veterans' Affairs and she was the private person Mrs De-Anne Kelly. Is anybody in this House contending that she sent that letter in her private capacity as a citizen of Australia? No, no-one is because no-one could. The only other capacity she had on that day, apart from her truly private capacity, was as a minister in this place—a Minister for Veterans' Affairs—and we are seeking to ask her questions about that.

The effect of the ruling you have made, Mr Speaker, is in direct contradiction to the standing orders. You could not get a clearer contradiction to the standing orders. If I could take you to standing order 98(c):

A Minister can only be questioned on the following matters, for which he or she is responsible or officially connected:

(i) public affairs;

Are you suggesting her sending a letter to the member for Capricornia about the dispersal of government money is not public affairs? Well, was is it? Coming out of her bank account, is it? Is that where the money came from? It must be public affairs and it is public affairs. The question ought to be allowed and the ruling is wrong.

But of even more concern, you allowed the first question from the member for Capricornia and you only ruled this way after a point of order by the Leader of the House. Can I remind you, Mr Speaker, I was without joy at this dispatch box last week in a dissent motion where, when the Leader of the House replied, he conceded that he, the government, had put you in a difficult position by the framing of a question to the minister for education and what had flowed from the framing of that question.

Mr Speaker, can I remind you that just less than a short week ago we were in this very same place courtesy of the antics and tactics of the Leader of the House. You have only ruled this way on the urging of the Leader of the House, and in his urging he is directly wrong—directly in contradiction of the standing orders; directly wrong in terms of proper accountability to this House; directly wrong in any understanding of the proper dispersal of taxpayer's funds. The Leader of the House ought to have been told when he sought this ruling from you that it was wrong and you were not going to give it.

I would ask you to reflect, Mr Speaker, on the fact that within less than a week we are back to the same place, with a dissent motion following a bad ruling, which conduct by the Leader of the House led to. I would ask you to reflect, Mr Speaker, when you do have time to reflect on this debate, on whether that is going to be the course of dealing in this House. Because, if it is going to be the course of dealing in this House, if the Leader of the House is going to rise and seek to have you make these rulings, then you will always be in this position. The problem for you, Mr Speaker, is that just after he has put you in this position he gives you up. He is not even a loyal friend, not even an ally in your time of need, because what he has effectively done in respect of your ruling—

**Mr Causley**—Mr Speaker, I raise a point of order. The member for Lalor is now reflecting on the chair. She should be settling the dissent motion and clearly stating where they are dissenting from the ruling of the chair.

**The SPEAKER**—I would say to the member for Lalor that this is a motion of dissent and I would ask her to keep to the motion before the chair.

**Ms GILLARD**—Mr Speaker, I am just indicating that I am a better friend of yours than the Leader of the House is, because halfway through this dissent motion, having made the point of order that led us to this, the Leader of the House has now given you up and has basically sought to get out from under this dissent motion. He knows

that what he should really do, given the view he has formed, is direct government members to vote for this dissent motion, but he knows inevitably where that leads.

So now we are going through the farce where you, Mr Speaker, ruled out of order the Leader of the Opposition's question, we are going to presumably have an unsuccessful dissent motion on it and then the Minister for Veterans' Affairs is going to get up and answer the question. That is what is going to happen in this place now. That is exactly what is going to happen in this place. You ruled out of order the Leader of the Opposition's question, on the urging of the Leader of the House; we have moved a motion of dissent on your ruling; the government is going to use its numbers to vote down that dissent; and then she is going to get up and answer the question. Do you think that is how the House of Representatives should run, Mr Speaker, or would it have been better to have ruled against the Leader of the House when he made the point of order? Would it have been better to do that, Mr Speaker?

That is where we are—in a grand absurdity which would be a grand absurdity of humorous proportions if it were not about such a serious issue. What we have here on the face of it is a minister of the Howard government, a minister of the Crown, making arrangements in relation to taxpayers' money which are not within her portfolio area. That is what this is about. The Minister for Veterans' Affairs is just that—the Minister for Veterans' Affairs. And, presumably, as Minister for Veterans' Affairs she gets to disburse funds in the veterans' affairs portfolio. What she does not get to do is disburse funds in other portfolios, and that is what she has purported to do and that is what we are asking about and that is why our question is in order.

The examples that the Leader of the Opposition gave are absolutely right. Are you suggesting through this ruling, Mr Speaker, that the best way of hiding inappropriate use of taxpayers' funds in government is for people to do it outside their portfolio? Would the minister for immigration or the Attorney-General be protected from questioning in this place if they disbursed funds in the health portfolio? Would that protect the minister from questioning? Would it protect the minister for health from questioning if he purported to disburse funds in the education portfolio? Would that actually protect him from questioning? That is the essence of this dissent motion. I know it is hard for you to follow—

**Ms GILLARD**—I know it is hard for you to follow, Member for Sturt—many things are hard for you to follow—but try following this—

**Mr Tuckey**—Mr Speaker, I raise a point of order: could you please request that the member for Lalor direct her remarks through the chair?

**The SPEAKER**—The honourable member for Lalor, I am sure, will follow that point of order.

**Ms GILLARD**—Thank you, Mr Speaker; I understand your trials are many, and we have just had another of them on display! The essence of this dissent motion, which apparently is beyond the intellectual wit of some on the other side, is this: you ought to be able to ask a minister about a letter sent out in an official capacity. Just because she is purporting to exercise authority under another portfolio does not make it right and does not make the matter immune from questioning in the way in which your ruling has made it, Mr Speaker. That is the essence of the problem here.

We are now in circumstances where, when we seek to ask questions on these issues, you presumably—if this dissent motion is not upheld—will continue to rule them out of order, Mr Speaker. So apparently the only snippets of information we are ever going to get are the ones that the government is prepared to volunteer. Apparently it is prepared to volunteer a snippet of information today, as we found out mid-dissent motion. But, Mr Speaker, under your ruling, if we have further questions about that snippet of information then presumably they could be ruled out of order. What sort of position is that to put the House of Representatives in—where, if a government volunteers a piece of information, that is okay, but, if in the proper exercise of our democratic duty as members of the House of Representatives and most particularly as members of the opposition we seek to question and hold government ministers to account on those snippets of information, that further questioning will be ruled out of order? That is the position that we are in today.

**Mr Kerr**—The Leader of the House shouldn't take the point next time!

**Ms GILLARD**—I think, as suggested by the member for Denison, we would all be better off if he did not take the point next time. But what I fear is that we will be in an inevitable cycle where, without judgment, as he has

already demonstrated twice, he will take the point, you will rule, Mr Speaker, and we will end up in a cycle of dissent motions.

**The SPEAKER**—Order! The member will come back to the motion.

**Ms GILLARD**—Yes, Mr Speaker. On the motion of dissent on the ruling that you made today, I am making what I think is the very clear point that the effect of your ruling is that there could be acres of government information—filing cabinets full of documents; computers with hard disks in overload, there is so much information stored on them—that we would never be able to ask about in this House of Representatives. That is the effect of your ruling today, because all the government needs to do to protect itself from questioning is to get a non-portfolio minister to deal with the matter.

In the face of that ruling, is that not what you would do if you wanted to have a bit of a dodgy grants program, if you wanted to hand out a little bit of pork here or if you wanted to protect something from public scrutiny? With this ruling on the books, next time would you not say to yourself: 'If I do that directly, I will be subject to questioning about it. If I hand it to the minister next to me, then I will not be subject to questioning about it.' That is where we are driving to with the current ruling, and why it must be dissented from. It is wrong, it is bad, it is offensive in the spirit of holding the executive government to account and it is wholly outside the standing orders. These standing orders do not say that you can only come in here and ask a minister about the minutiae of their portfolio. These standing orders use the terminology 'public affairs'. Why do the standing orders use the terminology 'public affairs'? Because the standing orders understand that once you are sworn in as a minister of the Crown you have only two personalities: your genuinely private personality at home, where you are doing things as a private citizen, and everything else is your public personality. You are entitled to be questioned about that 'everything else'.

Mr Speaker, by this ruling you have clearly prevented us from questioning the Minister for Veterans' Affairs about something she did in an official capacity. She wrote on government letterhead to a member of the House of Representatives about the disbursement of funds. How could you get more official than that—government letterhead to a member of the House of Representatives about the disbursement of funds? The effect of this ruling is to prevent us from asking about the disbursement of that money. It is not the government's money; it is everybody's money. It is taxpayers' money. The purpose of question time is to hold the government to account on these questions.

I conclude where I began, by saying that this is a shameful day and this is a completely incorrect ruling. It had to be dissented from because it will lead to the protection of all sorts of corruption in government if it is allowed to stand—particularly if it is allowed to stand unchallenged. It is clearly a wrong ruling, because it is actually contradictory to your first ruling today. Through your conduct in calling the minister and allowing her to answer, you ruled that that question to the minister was in order. We have only ended up in this absurdity because of the intervention of the Leader of the House. I say to you, Mr Speaker: just like last week he has led you into error. This is not bringing any credit to the office of Speaker or, indeed, to the House of Representatives—and is certainly not bringing any credit to the shameful conduct of the Howard government.