

2016.03.22

3.17 Deputy M.R. Higgins of the Chief Minister regarding defamation by civil servants of members of the public:

What steps will the Chief Minister take as Chairman of the States Employment Board to deal with public servants who have defamed members of the public, whether in writing or orally?

Senator I.J. Gorst (The Chief Minister):

Consideration would need to be given to whether the statements were made in the course of an individual's employment or otherwise and, in the latter case, whether it affected their ability to carry out their duties. A decision would have to be made based on the facts of the individual case, having regard to the nature of the statements, the role of the maker and the maker's contractual obligations.

3.17.1 Deputy M.R. Higgins:

The Chief Minister should be aware that I am aware of 4 cases of where individuals have been defamed by officers in the employ of the States. To give one example ...

The Deputy Bailiff:

Well, Deputy, if you can put this into question; this is not a statement about what you are aware of, these are questions to the Chief Minister.

Deputy M.R. Higgins:

Very well, Sir. Does the Chief Minister think it is correct that defamatory statements should go unpunished because at the present time most people who are faced with a defamation claim will not get legal aid and will not be able to fund it? The Chief Minister looks puzzled; I will explain again: I am saying should defamatory comments go unpunished? If people cannot deal with it through the legal course of action, does he think there should be another remedy through the States?

The Deputy Bailiff:

The question is - and Deputy, correct me if I am wrong - that if members in public employment have defamed someone else, should that defamation go unpunished, was that question?

Senator I.J. Gorst:

Surely they should be treated in the way of any member of the public. The first point I want to make is that Deputy Higgins is saying in his opinion that defamation has been either written or spoken. That is his opinion; ultimately, that can only be challenged in a court process. If there are complaints that the Deputy wishes to raise then, of course, the States Employment Board would consider them, but we have to be extremely careful not just to put our personal opinion upon a single piece of correspondence without knowing all the facts of a particular case.

3.17.2 Deputy M.R. Higgins:

For the benefit of the Chief Minister I have also consulted a lawyer on it and again it is their opinion that the comments are highly defamatory. In fact, I have given some documents to the Chief Minister this morning by electronic mail on one case, but there are others. The point is officers are hiding behind defamatory statements and the public do not know what is being said about them. Something needs to be done with this; I am asking the Chief Minister what he would be prepared to do?

[11:45]

Senator I.J. Gorst:

It is not possible to deal with individual cases across the floor of the Assembly, it is not appropriate. The information that the Deputy has forwarded to me this morning is a copy of a correspondence from an officer, which seems appropriate to me, and a copy of a letter from him to that officer. Areas like this, particularly in the area in which those officers are dealing, are extremely complex and difficult, and judgments have to be made. The Deputy is shaking his head; it is his opinion that information in such a letter is defamation, without him knowing all the facts of an individual case. He has to provide a much stronger case if he wants the States Employment Board to consider taking any further action in this regard.