



Speech by

Mr SANTO SANTORO

MEMBER FOR CLAYFIELD

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SCHOOL UNIFORM BILL

Mr SANTORO (Clayfield—LP) (10.11 p.m.): In speaking to the School Uniform Bill, I intend to deal with three main issues: first, why I personally support school uniforms and believe that the utilisation of uniforms by State schools is worthy of specific legislative intervention; secondly, the benefits of the particular approach contained in this legislative proposal; and, finally, the alternative strategy outlined in the House on 3 March by the Minister, and his subsequent totally unsatisfactory and secretive response to legitimate requests for information about the legal basis for it.

Before turning to these matters, it is important to set out from the beginning why the Opposition has introduced this Bill. It stems from the fact that in both his 1996-97 and 1997-98 annual reports the Ombudsman found that there was currently no legal basis for making school uniforms compulsory. In the first of these reports, he stated—

"Nothing in the Education Act or regulations specifically states that school uniforms can be made compulsory and, in fact, I don't believe that even the Education Department's policy on the matter goes that far. The department and principals have responsibility for the good management of schools but it is by no means clear that this entitles them to expel or penalise students who don't wear a school uniform. Expulsion is a fairly drastic consequence and if it is to be government policy, then I believe it should be spelt out clearly in legislation."

In his last annual report, the Ombudsman reiterated his concerns, saying—

"If schools are imposing sanctions on students not in uniform then they are doing so with no legal basis."

Shortly afterwards he said—

"The position therefore is that putting inappropriate dress code aside, a student who is reasonably dressed cannot be punished or treated differently in any way for not wearing the official school uniform. I know that this view is unpopular with some principals and P & C Associations, but the position can only be changed by legislation, not by administrative stealth or low level coercion."

There you have it, Mr Deputy Speaker. In two successive years the Ombudsman has said publicly that there is no legal basis for mandating the wearing of school uniforms, and on both occasions has called for legislative intervention.

I will turn to this matter later, but this is the reason why public attention has focused on the legality of schools requiring students to wear uniforms or have particular dress standards. In common with the vast majority of Queenslanders, I personally think that school uniforms and a sensible school dress code are desirable and should be backed up with an appropriate legislative base. Some people constantly draw a distinction between liberal-minded people who think that students should have the freedom to dress, up to a point, as they wish, and disciplinarians who want to force uniforms on children as a means of maintaining control. This is a totally false and quite misleading dichotomy.

The vast majority of people support the wearing of uniforms for a host of very positive and socially desirable reasons which have nothing to do with school discipline. Firstly, people support uniforms because they promote pride in both the school that students attend and, by analogy, in the students themselves. A school which has pride in itself, in its students and its achievements is a school which is well managed and which tends to produce self-confident students who are

better able to deal with the challenges of the workplace. A well-presented school, in terms of its students, is a school which has a good image in the wider community, including with prospective employers.

Let none of us forget that the greatest gift that our education system can bestow on our children is the dignity of being able to find work, to obtain self-fulfilment and to make a positive contribution to our society. School uniforms and dress codes are an integral part of this process. Secondly, and as an extension of this, a school uniform can assist in focusing the mind of students on their role within the school community. In other words, rather than focusing attention on self, uniforms are an objective and easily identifiable means of building up a team and community spirit. Instead of kids trying to promote their own individual needs, uniforms focus attention on the wider school community and the integral role that each individual plays in it.

Thirdly, uniforms are a clear means of identification. This is not meant as a means of tracking down recalcitrant students who misbehave when outside school grounds, but a means of keeping check of undesirables who may enter school property. Unfortunately, it is a very sad indictment on modern society that schools have to be ever vigilant to observe the activities of visitors and non-authorised persons. School uniforms are a very visible way to assist in this process.

Fourthly, uniforms are a great leveller. They promote egalitarianism. Instead of there being a constant competition to have the most up-to-date fashions, with the children of richer parents being placed in an envious position, uniforms prevent this becoming an issue. In other words, instead of poorer students, or the children of conservative families, being placed at the lower end of the fashion conscious pecking order, all kids, no matter what their background, are dressed the same and attention can be focused on more important matters.

It is for these reasons that I support uniforms, rather than out of any belief that they help school discipline. As a Liberal, I believe passionately in individual choice, in getting Government off the backs of people and allowing people to express their individuality. However, I believe also that individual freedom is built on the firm foundations of an ordered and just society. Schools uniforms are a very small but important aspect of ensuring that our egalitarian society remains just that.

It is with these sentiments in mind that I am very happy to support this Bill, which has been introduced by my colleague the member for Merrimac. As he pointed out to the House, it will give our 1,300 State school communities the legal backing to develop their own individual dress codes within an agreed framework. This Bill will

devolve that freedom to the people that count—the schools, the teachers, the students and the parents. It does not mandate that there must be school uniforms—far from it. In fact, it deals with a far wider range of issues than just uniforms, as dress codes inevitably must. For example, under similar Western Australian legislation dress codes may include components such as clothing, uniforms, school bags or ports, jewellery, cosmetics, clothing for sporting and extracurricular activities and safety requirements for outdoor activities.

Under the Bill, before a dress code can be made, the principal of a school must undertake consultation prescribed under the regulations with the school's staff, parents and students. In other words, the main stakeholders will all have a say, including the students themselves. In addition, the regulations will specify not only the nature of the consultation but also the matters that must be considered when deciding on a dress code. Principals, together with the school communities, will not develop a code in isolation and without guidance. Rather, they will develop a code having regard to the matters specified by Executive Council to which they must have regard.

But the Bill contains a further protection. The code will not be effective until the Director-General of the Education Department approves it. Approval, in other words, is not left in the hands of the principal. Not only that, but the director-general will have to take into account those matters prescribed by regulation. I would not speculate what would be put in regulations, but I do point out to the House that in Western Australia the following elements have to be addressed when developing a school dress code—

the dress code has to be reasonable by contemporary standards and to provide for some choice so that it does not intrude unnecessarily on a student's rights in matters of personal appearance;

items in the dress code are not to be gender specific. Some provision is to be made for individual expression;

the requirements of the dress code are to be able to be met by all students. The range and choice of specified garments, their cost and availability should reflect the capacity of parents to provide them;

provision is to be made for exemptions on the grounds of student health, ethnic considerations, religion or any matter which the principal considers to be sufficient to exempt a student from the dress code's requirements; and

the dress code is to take into account the risks of ultraviolet radiation.

No doubt the director-general would have to specifically consider whether the relevant principal

undertook the consultation required and in the manner specified and, on top of that, whether the dress code submitted for approval is in accordance with the regulation outlining the matters that should be taken into account.

The great benefit of this Bill is that it puts certainty back into the equation. It will give to schools a firm basis for making rules and firm and sensible guidelines to work within. As my colleague the member for Merrimac said, it will take out of the equation issues such as who will decide what is or is not reasonable, what is or is not safe and what is or is not objectionable. As I said, this Bill is not about making uniforms compulsory. It is about giving the legal basis for schools to set appropriate dress standards.

If schools decide for whatever reason that they do not want a uniform—and I think that at least at the secondary level this would not be the right approach—then there are a host of other issues that still have to come into the equation, such as minimum footwear, the wearing of hats, skirt lengths, objectionable material printed on shirts, or jewellery. The list of matters is quite lengthy. What this Bill is aimed at doing is giving school communities the right to make these decisions and ensuring that decisions are made within reasonable and just parameters. It is aimed at keeping people out of the courts—preventing disruptive, costly and counterproductive litigation.

Let me conclude by also pointing out that this Bill does not provide for any sanctions other than those agreed upon by the schools themselves. I would like to record in Hansard my view that counselling is the best way of dealing with this issue, and that the Western Australian approach of preventing non-conforming students from engaging in out-of-school activities is the best approach.

Uniforms are intended to enhance the educational opportunities of children, not to be used as a weapon to punish students and compromise in any way the fundamental right of Queensland children to a formal education. There are many reasons why people may not wear uniforms, and I think that the so-called civil liberties concerns would account for only a very small proportion of them. Most would relate to parents who are poor or who are poor and move from place to place regularly. In my opinion, kids in that situation need extra help, not be subjected to extra stresses. Any child of a family who is in this type of circumstance requires support, not some half-baked attempt to force them to do something over which they have no control whatsoever.

I mention this because it is important to stress that no-one in this Chamber, whether they are from the Opposition or Government benches, is insensitive to the needs of parents and children confronted with a range of cost imposts from schools and other institutions. Those of us who support school uniforms do so for a range of

positive and sensible reasons and do not support uniforms for discipline reasons per se. In fact, discipline is the very last aspect of a sensible dress conduct policy that motivates us.

Finally, I want to discuss the alternative strategy outlined on 3 March by the Minister and how he has subsequently dealt with the matter. Before I do so, it is essential to have regard to what the Ombudsman said. He pointed out that section 27 of the Education (General Provisions) Act requires that the principal of each school be responsible for the formulation of behaviour management plans. These plans are intended to promote a supportive environment at the school, to promote effective teaching and a positive learning environment, to foster mutual respect and to encourage students to take responsibility for their behaviour and the consequences of their actions.

Section 28 sets out the grounds for suspending students, namely, disobedience, misconduct and conduct prejudicial to the good order and management of a school. The Ombudsman said—

"It might be argued that if a plan makes uniforms compulsory and a student knowingly refuses to comply, that is at least 'disobedience'. However this would in my view only be the case if the requirement to wear a uniform were within the objects of the plan as delineated in section 27(2). I cannot see that it is."

The Minister on 3 March said that he intended to issue a determination under section 84 of the Act. This section deals with the functions of parents and citizens associations. Subsection (1)(g) enables P & C associations to "perform any other functions not inconsistent with this Act as the Minister may from time to time determine". The Minister informed the House that his determination will empower P & Cs to decide whether their school will have a dress code policy and, if so, what it will be. The Minister said—

"If P & Cs wish to decide in favour of a school dress code they will be given the opportunity to express a view that a school dress code furthers the objectives of the Act in the context of the particular circumstances of their own school, thus giving principals the opportunity to incorporate the school dress code into the school's behaviour management policy."

Unlike the Minister, I am not a lawyer, but I have very great difficulty understanding how this convoluted process could in any way overcome the quite specific concerns of the Ombudsman. But at issue is not my interpretation of the Act or my view about the legality of the Minister's proposal. First, I note that a number of Labor Party representatives have called for legislative intervention. For example, in this House on 22

October last year, the member for Nudgee, who I note is here in the House, said—

"I believe that the Government should be examining the possibility of providing legislative support to schools that choose the compulsory uniform option."

I agree wholeheartedly with the honourable member for Nudgee.

Second, the Queensland Teachers Union has repeatedly called for legislative intervention. As recently as 6 July, Julie-Ann McCullough was on ABC radio saying—

"The Union's preferred position would be to see legislation that actually strengthens up any information about school uniforms and policies for our teachers to enforce."

If the Minister's proposal was as good as legislation of the type we are debating, then all this would be academic. But what is the worth of the Minister's strategy? First, the Ombudsman in correspondence with my colleague the member for Merrimac has indicated that he believes that the Minister's determination does not overcome the problems he raised. In a letter dated 10 March, just one week to the day after the Minister outlined his strategy to this House, the Ombudsman said—

"My position remains as outlined in my latest Annual Report to Parliament. In the absence of convincing legal advice or opinion to the contrary I see no reason to change my position."

In a further letter dated 6 July he said, "My view remains unchanged at this time."

I know that the Minister and others in here have sought to denigrate the advice of the Ombudsman, but I would suggest that, before the Ombudsman, in fact, wrote to the Minister—

Mr WELLS: I rise to a point of order. The suggestion that I denigrated the Ombudsman is untrue and offensive, and I ask that it be withdrawn.

Mr SANTORO: If the Minister has found anything that I have said objectionable, I do withdraw it.

The point that I was making was that, before the Ombudsman wrote those letters, he would have very, very carefully considered what he put in those letters. I would suggest to the Minister and his advisers, with respect, that the advice of the Ombudsman would be just as authoritative as any other advice that he has received.

What advice did the Minister act upon when he crafted his strategy? It is here that any reasonable observer would be very concerned.

Mr WELLS: I rise to a point of order. It is inappropriate to suggest that the Ombudsman is a policy adviser to the Government or a legal adviser to the Government.

Mr SANTORO: That is not what I said.

Mr WELLS: It is a mischaracterisation of the Ombudsman.

Mr DEPUTY SPEAKER (Mr Mickel): Order! There is no point of order. The Minister will resume his seat.

Mr SANTORO: In response to a question on notice lodged by the member for Albert, the Minister indicated that his department did provide him with oral advice on options prior to his ministerial statement. However, he was asked whether the options he was given by his department included his strategy, and he replied that they did not. In response to a question on notice by the member for Merrimac, the Minister said that his view was based on his understanding of the situation after taking advice from formal legal sources.

Let me interpose here. As early as 28 January this year, the then president of the Queensland Teachers Union said—

"We would urge the Education Minister to produce the Crown Law advice to explain to the public in a sensible and timely fashion what the issues are, what the problems are, and give the schools the powers that they are seeking."

There is an assumption that the Minister has Crown Law advice, yet in his formal response he simply refers to formal legal sources. What are formal legal sources? Does the Minister mean the Crown Solicitor? I would ask the Minister at some time in the future: just what are these formal legal sources that he is relying on? On top of that, whatever the formal legal sources are, I call on the Minister to table all the advice that he has received.

The Minister will recall that during the debate on the Public Service Bill in 1996 the Labor Opposition asked for and got various advices given by both the Crown Solicitor and the Solicitor-General. If it was good enough in 1996 for the Government of the day—the coalition Government—to resolve legal issues by tabling formal legal advice, it should be good enough now. In fact, as I recall, it was none other than the Minister himself who was calling on the then Premier to table the legal advices in question.

What is at stake here is whether the Minister's strategy is just a half-baked plan that will expose teachers and the Queensland taxpayer to litigation from disgruntled parents in the event that there is an attempt to enforce a school dress policy. For once I have to agree with Ian Mackie, who said:

"If there are some legal impediments, we need to know about that. There's a lot of bush lawyers out there but we need some commonsense to prevail here and the letter of the law to be observed."

There is a massive cloud of uncertainty over the Minister's strategy. Both the Ombudsman and the QTU have expressed the view that legislative

intervention is necessary. The Minister's own department did not even suggest this strategy and it appears that it has emanated from some other source, backed up by mysterious advice from undisclosed formal legal sources.

There is the ongoing risk that, in the absence of legislative intervention, litigation might eventuate, with all of the consequent problems, stresses and disruption that will flow. Alternatively, this Parliament has before it a Bill which will once and for all remove the uncertainty and emotion surrounding the issue of school uniforms.

This House has a clear choice—a choice between an untested strategy developed by the Minister in the absence of departmental advice and a short, clear Bill which will put this matter to rest. It is obvious, leaving politics out of the equation, which is the safest and most appropriate course of action.

Mr Wells: What if I actually set the policy of my own department? Would that terrify you?

Mr SANTORO: Given that I have a few seconds remaining, I take the interjection of the Minister. Even if he did say that it was on departmental advice, with respect to his advisers and his department it is wrong.

For the sake of our school communities, including teachers, students, parents and citizens, I urge the Minister and the House to adopt the good sentiments contained in this Bill proposed by the honourable member for Merrimac.
