

Case hasn't made life easy for whistle blowers



**NORTHERN
INSIGHTS**

by Larry Sanders



Last week I wrote about the need for "whistle-blowing" legislation in an open letter to Attorney General Howard Hampton. Whistle-blowing legislation would protect civil servants and those in the private sector from employer retribution if the whistle-blower exposes wrong doing, corruption, questionable safety practices, cover-ups, or anything else that would be in the public's interest to know. Hampton is said to now be considering such legislation and may introduce it in the current session of the Legislature.

I recently had an opportunity to talk to northwestern Ontario's most famous whistle-blower, Don MacAlpine, a unit forester with the Ministry of Natural Resources in Nipigon. I had not spoken to MacAlpine at any length since he won his job back nearly ten years ago.

For those who might not be familiar with MacAlpine's case, here it is in a nutshell. He began work with the MNR in 1981, after graduating from Lakehead University School for Forestry and completing the requirements to become an R.P.F. (Registered Professional Forester). His responsibilities included crown forest area known as the Black Bay Peninsula. Buchanan Forest Products requested cutting rights for a certain volume of wood on the peninsula. MacAlpine and his supervisor, George Marek, argued that they did not have sufficient timber cruise data to justify the volume of wood requested. Buchanan complained to higher levels of the Ministry and the government of the day. Senior officials of the Ministry ordered MacAlpine and Marek to give Buchanan what he wanted. MacAlpine took the dispute to his member of the Legislature at the time, NDP member Jack Stokes. Stokes raised the issue in the Legislature, causing a storm of controversy. The government conducted a formal review of the wood supply on the Peninsula, but ended up giving Buchanan what he wanted.

Ordered dismissal

The Minister of Natural Resources at the time, Conservative Alan Pope, ordered the dismissal of MacAlpine for allegedly violating his oath of office as a member of the Ontario public service. MacAlpine's union, OPSEU, took the case to the Ontario Crown Employees Grievance Settlement Board. After lengthy delays and hearings, the Grievance Settlement Board ruled that MacAlpine's actions were justified in the public interest, and ordered that he be reinstated with full back pay to the day of his dismissal, minus two weeks. The Board justified the two week's pay deduction by saying that MacAlpine should have pursued his problems more vigorously within the Ministry bureaucracy.

The crown appealed the decision of the board to the courts. After an even longer delay, the courts eventually ruled that the Grievance Settlement Board had not exceeded its jurisdiction—in effect, upholding the ruling. Years later, new reviews of wood supply on the Black Bay Peninsula have revealed that MacAlpine had been right all along—Buchanan took valuable stands of old white pine from the Peninsula which can likely never be restocked.

MacAlpine was off work without pay from March until November 1982, when the Grievance Settlement Board ruling was issued. He was then reinstated on payroll but not allowed to return to work until the court ruling was issued in October of 1983. It was a lengthy, difficult process which MacAlpine says "was very hard on my family."

No major precedent

MacAlpine's victory, however, did not set any major precedent that would protect whistle-blowers. Anyone confronted with the hard choice between acting in the public's best interest and challenging decisions by superiors would look at MacAlpine's experience and think three or four times about facing the prospect of dismissal and a lengthy process of reinstatement. In our recent conversation, MacAlpine said his case demonstrates the need for whistle-blowing legislation.

"I think it's needed, because one of the problems I had with my case is that it took so long to get resolved. I would like to see some sort of system where you could get complaints considered (by someone) like the Ombudsman. At that time, I was told that that was not a vehicle to go through. The Grievance Settlement Board process is much too long. There's no protection for anybody that does (what I did)."

There are those that argue that strong whistle-blowing legislation might weaken the chain of command within the public service. On the contrary, MacAlpine feels his victory has led to greater democracy within the system—a tendency that would be even further enhanced by whistle-blowing legislation:

"There's (now) greater caution (by superiors). At the time I started (with MNR) the tendency was that if you don't do what you're told, you were out the

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Survey says: Northwestern Ontarians concerned about the economy, unemployment

Concern about the economy and unemployment has grown sharply over the past 18 months. This is one of the trends indicated by Confederation College's latest poll, conducted April 6-10, 1992.

Commenting on the results of the survey, College President Roy Murray said that "people want the government to invest more in job retraining and education. They have, however, real concerns about returning to the classroom. Financing, education leading to employment, the ability to study and learn, deciding on what to take, and child care are all major worries. It will take commitment, cooperation and action on the part of the government, workers, business and educators to ensure Canadians have the skills they need to compete in today's global economy."

The survey was completed by the Northwest enterprise Centre at Confederation College. A total of 392 adults in northwestern Ontario were interviewed over the telephone between April 6 and 10, 1992. A proportional random sample was drawn from the Districts of Thunder Bay, Kenora and Rainy River. Research results are considered accurate within plus or minus 4.9 per cent, 19 times out of 20.

Other results:

- 76 per cent of respondents believe the government should spend more on job retraining, but only 19.6 per cent said it should spend more on the arts
- 56.1 per cent said they supported legalizing gambling casinos to keep dollars from crossing over into the U.S. Broken down by age, 67 per cent between the ages of 25-44 supported legalized casinos, while support for the idea among those 65 and over was only 42 per cent
- 52.3 per cent were against user fees for health care services, and 57.4 disagreed with selling beer and wine in corner stores
- A whopping 92.1 per cent of respondents believe that separate and public school boards should find ways of merging some of their services and resources
- Less than half of respondents (46.9 per cent) could name Canada's first Prime Minister (Sir John A. Macdonald); only 39.3 per cent could name the leader of the federal NDP (Audrey McLaughlin)
- However, 72.4 per cent could name the capital city of Quebec (Quebec City); and 62.5 per cent knew the name of that province's Premier (Robert Bourassa)
- Roughly half (52.8 per cent) could name the year of confederation (1867); but a solid 94.6 per cent were either quite proud or very proud to be Canadian.

Letters to the editor

Proposed bill should go farther

In regard to the proposed parole law: what took so long? The only thing about the bill is that it doesn't go far enough. When you do a crime, you do the time is an old saying that has for the most part referred to the victims.

The idea of actually doing a full sentence in prison for violent crime is cruel and unusual punishment—to hear criminals and other idiots talking. Why do courts allow this to happen? Since when has it been automatically decreed that a sentence be only one third of the allotted time and less with good behavior?

As far as I'm concerned, the sentence should run the full length of the decreed time with no parole for rapists and murderers. Drug dealers should get an automatic death sentence because that is what they sell, and armed robbers should serve at least three quarters of their full sentence.

I realize that defense attorneys would not like this very much, what with it cutting in on their repeat business. But what the hey—most of them belong with their clients anyway.

Charles E. Matson,
Terrace Bay

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