

## On the dry side

# Abuses of privilege cost MPs respect

By JOHN HYDE, MP

IT concerns most members of Parliament that MPs as a group are not held in very high regard.

Peter Shack, the Federal Member for the West Australian seat of Tangney, and recently appeared over talkback radio program to debate retrospective taxation. In Western Australia at the time the retrospective tax issue was supposed to be "pretty hot".

Certainly there had been some extravagant claims made about it by both sides. Yet, after we opened up the retrospective tax issue, more than half of our enquirers preferred, in one way or another, to raise the ethics of politicians and in particular the abuse of parliamentary privilege.

Privilege particularly in the sense of immunity from the ordinary law of defamation that was assumed by the Parliament at Westminster in order that its members might speak and act without fear of reprisal or hindrance.

Its only justification now is to enable the ordinary parliamentarian to protect the ordinary citizen against the might of government. It cannot be justified as a weapon to be used in political games. It should not be a licence to slander.

In eight years I can recall no occasion on which I have felt it necessary to say anything in the Parliament that I was not prepared to say outside it. I believe most other members could make a similar claim.

Yet a few members, safe in their cowards castle will heap calumny upon persons associated with public affairs in the hope that guilt by association will attach to the opposing political party.

It is bad enough that MPs should slander each other, but far worse that they should slander the lay public.

An MP is a volunteer in a blood sport; deplorable as that circumstance may be, at least he knows what he is letting himself in for. An MP is offered some protection, ineffective though it is, by the standing orders; an outsider, unless he is subject to a judicial process, has no such protection. An MP has the opportunity to rebutt almost immediately claims made against him; obviously an outsider has no such opportunity.

not have been necessary to name individual citizens.

The purpose was to score a political point and the point makers did not care about those injured on the sidelines.

Privilege was not used to protect the citizen but to facilitate his injury.

If, under these circumstances, the victim of an opposition witch hunt can find no champions on the Government side of the House, his position is bleak. If the Government then requires the accused to stand down or in any other way act in a manner which might be taken by the uninformed as an admission of guilt, then his position is doubly bleak.

Governments of all political persuasions, in the interests of political survival, have a bad habit of tossing the wounded or the weakest from the back of the sled to placate the wolves. It doesn't work; the wolves consume the body and pursue the sled in the hope of another.

If Governments are prepared to see their appointees slandered and even add to their troubles by immediately seeking to dissociate the Government from the slander victim it will be increasingly difficult to find public-spirited men and women who are willing to fill the many public offices.

The threat of disclosure does much to keep Governments, particularly democratic Governments, honest. Privilege, along with a free press thus helps to control the excess of Government. It is, however, a dangerous tool in the hands of the careless or the unscrupulous.

Any member who seeks the protection of privilege should ask himself these questions. First: Is it necessary for me to raise this matter in Parliament to achieve my purpose, or have I another means available to me such as a complaint to the police?

Second: Is it necessary to identify a "guilty" party? Third: Have I gone no further than is necessary to identify the wrong which needs to be righted?

I suggest that on very few occasions could these questions be answered satisfactorily.

Politicians depend on popularity. The ultimate political sanction is unpopularity. If the public understand the nature and purpose of privilege and condemn its misuse, then their condemnation will also be their protection.

MPs like other members of the community may earn regard by fair play, respect of other's rights and loyalty.

2.

The events following the Costigan Royal Commission have seen most flagrant abuse of parliamentary privilege.

Members of the Opposition have stood in the House of Representatives and in the Senate and sought to besmirch the characters of persons associated with the Government, who have not been charged with any offence.

It was trial by accusation alone in Parliament. The standing orders provide no ready opportunity for rebuttal and no one rose to defend the accused, although the Treasurer to his lasting credit kept pointing out, when he had the opportunity, that there could be no presumption of wrong-doing.

No circumstances not already adequately described in the Costigan Report was revealed, so the purpose cannot have been to bring a scandal to the public attention so that it might be remedied. And, in any case, merely to bring a wrong to public attention it would

5

"FINANCIAL REVIEW"

8 October, 1982

DRY SIDE 5