



Speech by

Hon. R. E. BORBIDGE

MEMBER FOR SURFERS PARADISE

Hansard 11 November 1999

PUBLIC SECTOR ETHICS AMENDMENT BILL

Hon. R. E. BORBIDGE (Surfers Paradise—NPA) (Leader of the Opposition) (4.36 p.m.): The coalition is in the business of providing better government. For that reason—for the potential for small advance that this proposed legislation offers—we will not be opposing the Bill, provided some amendments which I foreshadow are incorporated to improve its effectiveness and if adequate assurances are given by the Premier in his response to the second-reading debate.

Our major concern is that the Bill, while promising much, actually delivers very little. The last thing we want is another public relations exercise which will only heighten the levels of public cynicism with politics and politicians. It is clear that there is considerable community anger and alienation with all levels of Government and with most public officials, whether elected or appointed. For anybody interested in our system of government, the following finding of the Roy Morgan Research Centre, published on 21 May 1998, should be a matter of alarm—

"Australians view the honesty and ethics of Members of both State and Federal Parliament as only slightly better than those of car salesmen. Only 7% of Australians believe that Members of both State (down 2%, since 1997) and Federal (down 2%) Parliament are of high or very high standards of honesty and ethics. The only profession rating lower than Members of Parliament is car salesmen (2%, down 1%)."

In fact, an opinion poll published in the *Bulletin* magazine of 12 September 1995 revealed that 56% of respondents said that they had lost faith in the political system. In June last year Hugh Mackay wrote—

"Esteem for politicians is so low at present—and still declining—that voters are dealing with the problem by insulating themselves from it. They repeatedly talk of the need for leadership, of the mongrels in Parliament, of polities with their snouts in the trough, yet the heat seems to have gone out of many of these assertions.

Although there might be distinct policy differences between the Government and the Opposition, the level of cynicism and mistrust in the community is now so high that such distinctions are relatively insignificant when weighed against the more emotional assessment that they're all the same.

Conversations about politics were characterised by a sense of bewilderment that things have got so bad; a deep sense of mistrust of politicians on both sides."

That is unfortunate, because the fact of the matter is that the conduct of parliamentarians has most probably improved in all Parliaments over the past few decades, but so too has the level of public scrutiny and the way that proceedings are reported in the mass media. This very point was made by the Nolan committee in the United Kingdom, which was appointed to investigate standards in public life.

The Nolan committee reported in 1995, and made this comment—

"We cannot say conclusively that standards of behaviour in public life have declined. We can say that conduct in public life is more rigorously scrutinized than it was in the past, that standards which the public demands remain high, and that the great majority of people in public

life meet those high standards. But there are weaknesses in the procedures for maintaining and enforcing those standards.

As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This we regard as the principal reason for public disquiet. It calls for urgent remedial action."

It is no use anybody saying that because a parliamentarian rises in this place and discloses inappropriate behaviour they are compounding this alienation, for that is akin to saying that this Parliament should not do its job and rigorously scrutinise the behaviour of those entrusted by the electorate to govern and to mind the public purse.

At this stage of the debate I do not want to be partisan, but I find it far from humorous that every time anyone from this side of the House exposes misuse of public moneys or abuse of process or abuse of appointment, Ministers say that it is an abuse of Parliament. The only abuse is by the persons who have misused their authority. It is the role of the Opposition and the media to keep the Government of the day honest—to keep it on its toes—and I can assure the Premier that if, under his Government, there was less talk about ethics and more ethics being practised, he and his Ministers would have less to jump up and down about.

At a time when the rate of change is increasing and many Australians, especially those in the bush, in the outer suburbs and the elderly feel overwhelmed by it and left behind, there is an ongoing need for not only standards of ethics to remain high but also for all levels of government to be more inclusive. The republic referendum vote showed, as nothing else could have, that the majority of the voting public is angry and very distrustful of perceived elites—whether political, economic or social.

I would suggest that just one of the ways to effectively, proactively and positively deal with the feeling of distrust and alienation is to have in place proper legislation and administration to oversee and to encourage ethics in Government. It is for this reason that, subject to certain conditions being met, we are prepared to support this Bill—subject to amendment—because although it is only a very small step, it is nonetheless a positive one.

Under this Bill, Queensland will have a part-time Integrity Commissioner who will be provided, according to the Explanatory Notes, with an administrative support staff of 1.5 full-time equivalents from the resources of the Office of the Public Service Commissioner. I will have more to say about that later. Since 1994, Queensland has had a Public Sector Ethics Act. This Act flowed directly from both EARC and PEARC reports on codes of conduct for public officials. The EARC report recommended, in essence, that there should be declared, by legislation, ethical principles fundamental to good government and good public administration. This core recommendation was endorsed by PEARC, as well as the need for codes of conduct to be developed for both appointed and elected officials.

The parliamentary committee recommended that agency specific codes of conduct should be developed, designed to meet the needs and circumstances of the various units of public administration that exist. However, PEARC also recommended that any legislation should be limited to appointed officials, and that while members of the Legislative Assembly should be subject to a mandatory code, it should be left to a standing committee of this House to determine its scope and its content.

I just make the observation that this House must always be its own master, and that we are subject to the will of the people. We are accountable to the will of the people. I believe that great dangers are put in place if unelected officials and unelected bodies determine what they believe is acceptable practice for the Parliament and the Parliament is bypassed in the process. So although we do have a Public Sector Ethics Act, it does not currently apply to parliamentarians. The Members' Ethics and Parliamentary Privileges Committee is still to present its final report on a code of ethical conduct for members of Parliament, although a draft code has been released and the public has its opportunity to comment.

Since 1994, numerous codes of conduct have been developed for various departments and agencies. Breaches of a code of conduct can result in the institution of disciplinary action under the Public Service Act. There have been, I would think, quite a number of instances where this has occurred, most notably where there has been misuse of Internet facilities to download inappropriate material. I am aware, of course—as is the Premier—of one notorious instance of a senior bureaucrat flouting her own department's code of conduct to misuse electronic mail facilities. This Bill moves the existing legislation forward in a way which has both significant advantages as well as potential problems.

Before turning to the various clauses in the Bill, it may be helpful to put this reform in a wider context. The Premier has said that this Bill will establish Queensland's, and Australia's, first Integrity Commissioner. He is correct up to a point, but it is not a development that is without overseas precedents. Firstly, since June 1994, Canada, at a Federal level, has had an Ethics Counsellor, appointed by the Prime Minister. The Ethics Counsellor advises on conflicts of interest and lobbying. Under this model, the Ethics Counsellor administers a conflict of interest code which applies to

Ministers, Parliamentary Secretaries, political staff and senior public servants. The designated persons have to make significant disclosures, and the counsellor is required to resolve ethical issues generally as well as administer compliance measures to avoid conflicts of interest. The Ethics Counsellor also is available to assist the Prime Minister to examine allegations of impropriety by designated persons involving conflicts of interest. This development at the Federal level came some time after significant reforms at the Provincial level.

To my knowledge, there has been legislation in place for around a decade in British Columbia, Ontario and Alberta. For example, British Columbia has had for some time a Conflict of Interest Commissioner. In the other named Provinces, the relevant officer is known as either the Integrity Commissioner or the Ethics Commissioner. I should add that the Canadian experience is to start with a focus on conflict of interest problems and then expand the charter to include wider issues of honour, trust and integrity. Obviously, any move in that direction would have administrative, financial and jurisdictional implications, but it is a matter that needs to be kept in mind.

The Nolan committee recommended that the House of Commons appoint a Parliamentary Commissioner for Standards. This officer was envisaged to be a career member of the House of Commons staff who would maintain the Register of Members' Interests and advise on a members code of conduct. The officer would give advice and guidance and receive complaints about the conduct of members who had allegedly breached the code. In fact, the House of Commons, on 6 November 1995, agreed to establish the position of Parliamentary Commissioner for Standards, and a new code of conduct for MPs was agreed to in 1996. The commissioner's position is created and defined by the Standing Orders of the House of Commons, and the code is enforced by the Committee on Standards and Privileges. The commissioner's role, as eventually agreed to, is to maintain the Register of Members' interests, advise members on registration issues, advise the committee on the interpretation of the code of conduct, monitor its operation and receive and investigate complaints. The commissioner cannot impose any penalties; that is left to the Committee on Standards and Privileges.

The major difference between the UK approach and this Bill is that, under this proposal, a far wider pool of individuals will be caught. It is not limited to members of Parliament, but includes ministerial staffers, CEOs and senior Public Service and public sector bureaucrats. I think that a model limited solely to MLAs would be too narrow, and the type of public disquiet that I mentioned earlier is not confined to elected officials. We need to ensure that all persons working for the public and at the public's expense are subject to this new regime.

Turning now to the main provisions in the Bill—it will establish an Integrity Commissioner, the functions of whom are set out in proposed section 28. That section states that the Integrity Commissioner will—

- (a) give advice to designated persons about conflict of interest issues;
- (b) give advice to the Premier, but only if the Premier asks, on issues concerning ethics and integrity, including standard setting for issues concerning ethics and integrity; and
- (c) contribute to public understanding of public integrity standards by contributing to public discussion of policy and practice relevant to the Integrity Commissioner's functions.

Before discussing this Bill at length, there are a few preliminary points that need to be made. Firstly, under this Bill the Integrity Commissioner has no proactive role. The commissioner must await a request for advice from either a designated person or the Premier. Under this Bill, the Integrity Commissioner will have a reactive role, and can only give advice. I now quote from proposed section 29 subsection (1) (b)—

"The person makes a written request for the advice, and, if the person is a senior officer, the request is accompanied by a signed authority to seek the advice from the chief executive officer of the department, public service office or government entity in which the person is employed."

Accordingly, not only is the Integrity Commissioner confined to waiting for people to approach him or her, but the request cannot even be an informal one, or by means of a face to face meeting or over the telephone. Everything has to be in writing, and when one moves down from the CEO level, a senior bureaucrat worried about a conflict situation must first go to the CEO and obtain his or her written approval before an approach can be made to the Integrity Commissioner. The next thing to note is that only a designated person can seek advice.

Proposed section 27 outlines who are designated persons. At the political level, it is defined to include the Premier, Ministers, Parliamentary Secretaries, Government members of parliamentary committees and statutory office holders. At the bureaucratic level it includes CEOs, SES and senior officers, CEOs of Government entities, ministerial and Parliamentary Secretary staffers and persons nominated by a Minister or Parliamentary Secretary.

The next limitation to note is that, under proposed section 30, a designated person can only seek advice about a conflict of interest involving that person. Obviously, if that was all that the Bill provided for, it would be hopelessly inadequate. In fact, proposed section 30 does allow for various classes of what I would term third party referrals. Firstly—and I have no problem with this—the Premier can seek advice from the Integrity Commissioner about a conflict of interest involving any designated person. Having regard to the role of the Premier as the head of Government and the need for the Premier to be the primary custodian of ethics and accountability in any Government, such a right is appropriate. Secondly, a Minister of the Crown can seek advice from the Integrity Commissioner on the various designated persons outlined previously under his or her portfolio responsibilities. Again, having regard to the doctrine of ministerial responsibility, this is appropriate.

Thirdly, a Parliamentary Secretary can seek advice on a person employed in the Parliamentary Secretary's office, or engaged to advise the Parliamentary Secretary. Finally, a CEO can seek advice on a conflict of interest situation involving a designated person employed in a particular department or office. Nevertheless, the clause does exempt any capacity to seek advice on a person who was previously, but who is not currently, employed.

I might just add in passing—although an argument can be advanced for limiting advice obtained from the Integrity Commissioner to current and live issues—that I think it is a mistake to permanently deprive the commissioner of the right to give advice, when sought, on problems that have arisen but which may have only been resolved by an officer or other individual resigning.

Importantly, when giving advice, the Integrity Commissioner must have regard to various approved or adopted codes of conduct and ethical standards, whether made under the Public Sector Ethics Act, or by this Parliament, or by the Premier.

The Bill contains confidentiality provisions as well as providing protection for both the designated persons seeking the conflict advice and the Integrity Commissioner in providing it. A key provision is proposed section 34, which sets out the grounds for the Integrity Commissioner to make authorised disclosures.

Obviously it is important to encourage people to voluntarily go to the commissioner to seek advice on conflicts of interest, but we accept that in certain circumstances, irrespective of the bona fides of the seeker of the information, the commissioner should be able to disclose the situation which has brought about the request. However, we are concerned about the extent to which this Bill permits disclosure—notwithstanding the need for Parliament, as the legislative body, to be part of that process. The first type of disclosure is by the person who has volunteered it. Obviously, there could be no objection to that. The second disclosure is by the Integrity Commissioner to the person about whom a relevant document relates. Again, this is sensible.

Thirdly, the commissioner must give a document to various persons in certain circumstances. For example, the Premier can ask for documents relating to persons other than non-CEO senior Public Service or public sector officers. In addition, the commissioner can forward the document to the Premier if the commissioner believes that there is an actual and significant conflict of interest, and after having given the person seven days to resolve the conflict.

However, what is of concern is the compulsion placed on the commissioner to hand over documents to a CEO of a Public Service department or a Government entity if they ask for it. This is a matter that will be discussed at greater length later. It, too, is separate from the issue of parliamentary scrutiny.

Those are the positives—and I am pleased to place them on the record. Now to the negatives! This Bill demonstrates all that is wrong with this Government. This Bill defines—with stark clarity—how this Government, this Premier, and their legislative program are so comprehensively, fully and fatally flawed.

It is proposed to establish a Queensland Integrity Commissioner. It is alleged—and I use that term deliberately, since on the evidence available to date it can be nothing more than an allegation and one, moreover, that will require very strict testing—that such an office will provide a confidential source of consistent and expert advice on conflict of interest issues. We learn this from the general outline of the Bill.

It is alleged—again this will need consistent and expert testing before any grounds will exist for believing it to be so—that the presence of the Queensland Integrity Commissioner in the machinery of bureaucracy will make a positive contribution to raising community confidence in public institutions. We learn this from the published objectives of the Bill.

Of course, in terms of the newspeak—the Orwellian option—that the Beattie Labor Government applies to everything it says or does, it is fairly hard to learn anything else from the Bill. We get weasel words. The Bill provides for advice from the Queensland Integrity Commissioner to be silent—totally silent—as far as the public are concerned. Once again, the people, the voters, the taxpayers who are

involuntarily funding this Government's many exercises in looking in the mirror and congratulating itself, are being sold a pup. We are asked—the people are asked—to simply accept that the matter of ethics in government is one that can only be conducted behind the curtain, in secret, by those empowered to know. I serve notice that we will not accept that.

The people do not want that kind of government. The people want open government. That is very sensible. Open government—truly open government—is a far better guarantee of ethical behaviour than any number of expert advisers on ethics from the ethics industry. It is also fair and right that the people should be provided with genuinely open government by the administration opposite. No matter in this instance that they consistently fail to grace the benches opposite—that they merely occupy them. The Premier and the Labor Party promised the people that they would provide open government when they came to power. We are here to see that they do.

In that regard—up front—I give notice that at the Committee stage I shall be moving a substantial amendment to this proposed legislation, an amendment that will provide at least a glimmer of light on the proceedings that this Bill is intended to set in place and regulate. We are inclined to oppose the Bill, despite the fact that were we to do so it would give the Premier another excuse to go out and peddle his nonsense about all good residing on his side and all bad on ours. Without amendment, we certainly shall.

We accept that the Government has the numbers and that, come what may, if it is as impervious to reason as is normally the case, this legislation will be passed as is. We accept that it was contained within their good government policy—so called: almost mutually exclusive; good government and Labor Party—on which Labor ran for office in 1998. We note that, like so many other promises Labor produced in its desperate bid to climb back on the gravy train that it had been forced off in 1996, good government has been playing hide and seek ever since. However, we think—such as it is ever possible to remedy a flawed design—that there are one or two things that this House can do to improve the Bill.

I commend to the Premier the path of compromise and collective improvement and reason that this House offers to him. As a basic principle, many heads are better than one, including his—or a few at least.

Mr Beattie interjected.

Mr BORBIDGE: It depends on the head. Here is an opportunity for the Premier and the Government to engage in real good government. The Premier keeps saying that he wants people to mark him according to his record. Here is an opportunity for him. If he wants the people to look at the record rather than the rhetoric—a change of mood; the Premier is generally far happier if people look at the rhetoric rather than the record—here is his chance. The Premier can strike a real blow for ethics by retreating from his usual salesman position. We know the deal; we have heard it before—"Never mind the quality, feel the width. Would the Dodgy Brothers ever sell you a lemon?"

I like to be fair, so I congratulate the Government. I acknowledge that its rhetoric is very definitely up scale, right up there on the Richter scale, right up on the octave scale. The Premier and his merry little band do so like to perform fortissimo. We just wish that they could manage to do it in tune. However, we know—because they tell us so and, therefore, it must be right—that Queenslanders are getting a truly vintage performance from the choir of angels opposite. The three tenors are nothing on this lot. The Pavarotti Premier! Look at them: 18 tenors, give or take one or two on the front bench; 25 in the chorus behind.

It is in the nature of public relations gimmickry to gild the lily and, over the past 17 months, this Government has spent a lot of its time—time that would have been better spent on actually fulfilling its promises; the ones on which it got itself elected—gilding a veritable paddock full of lilies. It is all aglitter. It must be: its public relations advisers tell us so. Sadly, I have to report that we are not taken in by the Government public relations hype. We do not believe that tricks with smoke and mirrors do anything else or anything more than hide the truth and bend reality. We do not believe that deception works as a public relations tool or as a mechanism of Government. However, we believe that, on the basis of this Government's shameful record, the day they walked in the door, ethics went out the window.

I put this proposition to the House: would the presence of a Queensland Integrity Commissioner have alerted the Premier to the very plain ethical issues that lie festering—and they will fester until the day he leaves office—beneath the administrative scandals, the deals for mates, the questionable appointments that he knows litter his Government and stain its record? I will answer that proposition for the Premier, because he will not; we can count on that: no way in the world! Not before the Public Sector Ethics Amendment Bill is passed and not afterwards, either.

This Bill smells of a stitch up. It smells of a cosy little in-house deal so that the Premier can say that he has nothing to hide and that he has a Queensland Integrity Commissioner to prove it. However, the way in which it works—or the way in which it will not work as well as it could—is that it is designed to pull the curtain down on public scrutiny, "No need to worry, the Integrity Commissioner will sort out any

ethical dilemmas". I wonder what the Premier's erstwhile personal ethical adviser, Dr Noel Preston, thinks about this? I can tell members what people accustomed to plain language and to plainer truths than we ever see from those opposite are likely to think. They are likely to think that people who need the services of an ethics adviser to define the critical difference between what is proper and what is improper should not be in charge of the bickie tin, anyway.

How are we to view the proposed Integrity Commissioner? Is he or she to be employed to keep the stables clean? Is their job to keep the stable door locked? Is it a job that is there on a stand-by basis so that if the horse bolts, the stable door can be slammed shut straight after the break-out instead of when an event becomes public knowledge? Is it more of a veterinarian's job: one that will provide a handy in-house gelding facility? Is it intended that this surgery should be performed as a preventive measure before the fact or as an on-site sanction available to deal with transgressors who have actually bolted through the door and been returned only after a public hue and cry?

Let me put this another way. Let us cut to the chase. Would the presence of an in-house ethicist have prevented the disgraceful net bet affair? Could such an appointment have better regulated the terms and conditions let alone the methodology on which Helen Ringrose was able, with the support of the Director-General of the Department of the Premier and Cabinet, to parachute out of City Hall into the soft landing provided for her at the Executive Building? Might this mechanism if, in fact, it had been in place before the horse bolted, have prevented the head of the Public Service, Brian Head, exempting himself from the selection process for his high office and highly paid position? The \$94 question is: could it have directed towards the bargain basement those other in-house experts, the ones whose responsibilities include acquiring toilet brushes suitable for ministerial comfort stations or, if not them, the Minister involved?

The Opposition will need to be persuaded by the Government as to why it should support this Bill with anything more than lukewarm enthusiasm. In the Premier's second-reading speech, there was no persuasion, only the usual public relations gimmickry. However, we want to be positive. We want to be helpful. It is always our intention to help the Government make the very best fist that it can of governing. We on this side of the House support the concept of ethical behaviour in the public sector, and not only the concept but the practice of ethical behaviour. When the Premier introduced this Bill on 26 May, he said that his Government was committed to ensuring that Ministers and other public officials responsible for public resources meet high ethical standards. No-one would argue with that objective. Certainly, no-one should.

This Bill provides for the establishment of Queensland's and Australia's first Integrity Commissioner. We on this side of the House have some difficulties with how the detail of such an appointment might work. On the face of it, given the detail of the legislation proposed, it might not work very well at all. I will return to that issue later. In the meantime, in the spirit of constructive Opposition, I believe that several things need to be said so that the difficulties that the Bill presents in terms of its workability and extent are clearly on the record. The Bill seems to lack teeth if it is to do all of the wonderful things for excellence in public administration that its authors proclaim is its purpose. It states that a primary purpose of the Integrity Commissioner is to encourage confidence in Government and public institutions. Why, then, is the impact of the proposed legislation restricted to Ministers, Parliamentary Secretaries, chief executives and certain closely defined designated persons? Surely if the integrity process that we are being asked to enshrine in legislation is to work properly, it should include all officers. Conflicts of interest or anything else can scarcely be viewed as residing only in the top echelons.

It is stated that the commissioner's advice will carry protection from liability for those who seek advice in good faith and who then substantially comply with it. Who is going to determine this good faith? Who will define what is to constitute substantial compliance? Just as importantly, who will actually monitor this process?

Mr Beattie interjected.

Mr BORBIDGE: That is the problem. The Premier says, "Trust me", but thousands would not. Some would, but thousands would not. I dare to suggest that, in the current political climate, for every person who trusts the Premier there would be 1,000 who do not. That is the great weakness of this legislation. It is another Beattie con job. It is like the unemployment figures that are now going on the trend figures. It is funny that, when he was promising 5% unemployment, the Premier was not going on the trend figures and he made that a cornerstone of his election campaign. That is why people do not trust the Premier. People do not trust the political process.

It does not seem too churlish to suggest that individuals with conflicts substantial enough to have taken them to the Integrity Commissioner in the first place might use this provision to attempt to gain indemnity for past actions. There is another problem that we on this side of the House see in terms of the workability of the legislation. With the list of designated persons as defined in the Bill, it would appear that the Integrity Commissioner is not going to be very busy. This restriction on the commissioner's area of operations lends weight to the view—and I accept that the Government might

see this as an invidious view—that the Bill is less about cleaning out the stables than it is about putting on a nice public relations front. That would hardly be unusual for this Premier or this Government.

There are several other areas of difficulty with this proposed legislation. These are difficulties that neither the Premier's second-reading speech nor the other literature attached to the Bill address in any useful fashion. We on this side of the House look forward to the Premier finding the time and wherewithal to work through the Bill in the Committee stage so that these substantial questions can be answered.

For instance, if the proposed Integrity Commissioner is to act and be seen to act independently, he or she will need to have independent control of any support staff. The support staff should not—and I underline "should not"—be attached to the Office of the Public Service under the Premier's control. The provision that certain designated persons, including senior executive officers and senior officers, may only seek advice from the commissioner if their chief executive authorises them to do so and communicates this authorisation in writing would seem, *prima facie*, to be a potentially severe deterrent to seeking that advice.

The Bill requires that the Integrity Commissioner must give a copy of a relevant document relating to a particular designated person other than a senior executive officer, senior officer or senior executive equivalent if he believes that person has an actual and significant conflict of interest to the Premier, a Minister or a Parliamentary Secretary as the case may be. What is to stop this information then being pigeon-holed if it is unpalatable? What if politically it is a little bit nasty? What if it spells out the word "accountability" a little too clearly?

Under the provisions of the Bill, if a conflict of interest is established there is a shroud of secrecy with no provisions to ensure a satisfactory resolution. We have this cosy in-house operation that operates almost like an official secrets Act. What kind of public policy is this? Under the provisions of the Bill, if a conflict of interest is established, the shroud of secrecy—the cone of silence—descends over this Maxwell Smart of a Premier with no provisions to ensure a satisfactory resolution. What kind of public policy is this? It is bad public policy—B-A-D!

The Bill also provides that a chief executive may request and obtain a copy of a request for advice from the Integrity Commissioner and a copy of the advice later tendered, if that request has come from a senior executive officer or a senior officer under the chief executive's control.

Mr Johnson: It sounds like a republic.

Mr BORBIDGE: As my colleague from Gregory says, it sounds like the Labor republic.

Again, this is likely to deter officers who need to seek advice from doing so. Furthermore, beyond the constant claims that we hear from this Government about its commitment to openness and accountability and its general level of excellence—claims that we already know do not stand up to scrutiny—what guarantees are there that the result of such an advice-seeking process will not be a cover-up?

These are issues of substance. They go to the heart of the Bill and its credibility. Indeed, they go to the credibility of the Premier. How he responds will determine whether or not the Opposition supports the legislation. We believe that these issues should be looked at searchingly and at length by the originators of this Bill, because the Bill is flawed. We will be proposing amendments to the Bill, but we are seeking assurances. Our attitude will be determined by the assurances that the Premier provides in response to the reservations that I am expressing.

As an aid to this process, it is useful to look again at the policy objectives of the Bill. The major policy objective is to assist senior elected Government officials and senior appointed public officials—these being defined in the Bill as "designated persons"—to avoid conflicts of interest and thereby to improve the standards of integrity and probity in Government and public administration. The Government sees this measure as making a positive contribution to raising community confidence in public institutions. That is an entirely laudable aim. It is an objective that we would certainly support, as I am sure would every member of this House. However, as I canvassed earlier—and I am sure that this issue will be developed during debate and, hopefully, it will be answered by the Government—the question to be asked is: is this essentially elitist arrangement the way to go?

Let us leave aside questions such as who in a senior position would not know whether something was a conflict of interest. I mean that in the sense of having the wit, the training and what I will refer to as the "organic ethics" to understand. Of course we accept that the complexities of modern administration create grey areas on which it would be reasonable to expect people in sensitive positions to seek advice. Under the proposed legislation, the Integrity Commission is not designed to be a regulatory body. It is designed to provide advice only in relation to conflict of interest issues and only by way of a response to a specific request by a designated person. Therefore, I ask: is this to be a toothless tiger? A further question is prompted by the Government's record to date: does the

Government want it to be a toothless tiger? Is this all for show? Are there in fact, rather than in theory, going to be teeth attached to the magnificent animal that we are being asked to bring into existence?

According to the Explanatory Notes—

"In recognition of the determinative character of the Commissioner's considered advice in relation to a conflict of interests matter, an official who substantially complies with the Commissioner's advice is to be accorded conditional protection against liability in a civil action or administrative process. In relation to the giving of that advice, the Integrity Commissioner is to receive comparable protection against liability."

These are essentially sensible provisions, given that the Government wants an Integrity Commissioner in place. However, again I believe that we need to hear a lot more detail from the Premier as to how he envisages the system will work.

In the Government's view, it is important to provide a confidential source of consistent and expert advice on conflict of interest issues. From the Opposition's viewpoint, it is also important that such a source—confidential, consistent and expert—is available. However, although it would not be argued by the growing army of professional ethicists, it could be suggested that most such inquiries would find remedy within regulations in the case of a Government office, or within the law. If something is wrong, it is wrong. It is like the pirate warnings that are on videos: it is not quite right. Not quite right equals wrong. I do not think that there is any real argument about near enough being good enough when it comes to ethics or the law, and I think that most people are quite clear about that.

The Opposition looks forward to further opportunities to debate the issues raised by this proposed legislation. We also look forward to hearing the Premier's answers to the questions raised.
