



Speech by

Mark McArdle

MEMBER FOR CALOUNDRA

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WHISTLEBLOWERS PROTECTION AMENDMENT BILL

Mr McARDLE (Caloundra—Lib) (8.57 pm), in reply: I look forward to joining in the debate here tonight. I want to make a couple of opening comments. Essentially, this bill before the House is that introduced by the coalition in June 2006 that lapsed as a consequence of the election. The original reasons for the bill stem from the report of the Queensland Public Hospitals Commission of Inquiry—the Davies inquiry—released on 30 November 2005. The Davies inquiry highlighted major deficiencies in the current legislation and made detailed recommendations for amendments. Since the introduction of the coalition's original bill, the all-party Parliamentary Crime and Misconduct Committee tabled its report on the three-year review of the Crime and Misconduct Commission on 9 October 2006.

Part 10 of the committee's report again stated the concerns of the Davies inquiry and made five recommendations for reform—that is, recommendations 22 to 26 at page 96 which are totally consistent with the coalition's bill. It is also worth noting the committee's comment on the government's inaction on whistleblower reform since its last three-year review in 2004. The committee states—

The committee notes that in response to the recommendations of the last three-year review the government initiated a whole-of-government review of the experience of public sector agencies in relation to the operation of the act, including relevant whistleblower issues discussed during the Bundaberg Hospital commission of inquiry and the Queensland Health systems review. No outcomes of that report are yet available.

That is stated at page 95 of the report. The purpose of this bill is twofold. It is to implement the recommendations of the Queensland Public Hospitals Commission of Inquiry as set out in paragraphs 6.509 to 6.512 of the report and to implement recommendations 22 to 26 of the Parliamentary Crime and Misconduct Committee report on the three-year review of the Crime and Misconduct Commission tabled on 9 October 2006.

The three issues addressed by the bill are, firstly, the Queensland Ombudsman will have responsibility for overseeing all public interest disclosures made to public sector entities except for those disclosures involving official misconduct. These will continue to be the task of the CMC. The Ombudsman may either investigate the disclosure itself or refer it back to the relevant public sector entity for investigation. The Ombudsman will have powers to monitor and give directions to an agency about an investigation. Secondly, the categories of persons who may make a public interest disclosure under the act have been expanded. Earlier, only public officers could make disclosures about dangers to public health and safety and neglect or improper management of public funds. These types of disclosures can now be made by any person or body. Thirdly, protection under the act will be afforded under certain circumstances to persons who make a public interest disclosure to a member of this House or to a member of the media.

The circumstances require that the person make the disclosure to a public sector entity or the Ombudsman in the first instance. If the Ombudsman has not advised the person within 30 days that the subject matter of the disclosure has been resolved, then the person may make the disclosure to a member of this House. If, after a further period of 30 days, the Ombudsman has not advised of a resolution, the person can make the disclosure to the media. A further issue addressed by the bill will be to afford whistleblower protection status to any person who makes a disclosure to an entity not earlier recognised as an appropriate entity about a matter raised at the Morris and Davies inquiries. This type of

retrospectivity is highly defensible in terms of fundamental principles because it seeks to preserve and enhance the rights of an individual.

That is a very short overview of the bill before the House. I also make comment on all members who spoke here tonight, and I thank them for their contributions. I believe the member for Southern Downs made a very apt and appropriate comment. He said that this Beattie Labor government has treated whistleblowers absolutely shoddily in the past, and that is absolutely correct. There is no question about that. We have to understand that this bill is before the House for one reason, and that is the Bundaberg Hospital disaster. At that point in time this House was approached by the member for Burnett on behalf of Toni Hoffman to expose the disastrous situation that had been allowed to develop by inadequate and negligent actions by this Beattie government. That is the reason this bill is before the House.

The member for Hinchinbrook gave a rational and detailed breakdown of the act, for which I thank him. The members for Gladstone and Nanango also offered their support, for which we thank them. I also thank the member for Burnett, who is so railed against in this House for being passionate in what he believes in and what he does. Passion is what drives this House—passion and a belief in what you say and what you think and how you act. That is what makes this House a great institution. If we ever lose passion—if we ever lose the sense that a member cannot come into this House and be driven by what they believe is right—we are not in the game at all. The member for Burnett put everything on the line when he walked into this House and referred to Toni Hoffman's disclosures that resulted in two inquiries and significant criminal action having to be taken.

If it had not been for that passion, if it had not been for that drive, then we would still be covering up the tracks in Bundaberg. That is simply a reality. For that, the member for Burnett must be thanked. It is because of him that the bill sits here tonight.

Mr Reeves interjected.

Mr McARDLE: The member may think this is a laughing matter. He may make light of the issue of the deaths at Bundaberg, but that is ridiculous.

Tonight, comments have been made about the role of the Ombudsman in this bill. The role of the Ombudsman is as an independent, impartial umpire. We know the terror that whistleblowers take with them if they start to consider making declarations about what they believe is malpractice or any form of criminal activity. The Ombudsman provides a buffer. The Ombudsman is an independent person who can make the assessment within a 30-day period.

There were also comments about whether the time of 30 days was appropriate. In Bundaberg, 30 days was too long. In Bundaberg, 30 minutes would have been too long. If a matter is urgent, it has to be acted on urgently. I would have thought that somebody's life being at risk would constitute an urgent situation.

It is appropriate that this House supports this bill, because it is driven by the principles that whistleblowers need protection. It is driven by the principle of the history of this government neglecting whistleblowers and the actions of the coalition in having to support whistleblowers and provide them with the relevant protection. I support the bill.