

MAHONEY INQUIRY, AMENDMENT TO PUBLIC INTEREST DISCLOSURE ACT

93. Mr P.D. OMODEI to the Attorney General:

I refer to the status of the Mahoney inquiry, and remind the Attorney General that in 2003 the government passed the Public Interest Disclosure Act, which protects whistleblowers who give evidence against others such as senior bureaucrats and ministers. None of the acts the Attorney General has so far quoted give any protection to whistleblowers; in fact, some sections quoted by the Attorney General remove the right to silence.

Will the Attorney General undertake to introduce urgently an amendment to the Public Interest Disclosure Act 2003 to protect whistleblowers who come before the Mahoney inquiry?

Mr J.A. McGINTY replied:

I am very happy to take advice on this question. However, my understanding is that it is not necessary for a very simple reason. The Public Interest Disclosure Act gives what I loosely refer to as public servants - that is, people with interest in public sector matters - immunity from civil or criminal prosecution if they report wrongdoing in accordance with the provisions of the act. Obviously, if someone is required to give evidence before an inquiry such as that conducted by Mr Mahoney, that protection is not needed because it is already there. It is there by force of the existing statutory provisions.

Mr P.D. Omodei: Will you take advice on this?

Mr J.A. McGINTY: I have taken advice on this.

Mr P.D. Omodei: Will you amend the legislation?

Mr J.A. McGINTY: I would be happy to if the information were not correct. However, I believe it is correct.

Someone who comes before a court and gives evidence under oath cannot be sued for defamation or other civil matters for the evidence given. Evidence will be given under oath before an inquiry that is appointed. The evidence is protected. That is my understanding of the law and the Public Interest Disclosure Act. What the member is asking is adequately covered in the Mahoney inquiry and is unnecessary. If the member has legal advice to the contrary, I will happily receive it.

Mr D.F. Barron-Sullivan: Are you suggesting that section 9 of the Prisons Act offers that protection?

Mr J.A. McGINTY: The Public Sector Management Act expressly does. Common law principles would apply that to a Prisons Act inquiry. However, I have not received specific advice but I am happy to look at that if it arises.