



Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

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MINISTERIAL AND OTHER OFFICE HOLDER STAFF BILL; INTEGRITY REFORM (MISCELLANEOUS AMENDMENTS) BILL; PUBLIC INTEREST DISCLOSURE BILL

Mr POWELL (Glass House—LNP) (4.23 pm): There is a lot in these cognate bills that I could speak on today. There is the establishment of yet another paid advisory committee through clause 33 of the Ministerial and Other Office Holder Staff Bill—another paid committee for Labor mates; there is a new requirement for QAS officers to declare that they have been subject to serious disciplinary action in the past; there is the rather bizarre requirement for the Auditor-General and Ombudsman, the independence and authority of either having rarely been questioned, to now declare their interests with oversight provided by the Integrity Commissioner; and there are the changes to the Civil Liability Act that will enshrine in legislation that saying sorry cannot be taken as an admission of legal liability.

I know the opposition leader and the member for Kawana have both identified a number of questionable cases where such legislation would clearly protect this disastrous Bligh government. Given that my colleagues have covered many of these amendments in detail, let me return more specifically to the Ministerial and Other Office Holder Staff Bill.

Through a 12-year career in the Commonwealth and Queensland public services, one principle sat front and centre in every action I undertook: that I was to provide frank and fearless advice to the government of the day. That meant that, regardless of my personal views or my personal political persuasions, I worked tirelessly for the government of the day. So for four years I worked for the Howard coalition government in the Commonwealth Department of Defence and for the subsequent eight years for the Beattie-Bligh government here in Queensland. I know that principle guides many, if not all, of my former Public Service colleagues, as it should. As was written in the *Courier-Mail* editorial—

THE essence of good policymaking lies in the relationship between the bureaucracy and the government of the day.

The editorial continues—

That relationship is always a balancing act.

Bureaucrats need to preserve their independence and capacity to provide frank advice while making sure they are implementing the policies of the government. Ministers and their staff need to ensure their political imperatives are met without compromising the impartial role the Public Service should play in formulating policy.

Let me reiterate that last comment—

Ministers and their staff need to ensure their political imperatives are met without compromising the impartial role the Public Service should play in formulating policy.

There is no question that public administration and government is getting more challenging and complex and keeping that balance is increasingly difficult. However, difficulties should not result in an abdication of those principles.

It is clear that not all ministerial staff working for this Bligh Labor government have been able to overcome these difficulties. As outlined in that same editorial—

The Crime and Misconduct Commission inquiry into the behaviour of Simon Tutt, former police minister Judy Spence's chief-of-staff, heard enough evidence to suggest that the dealings some ministerial staff have with public servants and the attitude they display are not only far from ideal but also interfere with good governance.

Such behaviour is not acceptable. Not only is it not acceptable; it is deplorable and must not be allowed to continue. The fact that a senior public servant, Deputy Director-General Craig Mathieson, whom I happen to know from my own Public Service career in the north coast region, felt sufficiently pressured by the then minister for police's office that he increased the proposed grant in question by \$200,000 is indicative of a sickening change—

Mr HOOLIHAN: I rise to a point of order. In relation to the report that has been mentioned, there is an article in today's newspaper. But that says that it is a draft report and it is a leaked report. I would suggest that the member is treading on very dangerous ground in dealing with that report until the report is, in fact, tabled in this House.

Madam DEPUTY SPEAKER (Ms O'Neill): Order! I agree and I ask the member to move on.

Mr POWELL: It is a sickening change in the dealings between a once independent Public Service and the political beings of the minister's office. There must be a renewed effort to establish ground rules so that all parties know where they stand. The editorial continues—

This is a bigger deal than ensuring a degree of courteousness and professionalism.

If staffers believe they can instruct public servants at will or, worse, claim they are acting on their minister's behalf when they are not, then it is plain they need to be pulled into line. If they believe they are able to act this way with senior public servants, then the integrity of public administration is in deep trouble.

I appreciate that clause 15 of this bill endeavours to do this. However, I am not sure it will achieve its intended objective. Rather, it may confuse the matter even further. As the opposition leader highlighted, in an attempt to overcome the Tutt situation of a ministerial adviser giving a direction to a public servant, this bill provides that a public servant cannot be subjected to a direction of a ministerial staff member. Yet clause 15(2) goes on to provide that the same ministerial staff member can give a direction to a public servant if he is acting on behalf of a person who may lawfully give a direction. As stipulated by the opposition leader, what public servant, faced with a direction from a ministerial staff member, is going to ask that staff member whether he or she is acting on behalf of the minister in giving such a direction? Only a public servant who has no interest in a long-term career would be so bold as to ask such a question of a ministerial staff member and seek to establish whether that ministerial staff member is, indeed, properly authorised by the minister.

The same concern was also highlighted by the Scrutiny of Legislation Committee. Section 4(3)(c) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. Whilst the explanatory notes attempt to justify the breach of fundamental legislative principles contained in clause 15, the committee remains concerned, stating—

Delegation of administrative power regarding the management of the department to a 'staff member' may be a delegation in an inappropriate case or to an inappropriate person.

The committee was so concerned that it invited the Premier to provide information regarding the consistency of clause 15 with section 4(3)(c) of the Legislative Standards Act and how the proposed provision would work in practice, including whether the delegation of administrative power needs to be in writing. I note that the Premier has replied to the committee's concerns but has done little more than rehash the explanatory notes. As for the practical implementation of the clause, the Premier writes—

A key function of Ministerial staff is to communicate with public servants about Ministerial views or decisions. While it would not be practicable for formal authorisations or written delegations to be made by Ministers for every communication entered into between Ministerial staff and public service employees, the extent of authority and the types of work to be performed by individual staff members would be determined in accordance with contracts of employment and day-to-day work management processes. As staff members would not be delegated any formal authority over the management of a department it is therefore not considered that the Bill allows any inappropriate delegation of administrative power.

I am sorry, but I am still not clear how a public servant will know, as clause 15(2) states, that the same ministerial staff member can give a direction if he is acting on behalf of a person who may lawfully give a direction.

Therefore, I close by reiterating the calls of the Integrity Commissioner, Dr Solomon, who said—

This is the place to spell out that advisers cannot direct public servants in their own right and cannot use their minister's name if they do not have the minister's specific approval.

This is too important an arena for us to be unclear in our legislation. If our intent is to legislate what has been established by convention over many years, then let us get it right the first time.