

PUBLIC INTEREST DISCLOSURE BILL 2002

Council's Amendments

Amendments made by the Council further considered from an earlier stage of the sitting.

Consideration in Detail

Debate was interrupted when amendment No 10 made by the Council had been partly considered.

Mrs C.L. EDWARDES: The Opposition supports the amendment as proposed. I seek the indulgence of the House to make a comment about whistleblowers generally. The amendment changes the title of the Bill, for the purposes of miscellaneous and consequential amendments, from the Whistleblowers Protection Bill to the Public Interest Disclosure Bill. This brings to mind the question of whether we really are moving towards protection of whistleblowers in the main. I remind the House of one particular whistleblower, Mr Chris Read, who has been severely and unfairly dealt with by the bureaucracy. Unless people like Mr Read, who was proven to be correct, are returned to their previous positions, whistleblowers will never come forward. They will see what has happened to Chris Read. Mr Read worked in the Ombudsman's office. He made specific complaints, in the appropriate way, directly to the Ombudsman, for several years in a row. It was only after the matter was investigated thoroughly, particularly by the Auditor General, that his disclosure was found to be correct. Before that time, the Ombudsman had not renewed Mr Read's contract, because he was complaining about the actions of the Ombudsman. Mr Read is now at home on sick leave. It is unfair what we - and I say "we" with a big capital W - are doing to him and his family - he has young children. The denial of fair treatment to him is un-Australian.

The bureaucrats - the Sir Humphrey Applebys of this world - will never allow a change of culture to protect whistleblowers, unless the Government is committed to this policy in its entirety. Until the Government protects Mr Read, it does not matter what legislation is in place. No matter what protections are supposed to be in place for potential whistleblowers, they will never come forward. Why should they lose their jobs, their dignity, their self-esteem, their families and their health? A person would have to be almost crazy to be a whistleblower in this State. This legislation will not protect people like Chris Read in the future. I put it to the Attorney General that he will not get whistleblowers coming forward. If he is really serious and committed to this policy, I implore him to go back and look again at the Chris Read case. He must be treated as an individual, as a loyal public servant who was committed to his job, and a legitimate whistleblower who has been proven to be correct. He should not be treated as a victim. He is a human being.

Do members understand what happens to a person when all of a sudden, for doing all the right things in the light of the public policy stated by this Government, his or her health, job and family suffer? It is unfair and un-Australian. I implore the Attorney General to put Mr Chris Read back into the position he previously occupied. If he cannot go back into his particular item number, the Government should at least make sure that he is returned to his previous level, with a legitimate job to do, for his own self-esteem and dignity. It is the least the Government can do for genuine whistleblowers. I ask the Government, if it is really committed, to restore Mr Read to his previous position and cease treating him as a victim.

Mr J.A. MCGINTY: I will conclude debate on the Legislative Council amendments by making two observations. The first is that the issues raised by the member for Kingsley are the very reasons the Government has enacted this whistleblower legislation. It is designed to encourage a culture within the public service, in which people can feel free to come forward and blow the whistle on impropriety or corrupt behaviour in the public sector without the fear of retribution. They would do that from a civic-minded sense. A range of protections are built in. A new tort is created, giving a person who is discriminated against or prejudiced a right to initiate action for damages on account of that discrimination or prejudice. It also places legal obligations on heads of departments to treat complaints seriously, make sure they are investigated and ensure that no prejudicial action is taken against the person concerned.

It is always difficult to go back and deal retrospectively with events that occurred prior to new legislation coming in. The member for Kingsley raised this matter during the course of the substantive debate, when this Bill first went through this House a very long time ago. On that occasion I did take it up, although it is not within my portfolio. I caused it to be investigated, and received a report back about Mr Chris Read. I am not really in a position to take that matter much further, but it is my fervent hope that the passage of this legislation will ensure that events such as that described by the member for Kingsley in this Parliament will not happen again in the future.

Mrs C.L. Edwardes: The Sir Humphreys will not let you. If you do not stand up and say that this is wrong, and this is the sort of behaviour we expect in the future, it will never happen.

Mr J.A. McGINTY: I do not disagree with any of the sentiments behind the member's impassioned plea. However, having not been intimately involved with the Chris Read case, I do not share the member's assessment of it. I say that simply as a statement of fact and not to imply that the member is not right. I simply do not know. It is that type of issue for which we will provide a framework in the future. With the passage of this legislation, the people involved - maybe even Mr Read himself - will argue that this matter should be reassessed in the light of the new law, even though it was not applicable at the time that Mr Read blew the whistle and had action taken against him, action that he claims was prejudicial. Perhaps it is an appropriate time to review that issue, although I cannot personally give that commitment during this debate. I certainly hope that matters of a similar nature that arise in the future will be dealt with within this framework. Hopefully, matters of that nature will become rare, if not stamped out altogether. The member for Kingsley might have been right when she stated, cynically, that the Sir Humphreys will always have their day. I hope that she is not right. Probably the member for Kingsley also hopes that she is not right.

I thank the member for Kingsley for the way in which we have been able to expeditiously deal with the upper House's amendments. We have agreed to the amendments that make sense and disagreed to those that do not. It is always the case that some amendments from the upper House do not make sense. I thank the member for Kingsley for the Opposition's cooperation.

Question put and passed; the Council's amendment agreed to.

The Council acquainted accordingly.