



Speech by

**Andrew Cripps**

**MEMBER FOR HINCHINBROOK**

Hansard Wednesday, 14 May 2008

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## **MOTION: PUBLIC SERVANTS, WHISTLEBLOWER PROTECTION**

**Mr CRIPPS** (Hinchinbrook—NPA) (5.55 pm): I rise to support the motion moved by the member for Surfers Paradise and seconded by the member for Burnett. The Whistleblowers Protection Act 1994 was legislation enacted to provide a mechanism to protect whistleblowers in the Public Service in Queensland from any form of discrimination, disadvantage, intimidation, harm or reprisal as a result of their actions and to make it possible for them to continue their work in the Public Service. The act protects the whistleblower from civil or criminal liability for making a disclosure. Clearly, the act is an extremely important piece of legislation, and it is of paramount importance that its provisions provide an appropriate level of protection for whistleblowers in Queensland developed in accordance with the best advice that the government of the day has to hand.

Regrettably, this is not the case in Queensland and public servants in Queensland have been disadvantaged as a result. We saw the persecution of Toni Hoffman, a nurse at the Bundaberg Base Hospital who blew the whistle on tragic and scandalous matters that were occurring there and the stress and anguish that she was put through by this government and Queensland Health. The adequacy of whistleblower legislation is a topic about which I have previously spoken in this place. I participated in the debate on the Whistleblowers (Disclosure to Member of Parliament) Amendment Bill, proposed by the state government. The government advised that the bill was based on the recommendations of the Parliamentary Crime and Misconduct Committee report No. 64, tabled in March 2004, and the recommendations of the Forster and Davies inquiries, but this was not necessarily so.

The fifth PCMC, in report No. 71, cited a number of concerns with the existing scope of whistleblower protection—concerns that have previously been discussed and highlighted by its predecessor committee, the fourth PCMC in report No. 64. In particular, the fourth PCMC had noted that, while the act imposed legislative obligations on public sector agencies to deal effectively with public sector disclosures and protect whistleblowers from reprisals, if there was not a strong commitment to the Whistleblowers Protection Act 1994 within a particular organisation the effectiveness of the legislation could be limited. Specifically, the committee pointed to what it perceived to be a gap in the provision of support programs to whistleblowers in the public sector and, as such, there was inadequate protection of whistleblowers under the current act—an issue that tonight's motion seeks to highlight and address.

None of the recommendations from the fifth PCMC report No. 71 were provided for in the government's whistleblower bill. There was no mention of referring matters to the Ombudsman. There was no provision for the categories of persons able to make a public interest disclosure to be expanded. There was no mechanism for whistleblowers to escalate their complaint in the event that the matter is not dealt with by the department appropriately. There was no provision for the Ombudsman to take a greater role in monitoring the application of the Whistleblowers Protection Act by government departments. Finally, there was no provision for the development of guidelines to assist government departments to deal with public interest disclosures professionally.

All of these things were in the fifth PCMC report No. 71 but not in the government's bill. The fifth PCMC said that these were important steps to take in the development of up-to-date and effective

whistleblower protection legislation in Queensland. These views had previously been advanced by the fourth PCMC, yet this state government passed a bill which dealt with a far more narrow set of matters. In doing so, the state Labor government rejected a perfect opportunity to create a much better legislative environment in which public servants could come forward and speak out about issues of concern in their workplace without fear of retribution. That failure is something that is not recognised in the amendment put forward by the Leader of the House.

Members of parliament from the opposition benches all too often have conversations with local police officers, local ambulance officers, local teachers, local nurses and other employees of the Queensland government who indicate that they want to speak out but cannot do so for fear of retribution from the executive of their agencies or departments. The dreaded ministerial 'please explain' letter is another situation which fills them with fear and prevents them from bringing forward these difficult issues.

Ministers in this government and members on the government benches may protest and object that public servants are not treated this way, but opposition members and public servants all over Queensland know it is a reality, and an outrageous reality at that. Only days ago the head of the Townsville Hospital's emergency department, Dr Niall Small, stood in front of television cameras and spoke out about the pressure on emergency staff and the risks faced by patients presenting to the emergency department as a result of a lack of space—an amazing capacity problem in what is a new hospital despite the up-beat assessment offered by the Minister for Health this morning. Obviously Dr Small has been driven to speak out of frustration and professional concern for his patients only when he could remain silent no longer. Dr Small should have felt secure enough in his position to speak out about his concerns before it became another Queensland Health crisis. The fact that he did not is reason enough to support this motion.