



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

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PUBLIC SECTOR ETHICS AMENDMENT BILL

Hon. P. D. BEATTIE (Brisbane Central— ALP) (Premier) (9.57 p.m.), in reply: I would like to respond in some detail to the various points that were raised because there were some serious issues. I want to make the point right at the beginning that this is the first Integrity Commissioner, obviously, in Queensland or anywhere else in Australia.

I do have to raise some concerns about a number of comments that the Leader of the Opposition made. I will start a little bit light-heartedly. At one stage he was making references to "gelding" as opposed to "gilding". I want to inform the Leader of the Opposition that "gilding" refers to layers of gold that lie around in various places; "gelding" has a totally different meaning and is somewhat painful, I am led to understand. For the benefit of the record, we will make clear the difference between "gilding" and "gelding".

The Leader of the Opposition spoke about the house of Ephesus. I think he was meaning to talk about Delphi because the Oracle was at Delphi, not at Ephesus. I thought we needed to clear up that bit of ancient Greek history because I do not want the Greeks being upset about any discussions in this House which could have been a little off-key.

Mr Johnson: He left the Chamber.

Mr BEATTIE: I will get to the member for Gregory. I will now move on to the substance of what the member for Surfers Paradise had to say. I will deal with this quite seriously because some important points were raised. The member asked: who would not know what is a conflict of interest? The response to that is very simply this: conflicts of interest can be complex matters involving perceptions as much as facts.

I invite honourable members to look at some recent history. Seven of John Howard's Ministers had problems dealing with conflicts of interest—real as well as alleged—in 1997 and 1998. Senator Parer, one of our Queensland senators, was one of that number. The Leader of the Opposition went on to say that there is a need for the Integrity Commissioner to be able to undertake external scrutiny of a conflict of interest matter at the commissioner's initiative, and not merely to passively respond to requests. It would be inappropriate for us to provide for external scrutiny of the regulation of personal interests without the consent or involvement of the person whose interests are at issue.

There is no need for the sort of approach that the Leader of the Opposition took because the Integrity Commissioner is to assist members of the Legislative Assembly to scrutinise their own interests and standards objectively and confidentially. Therefore, it can be said that the Integrity Commissioner is inherently proactive and not reactive as claimed. That is what is important. The proactive nature of the position of commissioner is designed to prevent conflicts of interest.

I think something has been a little misunderstood and I want to clarify it so that everyone can understand it. The whole point of the scheme proposed in the Bill is that public confidence in the integrity and ethics of members will be more enhanced by seeing members of Parliament take responsibility for their ethical standards themselves rather than having them imposed by some external regulatory body.

The community expects high standards from politicians. The Leader of the Opposition and, I think, the Leader of One Nation made the point that politicians are held in low esteem by the community. We have to—and this is the design of the legislation—establish a mechanism that assists

members of Parliament to rebuild their reputation in the community. That is why the legislation has to be, as I indicated before, proactive and not reactive. I believe that we have to give members of Parliament the opportunity to lift their own standards. That is what this legislation is about.

The Leader of the Opposition went on to say that people are angry about politicians' standards. Basically, my response to that is that conflicts of interest can be complex and difficult matters. As I said before, everybody's understanding of conflicts of interest stands to be enhanced by the commissioner's ability to provide expert and objective advice and to provide reasons for that advice. There are many grey areas. This legislation is designed to assist members to determine, with independent advice, those grey areas and how to deal with them.

The Government's commitment to the Integrity Commissioner process aims to encourage public confidence in the integrity of public institutions, such as the Parliament and the Public Service, by providing confidential and expert advice to assist senior public officials to stay out of ethical trouble. That is what it is all about. Any expectations that the Integrity Commissioner is an investigative or regulatory body misses the central point of the scheme. I will return to the amendments proposed by the Leader of the Opposition later, because we will be accepting some and rejecting others.

The member for Warwick said that the independent commissioner has no teeth. Again, I have covered this issue. It is inappropriate for us to go down the road suggested by the member for Warwick, because the Integrity Commissioner is to provide advice only; he or she is not a conflict of interest inspector. This issue is not about providing advice on which members will act to ensure that they do not get into trouble but to give them guidance about appropriate standards. As I said, it is inappropriate to go down the road suggested by the member for Warwick, because if the independent commissioner had a more draconian power, there would be potential for conflict with the CJC. That in itself is self-evident.

The allegation made by the member for Warwick is that the Director-General of the Department of Justice and the Attorney-General—and frankly, I do not know why we got into this, because I do not think that it is all that relevant, but I will respond to it—breached the departmental code of conduct by using the department's email service "inappropriately to advance a private legal agenda". In my view, the matter of the director-general's remuneration arrangements in relation to her employment in Queensland cannot reasonably be regarded as a personal matter. The fact that the director-general's remuneration and vocational package was open to scrutiny by a parliamentary Estimates committee puts beyond doubt the fact that the director-general's employment contract is an official matter and, as such, is inherently connected with the director-general's official capacity, her professional reputation as a senior public official and the reputation of her department. In these circumstances, the use of the departmental message system for the director-general's message to staff of her department cannot in any reasonable view of the matter be regarded as incorrect or inappropriate. Frankly, having read the email I think that the connotation and interpretation put on it by the member for Warwick is mischievous and clearly wrong. That is the same for those in the Opposition who have taken a similar view.

The Deputy Leader of the National Party also says that conflict of interest is wider in scope than official misconduct under the Criminal Justice Act; therefore, the Integrity Commissioner should have scope to investigate conflicts of interest or allegations at its own initiative. Again, I say that the whole point of the scheme proposed in the Bill is that public confidence in the integrity and ethics of members will be enhanced more by seeing MPs take responsibility for their own ethical standards than by having them imposed by some external regulatory body.

A number of issues have been raised by members. I stress that this answer pertains to many of the issues raised and is the central focus of the Bill which, unfortunately, has been little understood. I will say it again, because this will cover many of the issues that will be raised in the Committee stage and it will cover many of the points that have been raised in this debate. The whole point of the scheme proposed in the Bill is that public confidence in the integrity and ethics of members will be enhanced more by seeing members take responsibility for their ethical standards than by having them imposed by some external regulatory body.

This legislation is about giving members of Parliament the assistance to help them, in a sense, grow up and behave appropriately and properly at all times. Over the years, members of this House have repeatedly raised the issue of taking control of these ethical standards themselves and behaving appropriately. For example, a number of members opposite said, "We have a very good idea of what is right and wrong." This legislation assists that argument, but it gives some independent advice to assist in the making of those decisions.

The Deputy Leader of the National Party also asked why there is no duty provided in the Bill to seek advice on a conflict of interest. It is unnecessary and even inappropriate to provide such a duty in the Bill, because the members and public servants who will be subject to this scheme already have various duties to avoid conflicts of interest. The Standing Orders prohibit conflicts of interest of MLAs. The Public Service Act provides guidelines on conflict of interests for public servants and chief executives of departments. The Criminal Justice Act prohibits conflicts of interest where they amount to

official misconduct. Company law prohibits conflict of interest by directors of companies. It is pretty clear. I would have thought that, among all of those Acts, we have enough regulation already. Commonsense also dictates that anyone in a position of trust should avoid conflicts of interest that will be seen to bring their personal integrity into question. If someone is uncertain about whether they have a conflict of interest or how to resolve it if they do, under the Bill it is open to them to seek expert advice. Nothing in the Bill amounts to a disincentive to do so.

I might digress and say that I note that reference was made to some advice that I received from Noel Preston, who I asked to give me some advice on my personal financial circumstances—as to what I should hold, what I should not hold and what he thought was possible conflict of interest. He provided advice and, by and large, I accepted that advice—not all of it but most of it. It required me to dispose of shares that I had in Telstra, which I ended up paying a reasonable capital gains tax on this year, contributing to the Federal Treasury as I did.

Mr Borbidge: The burden of office.

Mr BEATTIE: Yes, the burden of office. I realise all of that. Frankly, I am not complaining about it. When one is in high office, one makes financial sacrifices, and I did. The money was invested for my children's education; it was not for me personally. However, the advice that I received was that I should sell the shares and so should my wife. Really, she held most of them on behalf of our children. I held only a small percentage of them. However, we sold them and paid the penalty of the capital gains tax that went with it. As I said, I am not complaining.

However, I was uncertain about some grey areas. Technically, under the rules, I could have excused myself from any Cabinet decision that dealt with Telstra issues. Of course, the problem with that is that when we have a booming IT industry in this State that, as we all know, over the years has been growing and growing and growing, where does one draw the line between what is Telstra's and what is not? There is Optus, there is AAPT—it is everywhere. One could not get out of it. I accepted that advice.

There were other grey areas and I certainly appreciated having that opportunity to receive independent advice. Let me tell members that I did not necessarily like the pain that came with that advice. Nevertheless, I thought that it was useful. Therefore, I know from my own personal experience that this system works.

The allegation was made—if I recall correctly, by Lawrence Springborg, the Deputy Leader of the National Party—that the Bill is a weak piece of legislation in that the office of the Integrity Commissioner is a part-time position only. The relevant point to concentrate on is the powers of the commissioner, not whether the office is staffed on a full-time basis. The Government expects that calls on the commissioner's time will be met adequately from a part-time function, especially at the senior level at which the office is to be created. The part-time function represents both the Government's estimate of the likely workload and a response to the fact that the commissioner may be called upon to provide advice outside usual office hours. Obviously, a part-time appointment can be expanded if that becomes necessary although, as I say, I do not believe that it will be.

Over time it would be our expectation that it should not be necessary to expand the office as members become more effective at avoiding conflicts of interest and the need for advice. Once one has the advice, clearly one will not need to go back to get similar advice, because we are all intelligent people in this institution—I think. Aren't we?

Mr Santoro, the member for Clayfield, raised a number of issues. He said that nothing in the Bill enables the Opposition to refer alleged breaches of the code of conduct or a blatant conflict of interest to the Integrity Commissioner. Breaches of a code of conduct are outside the scope of the Integrity Commissioner and may already be dealt with by the relevant chief executive, the CJC or the Minister where a Minister is in breach of the ministerial code of conduct. That is not what this legislation is all about. Other pieces of legislation already deal with what the honourable member raised.

The member for Clayfield went on to say that the Integrity Commissioner scheme is contrary to ministerial accountability. The response to that is very simple. The honourable member has misunderstood proposed new section 30(3), which specifically enables the Minister to seek advice in relation to a concern about a conflict of interest involving a CEO of his or her department where the CEO concerned has not done so. This is intended to complement ministerial accountability by assisting agencies to avoid conflicts proactively. I have already talked at some length about the proactive nature of this legislation.

Proposed section 35 provides that a chief executive of a department may seek advice about a conflict of interest involving a senior public servant if the public servant concerned has not done so. This reflects the fact that the Public Service Act already requires public servants to declare their interests to their CEO.

The honourable member went on to make some political comments, as he always does. I do not want to get into a protracted argument with him tonight. However, I remind the honourable member that when he was a Minister there were contracts that went to Kelly Gee, Bob Carroll and so on. While we may have made suggestions about conflicts of interest, this commissioner may have given him some guidance in relation to those matters.

In relation to the matter of the hit list, from some of the things that I have heard in the last few days it seems that some people are wanting to formulate another hit list. I would be very disappointed if people decided to go down that road. In the spirit of commonsense, I do not intend to pursue that matter any further.

Vaughan Johnson, the member for Gregory, asked me to explain why only Government members can be given advice by the Integrity Commissioner. If we included the Opposition, the Premier would have access to Opposition conflicts of interest. That is one good reason why we should not do it. It would affect the Opposition's ability. As well, the conflicts of interest of the Opposition are unlikely to bring the Government into disrepute, because Opposition members are not in power. The only time when members of the Opposition are in a position that could bring the Parliament into disrepute are when they are members of parliamentary committees, and they are covered by the Bill. I think that covers the point that the honourable member for Gregory raised.

The honourable member for Gladstone raised the issue of protections available to those seeking the Integrity Commissioner's advice from a non-bona fide misuse of access to the Integrity Commissioner by some future Premier. Of course, that would never happen under this Premier. Under proposed section 30, the Integrity Commissioner may provide advice only about a conflict of interest matter and not about whether a designated person has or has not sought advice. That is important. That partly answers the Independent member's question. The following points answer it fully.

Proposed section 34(2) provides that only the designated person concerned may disclose the Integrity Commissioner's advice. That is important. Proposed section 34(5) allows the Integrity Commissioner to advise the Premier about another designated person's conflict of interest only where the Integrity Commissioner is satisfied that a significant conflict exists already and the designated person concerned has failed to resolve the conflict to the satisfaction of the Integrity Commissioner. I think that covers those points.

The Independent member for Gladstone asked how a significant conflict of interest is defined. "Significant" is not defined and cannot be defined, really. The ordinary sense of the term will be applied here, which requires that "significant" reflects the official responsibilities of the designated person concerned. For example, Senator Parer's coalmine shares were significant given the ministerial role that he had. That is the best way to define that.

In terms of Opposition members sitting on parliamentary committees, amendment No. 3 extends the Integrity Commissioner's scope to non-Government members of a parliamentary committee when nominated by the Government. This provision is intended particularly to enable Independent members to obtain advice. I think that that point is covered.

The honourable member for Broadwater raised the issue of the potential for abuse of the Integrity Commissioner's advice. It is not possible to abuse that advice because it may be published only by the person holding the conflict. Not even the Premier may disclose the Integrity Commissioner's advice about a third party. I say to the member for Broadwater: for heaven's sake, read the Bill. It is helpful if one does that, because then one has some understanding of what it says. What the member suggested was in the Bill is not in the Bill. I do not mind if members have some difficulty understanding a Bill, but that was pretty black and white.

Generally, I thought that the contribution made by members on both sides of the House was positive and constructive. In his contribution the Leader of the Opposition issued a number of challenges to me. I think I have responded to the challenges that he put to me.

I will now deal with the Opposition's proposed amendments. Inherent in what I have said is an indication of my responses to those amendments. I turn to page 2 of the Opposition's circulated amendments. Clearly we are not going to agree to the Opposition's fifth amendment, which is to clause 7 and relates to proposed section 34. It is not acceptable because it destroys the internal confidentiality arrangement and basically goes against the core of the whole scheme. While I respect the Leader of the Opposition's view, as I have explained this amendment actually goes against the whole core of the Bill, which is aimed at getting members to listen to the advice that they are given and to improve their behaviour. I cannot agree to that amendment.

The Opposition's first proposed amendment extends the whole purview to the senior Public Service. I will accept that amendment; I do not have a problem with it. The second and third amendments do the same thing and the fourth amendment is consequential. Therefore, I am happy to accept the first four amendments proposed by the Opposition.

I cannot accept the fifth amendment proposed by the Opposition because it goes to the heart of the legislation. Proposed amendment No. 6 is consequential so I do not have a problem with it. The Opposition's seventh proposed amendment is not acceptable because it attacks the confidentiality issue that I raised before. Of the seven amendments proposed by the Opposition, I am prepared to accept five and reject two. I think that the Leader of the Opposition would agree that I have tried to do that in the spirit of working this through with the Opposition. I thought that the Leader of the Opposition's contribution was positive and I am trying to respond in the same way.

Opposition members should have a copy of the three amendments that I will move. The first amendment has the effect of extending the Integrity Commissioner's scope to all Government backbench members. That is all that it does, nothing more and nothing less. I have covered that issue already in my address. The second amendment, which amends clause 7, is a matter of clarification. It makes it explicit that the Integrity Commissioner is to act without negligence when providing advice. The third amendment has the effect of enabling Independent members to seek advice where they are nominated to a parliamentary committee. Those amendments are all pretty straightforward.

In conclusion, I thank all members for their contributions. When we talk about these issues there will always be a debate in here and out in the community. This is a very genuine attempt by my Government and in particular by me—this is something that I promised during the election campaign; I am delivering on it—to give people some independent advice so that they can ensure that their behaviour is appropriate and they can take the appropriate action. I know there have been some suggestions about different models. However, I have faith in the members of this Parliament. I think it is fair to say that that has not always been the case in terms of the behaviour of members of the House. However, I think I have faith in members on both sides of the House, because I know that, given an opportunity, they would act properly. We can argue about policies and political positions, but I think I have come to know the members of this House pretty well in the 10 years that I have been here. I believe that, if they are given the right advice, members will of their own accord act appropriately and honestly. Although the Leader of the Opposition and I disagree, I have faith that, in those circumstances and with the same advice, he would act the same way I would, and that would be honestly and appropriately. I know we have said some different things about one another over time, and we will again in the future. But I happen to think that that is how the Leader of the Opposition would behave. It is certainly how I would behave.

This person will be there to give advice. I hope members are supportive of the legislation and I hope this represents the start of a new era in which we see a significant improvement in the behaviour of all members. This is about lifting the standards of behaviour and sending a clear signal to the community that the members of this House are serious about lifting their behaviour and improving the standards of ethics in Government not just now but well into the future. I hope this Bill receives the unanimous support of honourable members.
