



Speech by

**Mr S. SANTORO**

**MEMBER FOR CLAYFIELD**

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Hansard 16 September 1998

### **PUBLIC SERVICE AMENDMENT BILL**

**Mr SANTORO** (Clayfield—LP) (3.59 p.m.): In rising to support the Bill, it must be said that, in the short time it has been in office, the Beattie Government has done more to rip apart the post-Fitzgerald reforms to the Public Service than all of the actions of each and every Government of every political persuasion since 1989. Anybody reading Hansard or any of the numerous newspaper reports since 1996 would recall that the Premier, when Opposition Leader, complained long and loud about the alleged inability of a minority Government to appoint chief executives for longer than the term of the Government. In the Public Service magazine, Sector Wide, of September 1996, he said—

"As with CEOs, such appointees should leave office immediately upon a change of government—and without a big payout from long suffering taxpayers."

On behalf of the hundreds of thousands of long-suffering taxpayers, one has to ask: why has this Government abandoned this policy and instead is appointing its chief executives for a five-year term? Honourable members might recall that the Premier, both before and after the election, attempted to justify this backflip on the basis that a longer term is needed to attract the highest quality applicants.

As early as October 1997 the Premier had let the cat out of the bag by announcing that there would be a purge of coalition CEOs and special treatment for Labor CEOs. I believe that the honourable member for Indooroopilly has clearly demonstrated that point in his contribution to this debate. In an article in the Courier-Mail of 27 October 1997, headed quite prophetically "Top PS jobs face purge under Labor", the Premier is quoted as saying the following—

"I want a smooth transition to government and we cannot attract the

nation's most talented people when they fear that they will be sacked by an incoming government."

Let me just pause here and make one comment before going on. What absolute hypocrisy! In other words, it is quite all right for Labor to sack and destroy the professional careers of chief executives appointed by a coalition Government—as the honourable member for Indooroopilly just proved—but any Labor appointee should be given special treatment.

This "mates rates" approach was a hallmark of the dying days of the Goss Government. One only has to recall the appointment of Ross Rolfe, now the chief executive of the Department of State Development, as Director-General of the Department of Environment and Heritage just days before the Mundingburra by-election to appreciate the sort of shallow way in which Labor operates. In fact, if one were to go back and look at the contracts of quite a few of the chief executives of departments in the last year of the Goss Government, one would see how their contract terms were extended quite deliberately in the event that the Government changed. These Labor mates were looked after, and one only has to consider the contractual arrangements of Bob Marshman, who is again the Director-General of the Department of Employment, Training and Industrial Relations, to see how Labor operates to protect its baggage carriers. Time and time again, Labor has misused the levers of power to look after its mates, and yet it has the unmitigated hypocrisy to come in here and claim that it is lilywhite because its appointments are world class and require quite different treatment.

That leads me to the core of Labor's problems. I hope that the honourable member for Nicklin—wherever he is—is listening very closely to this, because I am sure that the hardworking

people of Nicklin would be very interested. Section 24 of the Public Service Act sets out the basic principles of Public Service employment. The very first principle is "basing selection decisions on merit". Honourable members would no doubt be reassured to know that the last of the principles is "avoiding nepotism and patronage". Section 78 then specifically requires that the selection of an eligible person for appointment as a public servant be—and I hope the Premier is taking this in—"based on merit alone". So, from beginning to end, the Public Service Act, which governs the appointment of all persons to Public Service positions, including chief executives, requires appointment decisions to be based on merit alone and that patronage and nepotism be avoided. I am sure that the Premier's ethics adviser could give him some further advice on the implications of this.

The Premier and his Attorney-General rise in the Chamber at regular intervals and quote at length from the Fitzgerald report. It may interest the House if I also refer to that document, because some of Commissioner Fitzgerald's observations have particular relevance to the subject matter of this Bill. At page 131, when commenting on the requirement to advertise Public Service vacancies, he made the following comments—

"... There does not appear to be any reason ... why all vacancies"—

and I stress "all vacancies"—

"should not be advertised."

Later in his report he dealt with special appointments. In that section, his terminology included chief executives. He set out model appointment procedures for such positions. I will quote just two of those—

"extraneous considerations, including personal and political associations or donations should not be regarded. The appointment should be based on professional selection and recruitment processes where merit is the underlying criterion for appointment;

appropriate qualifications for appointment should be formulated and publicly notified; and advertised where appropriate ..."

It is quite clear that Commissioner Fitzgerald envisaged that appropriate merit selection processes would apply to the appointment of chief executives. This would include, as a minimum, public notification of a vacancy and selection after the adoption and circulation of relevant selection criteria and interviews by a properly constituted and independent selection committee. Only by this approach have the various Public Service agencies throughout Australia over the years been able to select the best and brightest. Only by this procedure are

nepotism and favouritism avoided and seen to be avoided by the public. Only by this procedure are appointees in a position to deal fearlessly with the Government of the day and their clients. Having been selected on merit and merit alone, those persons can approach their tasks with a degree of independence. In fact, only by this approach can the public be satisfied that chief executives are able to comply with one of the basic obligations imposed on them by the Public Service Act.

Pursuant to section 30, each and every chief executive must act independently, impartially and fairly when dealing with individual public servants and cannot be subject to ministerial direction. In other words, an independent chief executive would ensure that the Government of the day was not in a position to persecute or unfairly treat a particular public servant. Of course, under this Government, no-one can be confident that this bunch of Labor second-raters can—far less will—act independently and in the interests of the broader community. I will soon outline just why that is the case. What we have witnessed since this Government took office is an absolute travesty of justice and the reverse of everything that Fitzgerald recommended and the clear and compelling requirements of the Public Service Act.

The Public Service Commissioner has recently issued two replacement directives on the appointment and employment conditions of Senior Executive Service officers, which includes, of course, chief executives. The first of these is Directive 8 of 1998, which requires departments to advertise vacancies in the Gazette, with the notification period being not less than two weeks. This directive is almost identical to the one issued by the previous Public Service Commissioner, Kevin Wolff, except that it now exempts from the requirement to advertise chief executive vacancies and that of the Public Service Commissioner himself.

**Mr Borbidge:** So much for accountability.

**Mr SANTORO:** Yes, so much for accountability.

**Mr Borbidge:** According to Mr Beattie, it's taken the politics out of it.

**Mr SANTORO:** I do not think that anyone would agree that that has taken the politics out of it. I will touch on that apparent conflict of duty and interest shortly.

The second directive, No. 9 of 1998, issued on 24 July, compounds the error and allows the Premier of this State to dispense with appointing a selection committee to consider the appointment of chief executives. Just in case honourable members have any doubts, I will read from paragraph 5.5, which says—

"Unless the Premier otherwise determines, in the case of offices of Chief Executive or Public Service Commissioner, a

selection committee is to be established for all SES vacancies."

So it is the Premier who, by his own determination, can dispense even with a selection committee. On this point, he needs to answer some serious ethical questions.

As if that were not enough, as from 3 August new pay scales were issued for chief executives. That was done despite the fact that all members of the Senior Executive Service received a 2% pay increase from 1 September last year and then a further 4% wage increase which commenced on 1 July. The magnitude of those pay increases is amazing.

Honourable members need to consider this: when the chief executives whom this Government sacked left office on 30 June, the maximum superannuable salary was \$148,798. That was paid to only CEO 3 DGs, the chief executives of, for example, the Premier's Department and the Treasury. Most were paid on the CEO 2 scale. At that date, the amount was \$126,854. In a little over a month, the maximum amount paid to CEO 3 chief executives has risen from \$148,798 to \$190,000 and for CEO 2 chief executives from \$126,854 to \$165,000. In other words, these persons appointed to a five-year term, without the vacancies being advertised, without a selection committee and without any semblance of merit and equity, are receiving payments of up to \$40,000 more than their predecessors. At a time when the private sector faces enormous challenges with the Asian economic crisis and the Russian economic meltdown, it is obscene that this Government is throwing taxpayers' money around like this.

**Mr Borbidge:** You need only apply on a need-to-know basis.

**Mr SANTORO:** I take that interjection from the Leader of the Opposition and agree with him. Week by week, the fruits of this disgraceful episode unfold in the Government Gazette. For example, in the Gazette of 14 August, it was announced that one Margaret O'Donnell had been appointed Director-General of the Department of Equity and Fair Trading for a five-year term. In that same Gazette, it was announced that one Jane Kathleen Macdonnell was appointed as Director-General of the Department of Justice and Attorney General, also for a five-year term. In both cases, these positions were not publicly advertised. In both cases, the requirements of merit selection were thrown away.

I do not want to be harsh, but nobody could say that either of those persons are world-class appointments. I will start with Marg O'Donnell. Up until 1996, she held a relatively junior position in the Department of Justice. She was responsible for alternative dispute resolution, and it may be said that she did that job quite well. The Premier may know that in 1994 she applied for the position of Commissioner for Consumer Affairs

and did not get within a bull's roar of getting it. The Premier can confirm that his mate, Ross Willims, chaired the selection committee that rejected her. Yet this person, who was never a chief executive and who was a relatively junior bureaucrat, has been appointed to a top job without even competing with others. It is a disgrace and is a typical example of the perverse nepotism that Labor practices. Why did the Premier exempt this position from the requirement of a selection panel? Ms O'Donnell has never been a chief executive in Queensland and the argument that the Premier has attempted to use in the past that these people have already gone through a merit and equity process clearly does not apply to her.

As for Jane Macdonnell, she had been a chief executive for only three months when the Government changed in 1996. She may well prove to be an excellent chief executive, but why should she be given an inside run and other suitably qualified applicants be denied the right to compete for this position?

The same applies to Ross Rolfe of the State Development Department. He is another person who was plucked from obscurity by Labor and who has had almost no experience as a director-general, yet he has been appointed without having to apply or compete. His only significant experience with infrastructure projects is with Chevron Gas. Of course, that presents potential conflict of duty and interest problems, which the Government has not yet addressed to the satisfaction of the Opposition or, indeed, the public at large. Therefore, in these circumstances I argue that this Bill is needed and appropriate.

The Scrutiny of Legislation Committee was critical of the Bill's retrospective operation. The Bill has to be retrospective, otherwise it would not catch the very persons who have not gone through a proper merit and equity selection process and who have been rewarded by massive pay increases. If these persons had competed on the open market, I would concede that the retrospective operation of the legislation could be seen by some independent observers to have an element of unfairness. However, when the whole selection process for those persons is rotten to the core, how could any reasonable or sensible person argue that those people could have any reasonable expectation that they should hold on to the fruits of this farcical and totally flawed process?

**Mr Borbidge:** The private member's Bill was also advised to the Government prior to the appointments being made.

**Mr SANTORO:** I take that interjection from the honourable the Leader of the Opposition and agree with the fairness of the process that he has adopted in terms of this private member's Bill giving the Government every chance, every bit of notice, not to proceed with the folly that its

selection processes that I have described represent.

Some people could even suggest that this selection process is so rotten, so smacking of nepotism that it approaches corruption. All I will say is that it stinks and any person benefiting from it would know in his or her heart that he or she did not deserve to benefit from this gross abuse of process.

I say to the member for Nicklin that if he supports the Government on this issue, he is sending a clear signal that merit and equity mean nothing and that the double dippers who Labor is bringing back should be given a further golden handshake if the Government changes. The member for Nicklin will also send a clear signal to this side of the House that any Government in power in the future can dispense with impunity the need to advertise chief executive positions, can appoint chief executives without a selection committee and can further compound the error by giving them massive pay increases at the public's expense. The member for Nicklin is also sending a clear signal that the terms upon which he said he had agreed to support the Government are now no longer operative. Is that the message that the member for Nicklin wants to send to his electorate and to the Queensland community as a whole? Why should the long-suffering taxpayers have to subsidise Labor's backroom deals?

The Premier of this State has thrown all principles out the window. He should hang his head in shame for the way in which he has gone about ruthlessly sacking the chief executives who were appointed by the previous Government and replacing them with his cronies. I say to the Premier: if these people are so good and are the best on offer, why has he shielded them from a fair and open selection process? In the absence of such a process, these people do not deserve five-year terms. Their careers should start and conclude with this Government. No future Government should be compelled to retain them lest the taxpayers have to fork out money for redundancy payments. The suggestion that only by offering a five-year term will the best and brightest apply is comical when one considers that the best and brightest were not even given a chance to apply.

There is one other matter that I want to mention in passing and before concluding. Section 35 of the Public Service Act requires the Public Service Commissioner to perform his or her functions—

"Impartially, fairly and in the public interest."

Pursuant to section 33, the commissioner is also required to promote the principles of Public Service employment, including the merit-based selection of candidates. Is it not just a little ironic that a man who is required by law to do that exempted himself from the requirement that his own position and that of his Labor acting chief executive mates be advertised or be subject to an independent selection process? Dr Brian Head may have many academic virtues, but one virtue that he does not seem to have is a backbone. His disgraceful connivance with the Premier on subverting the requirement for merit-based selection will forever stand as a black mark against his name and that of the Office of the Public Service under Labor.

In conclusion, I suggest that this Government has done more to tarnish the ethical underpinnings of the Queensland Public Service than any other Government in recent history. It is indeed a sad day when Labor pork-barrelling is elevated to the highest positions of the bureaucracy and made even worse by an outrageous pay increase.

If the member for Nicklin is really concerned about ethics in Government, about probity and about protecting the public purse, he will support this Bill. No doubt, any other course will be seen by the public, including the constituents of the honourable member for Nicklin, as a green light by him for Labor to pork-barrel, to look after its mates and to thumb its nose at ethics and honesty in Government and in the Public Service.