



Speech by

Mr R. QUINN

MEMBER FOR MERRIMAC

Hansard 25 August 1999

SCHOOL UNIFORM BILL

Mr QUINN (Merrimac—LP) (Deputy Leader of the Liberal Party) (10 p.m.), in reply: I thank all honourable members for their participation in the debate. As is usual in relation to debates about education, whether the contributions are made from this side or the other side of Parliament, they are always wide ranging and very interesting. Members bring different perceptions to the debate. At the end of the day, the consensus formed within the House is that we are trying to do the best thing for kids in schools. The debates themselves never degenerate, as do some debates in this House, to mudslinging exercises. There is always a willingness from both sides to consider each other's opinions and respect the differences where they may lie.

As usual, in this sort of debate there is a difference in opinion. On this occasion, the difference lies not in the objects of the legislation but in how to achieve those objects. The Opposition is in favour of a purpose-built piece of legislation that will address the problems that the Ombudsman has outlined in his report and, I think, would outline in his next report.

The Government has said that it is going to cobble together existing provisions in the legislation and come up with a solution. However, the nonsense that some people put about that there is no need for a legislative base and that it can be achieved administratively is wrong. The Government's side relies upon cobbling together existing provisions to try to come up with a legislative basis to support principals' actions.

I mention the fact that this legislation is needed because the Ombudsman has found that principals do not have any legislative authority to enforce school uniform policies. That is made quite plain in the Ombudsman's report. I will not read the report in detail, but in it he has outlined a number of provisions or arguments that could have been used to support principals and then found that, at the end of the day, those provisions could not be used. I take the point that the Minister made that the Ombudsman is not a source of legal advice that the Government has to take. Everyone knows that. However, I believe that, from my perspective, the Ombudsman has highlighted a hole in the legislation that needs to be plugged.

On this occasion, I agree with the Ombudsman because the Minister's solution is actually one of those issues that is discussed in the Ombudsman's report. In other words, making a determination that school P & Cs can say that they would like to have a school uniform policy and then inserting it in the behaviour management plan of the school is specifically discussed in the Ombudsman's report. In his report, he states that he has found that there is no legislative basis upon which that can occur. Whilst there is that debate in that the Ombudsman says that it cannot be done that way and the Minister says that it can be done that way, parents will continue to go to the Ombudsman seeking relief from school principals wishing to enforce school uniform policies until, because of frustration, some poor principals will find themselves defending their action in a courtroom based on some legal advice that the Minister has, which he has shown no-one. From the parents' perspective, they will be riding on the Ombudsman's report. Whilst that shadow of doubt exists, I think that it is far better to put in place a piece of legislation that will not allow it to get to the stage at which we find a principal in court defending his or her actions based on the existing legislation. Once one walks into a court of law, one just does not know what might happen. Anything can happen.

From my perspective and the coalition's perspective, it is far better to put in place specific legislation that addresses the concerns and takes away the shadow that hangs over the current legislation.

I turn now to some of the other issues that were put forward. First of all, I refer to the idea that the Minister has put around, and included in his contribution, that there are a number of problems with the legislation that the coalition has put forward. He said, for instance, that every school uniform policy would be required to be signed off by the director-general. He said that the regulations were onerous and that we would be putting in them the colour and size of socks and those sorts of things. Quite simply, any reading of the legislation, when placed with the principal Act, shows that the Minister either does not know what he is talking about or, in making those sorts of comments, is grossly misleading people.

I refer firstly to the idea that every school uniform policy would have to be signed by the Director-General of Education. The Act makes it quite plain that the director-general has the power to give approval for the school uniform policy. The principal Act contains a number of delegations. I tried to explain this to the Minister, yet he kept persisting. The Act itself gives certain powers to the Minister and certain powers to the Director-General of Education. Within the Act, there are sections relating to delegation. For instance, the Minister is authorised to produce and sell educational materials, sell services, enter into agreements to provide services and so on. That does not mean that every time something is produced or sold the Minister himself or herself has to do it. That does not mean that every time an agreement has to be signed the Minister himself or herself has to do it. The Act states that the Minister from time to time may delegate to an appropriately qualified person any of the Minister's powers under this Act. There is a broad delegation of powers there for the Minister. Similarly, for the Director-General of Education, the chief executive may delegate the chief executive's powers under this Act, other than in Part 4, to an appropriately qualified person in the department.

So the nonsense that the director-general would be signing every school uniform policy is absolute rubbish. I would have thought that the Minister for Education would know what is in his Act that he is charged to administer. Apparently he does not. The same applies to a range of other responsibilities that schools have or that other officers in the department have. The powers are delegated. It may be that the principal's supervisor, the district director or someone of that nature can sign the school uniform policy and sign off on it. The relevant provision is inserted in the Act to guarantee that no school principal oversteps the mark and puts in something that is illegal or contrary to the legislation. That is why that provision is in the legislation. It is meant as a fail-safe provision for the principals. It does not mean that 1,300 school uniform policies will be signed off by the Director-General of Education. That is just a nonsense. The Minister's reading of the Act shows simply that he either does not know what is in the Act or it is a deliberate attempt to mislead people and to run a scare campaign.

The next issue related to regulations covering the size of shoes, the colours of dresses, the colours of socks and so on. Again, that is an absolute furphy. The regulations are about prescribing a process that the school communities go through in order to arrive at a consensus about school uniforms. It prescribes a consultation process, it prescribes things that have to be considered in the dress code, for instance, what articles would be in the dress code—shirts, socks, shoes. Nothing is mentioned about their size and nothing is mentioned about their colours. We are not interested in a fashion parade, as the Minister seems to be; this is all about trying to provide sensible guidelines for schools so that they can formulate a school uniform policy.

An interesting point to note is that when we spoke to all the key stakeholder groups—the Principals Association, both primary and secondary, the parent groups and so on—none of them had any problems with any part of this Bill. Not one stakeholder raised a significant issue about the final draft of this Bill. They are completely comfortable with what is in this legislation. They know how it works, they know its intention, and they are comfortable with it. The only person who can find monumental errors or faults with the legislation is the Minister, because either he has not read it or he is waging a deliberate scare campaign.

From the coalition's perspective, there is nothing in this legislation that is draconian, that requires an enormous amount of work or that is in any way designed not to work. We have tried to be as broad as possible in order to give Education Queensland the flexibility to implement the legislation should it pass the House. We have not been as prescriptive as people have said. The legislation allows school communities to design their own school uniform policies or dress codes and enables them to be sensibly implemented within the school communities.

People have commented on the fact that school principals will be making the policies. That power is attributed to the school principal because under the Act—as the Minister does not know—only school principals have the authority to enforce a policy decision. Even if P & Cs make the policies, under the Act they have no power to enforce them. Only school principals can have that authority.

Therefore, rather than being in contravention of the Act, the Bill gives the power to the principal but ensures that a consultation process takes place.

The Minister's approach has been made public. He has written to all the schools and, at the same time, he has relayed that advice to the Ombudsman. I communicated with the Ombudsman and asked him whether or not he thought the Minister's approach would solve the problem. In a letter dated 6 July, the Ombudsman stated—

"In relation to your question concerning whether the position can only be remedied by legislation, my view remains unchanged at this time."

Therefore, the Ombudsman's view about the Minister's remedy has not changed.

Mr Lucas interjected.

Mr DEPUTY SPEAKER (Mr Reeves): Order! I remind members that they must interject from their correct seats. The member for Merrimac is obviously not taking interjections, so it would be helpful if members let him continue with his speech.

Mr QUINN: Because the Ombudsman has made his view quite plain, there is every possibility that the next Ombudsman's report will also say that the school principals have no legislative backing to enforce school uniform policy. Coincidentally, that is supported by a document of the Department of Education that the Minister released in answer to a question on notice. I will go through that document and read the pertinent sections of it.

One section discusses the school behaviour management plan and the ability to insert a school uniform policy within the code. The department states—

"It would be difficult to argue that a school uniform policy fits easily within a behaviour management plan for a State school."

That is the same view as that of the Ombudsman. This is the advice of the Minister's own department and it is supported by some legal opinion that is quite rightly blacked out of the document for FOI purposes.

Another section discusses an act of disobedience in refusing to wear a school uniform. It states—

"Thus, at present there is no legislative basis for the imposition of a penalty on a student for failing to wear a school uniform."

Again, that backs up what the Ombudsman has said. There is a clear view within the department that the Ombudsman is right on the matters upon which he has reported.

More importantly, at the bottom of the Education Queensland document is a telling comment, which states—

"To date, the department's central office is aware of two instances of requests for statements of reasons under the Judicial Review Act 1991, which is a precursor to formal judicial review application to the Supreme Court, and, in the event, did not process for a statutory order of review. It is only a matter of time before a formal judicial review on uniforms progresses to a stage that will embarrass the department."

There is a clear recognition within the department that the current provisions in the Act do not cover what principals are doing. The department is telling the Minister that it is only a matter of time before a matter goes to court and the department will be embarrassed.

As a result of that, the Minister has taken some further legal advice and has cobbled together his response. However, the coalition will take the advice of the department and the Ombudsman. If there is a shadow of doubt, this House needs to pass legislation to wipe that shadow out, otherwise a principal will be taken off to court on a legislative basis that only the Minister knows. I would have thought that if the Minister has ironclad legal advice that says he is right, he would have at least showed it to the Ombudsman or authorised his department to do so.

Mr Wells: I sent it to every P & C in the State.

Mr QUINN: That was not legal advice; that was the Minister's opinion. The Minister should take his official legal advice to the Ombudsman and show it to him. The Minister should convince the Ombudsman that he is wrong, otherwise we will get the same result the next time that the Ombudsman publishes a report. It is made quite plain in the Education Queensland document that eventually a principal will be taken to court.

From the coalition's perspective, we have covered the major issues in the debate. We are quite certain that the Bill is a reasonable response to the problems that were highlighted by the Ombudsman and the department. We are not convinced that the Minister's response will solve those problems, and that is why this Bill is before the House at the present time.

I thank all honourable members for their support of the legislation. Those who vote against the Bill are acting on a piece of advice that they have not seen and that the Minister refuses to show to anyone. In the long run, they will find that the Ombudsman will again hand down a report that will see us back in this House trying to remedy the situation through legislation. It is far better to fix the problems now than to wait until some poor principal finds himself or herself in court.

I am under no illusions that the Government will support the Bill, although not because it is not good legislation; it is good legislation. It will not support the Bill because of politics. It is a sad and sorry day when one starts playing those sorts of games with issues that concern schools. It is a sad and sorry day when a Minister plays politics with an issue that affects so many schools, students, teachers and principals.
