

## WHISTLEBLOWERS PROTECTION BILL 2002

### *Second Reading*

Resumed from 20 March.

**MRS EDWARDES** (Kingsley) [4.03 pm]: The Opposition will support the Bill. I will not go through the Bill to explain what it provides, because the Attorney General did that in his second reading speech. However, the Opposition will go through some of the clauses, particularly those that deal with the process that is being put in place, at the consideration in detail stage. I will begin by defining “whistleblowing”. In doing so, I refer to a report titled “Whistleblowing In The Professions” by the Professional Standards Council. The legislation before us deals only with the public sector, which includes local government. It does not address the private sector. The professions have been talking about whistleblowing for a number of years. The debate has obviously reared its head again in parts of the United States. Some States have whistleblowing legislation of some description, which extends to the private sector. This is an interesting report by the Professional Standards Council; I recommend it to members if they would like to know where the issue of whistleblowing could go in the future. A definition of whistleblowing on page 6 of the report states -

Whistleblowing has been defined as “ethical informing” . . . exposing corrupt practices of others, alerting the public to some scandalous practice or evidence of corruption on the part of someone else, and disclosure of conduct which amounts, or could amount, to breaches of the civil law as well as to conduct which could amount to a criminal offence . . . It has also been defined as an act of a man or a woman who believing in the public interest overrides the interest of the organisation s/he serves, and publicly blows the whistle if the organisation is involved in corrupt, illegal, fraudulent or harmful activity.

Whistleblowing in the public sector is essentially about good government; it is about being open and accountable. That was identified in some of the reports to which I will refer a little later - the WA Inc and Commission on Government reports. Essentially, whistleblowing is about breaches of laws, rules or regulations, or wasteful expenditure of taxpayers money. It is about activities that could threaten public health or safety. The issue has always been about the way in which whistleblowers are treated in the event that they put up their hands or put their toes in the water and identify some of those issues. The April edition of *The Whistle* quoted an article that appeared in *The Economist* of 12-18 January 2002. *The Whistle* is run by a group of people from around Australia who provide care and support for whistleblowers, and identifies many ways in which whistleblowers can be supported. It quoted the article in *The Economist*, which states -

Whistleblowing is good for society, but bad for careers. It should be good for both

That balance needs to be obtained in any legislation. *The Whistle* article goes on to say -

Whistleblowers provide an invaluable public service. An employee who (to quote Black’s Law Dictionary) “reports illegal or wrongful activities of his employer or fellow employees” can save his organisation millions, quite apart from carrying out his public duty. The American government claims that most of the billions of dollars that it retrieves from those who defraud federal agencies come via whistleblowers’ reports.

That key balance needs to be obtained - it must be good for both society and careers. Whistleblowing is not new. I will use the term “bureaucracy” in a broad, wide-ranging sense to include people in positions of power, and not necessarily just executive power.

Another article in the April edition of *The Whistle* highlights a case that occurred in France over 100 years ago and involved a man called Dreyfus, who was an army captain. In 1894, a French army court sentenced Dreyfus to life imprisonment on Devil’s Island - the name served as a good description - for passing army secrets to a German ambassador in Paris. The article states -

In fact he had done no such thing. His only crimes were that he was unpopular with his brother officers and that he was Jewish at a time of rampant anti-Semitism in France. His conviction was based on forged evidence, with the top army command exploiting the situation, ultimately with the backing of the French government,

Therefore, his boss, the army, convinced the Government of the day to support him. Devil’s Island was a dreadful place and this report goes into some of the details about the place.

Two whistleblowers eventually took action to get Dreyfus released. Dreyfus was returned to France after serving only four years and four months of his sentence and he ultimately resumed his army career. The first

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whistleblower was a lieutenant called Georges Picquart, the chief of French army intelligence. It was interesting to note that he played a key role in securing the conviction of Dreyfus in the first court martial. All of a sudden, he found that this secret information was still being passed to this German colonel. He realised that Dreyfus was still on Devil's Island and wondered how this could be happening. He carried out some investigations and found that the original evidence was forged. He thought that it was a terrible situation and took the information to the French army command to tell them that the conviction of Dreyfus was based on forged material. Instead of the top army command thanking Mr Picquart for the information, he was told to forget about his discovery. Picquart was absolutely outraged about this. Therefore, the army command sent him off to the most dangerous posting in a war in North Africa in the hope that he would be killed. One of the generals recognised that this was happening and sent Picquart to a safer spot. He eventually returned to Paris where he was imprisoned on another trumped-up charge.

The second whistleblower was Emile Zola, the son of an engineer. He was a leading novelist - the French Dickens at that time - and a journalist, or a man of letters, who wrote about social problems in nineteenth century France. Upon hearing of the treatment of Picquart and of the friends and family of Dreyfus, he used some of his journalistic skills to investigate the matter as he was convinced that a monstrous miscarriage of justice had occurred. After some time he felt that Dreyfus was totally innocent. Therefore, he wrote articles with the headlines containing the words "I accuse". He was accusing the Government of the day and the army command. Dreyfus and Picquart were on trumped-up charges and in prison and now a trumped-up charge was also given to Zola. However, before he was arrested, he escaped to England and kept on with his journalistic skills in trying to bring this issue out in the open as a whistleblower.

A second court martial occurred with all of this overwhelming evidence upon which Dreyfus was unfairly convicted. The second court martial reconfirmed the first verdict; despite the overwhelming evidence to the contrary. Public opinion was that this was clearly wrong and that something had to be done about the matter by the Government of the day. The French president of the day died and a new president came in. He released Dreyfus who was rewarded with a Legion of Honour. Picquart was promoted to general and later entered politics and became a Minister for Defence, which was a good outcome for that whistleblower. Unfortunately, Zola died in England from carbon monoxide poisoning as a result of his heater becoming blocked.

This story shows that over 100 years ago the army command did absolutely everything possible to protect itself and its actions by defeating the whistleblowers from bringing to the public's attention the truth of the matter. It was the army which made the trumped-up charges in the first place.

The challenge of dealing with the bureaucracy is always there for Governments and particularly whistleblowers. Chris Read is an example of a recent whistleblower. I refer to *The West Australian* editorial of 24 September that is titled "Whistleblowers need protection". This legislation is endeavouring to provide that level of protection, and I will get to whether it achieves that later. The article states -

However, its treatment of Mr Chris Read, the man who revealed the breaches of guidelines on buying practices and recruitment in the Ombudsman's office, suggests there was a reluctance to bring Mr Allen to account.

It further states -

Whistleblowers, or even the fear that they may be around, do immeasurable good, especially when there are governments that are as preoccupied with secrecy as ours are. It is, ultimately, in the community's interest to protect and even to encourage whistleblowers.

Being a whistleblower is a hazardous undertaking. They usually end up losing more than they achieve and are seldom thanked by anybody - even if they are proved right. In fact, they are often looked down on and ostracised for being doblers or for upsetting comfortable situations.

It then goes on to talk about the laws -

Although the laws would be welcome, they would not be effective unless they were accompanied by a government-led culture of openness and accountability in the public sector.

That is the critical point. As members of the Government know from when they were in opposition, complaints and allegations are often brought to members in opposition. As the Liberal spokesperson with responsibility for the public sector, I receive those complaints and send them off to the appropriate authority or body to investigate. However, I have had a personal attack from the Premier, the Minister for Health and, in particular, the Minister for Education. It has gone on to the point whereby the Minister for Education referred to me a couple of weeks ago as a vexatious complainer. I can tell the Minister for Education that any allegation brought to me by a public servant, or anyone, will be sent to the proper authority for investigation.

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Mr Dean: Is that true for every matter? If any article is brought to you, do you take it on?

Mrs EDWARDES: If there is a reasonable belief that it may be true. Obviously, many allegations must be looked at twice. However, when there is a reasonable belief that it is true, it should be sent to the proper authority. I do not know if a matter is true and I will not investigate it, so it gets sent to the proper authority. All public servants have the ability to do that. If the whistleblowers legislation does its job, that aspect of the Opposition's role will start to dissipate. We should not get those levels of complaint if this legislation does its job.

Instead of the Minister for Education attacking me about sending those complaints to the appropriate authority, he should have said that he was pleased that those allegations were being investigated. He should have said that those allegations had been cleared and there is no truth in the matter and that public servants in the Department of Education can now have some confidence in the process. That is the approach that he should take if this Government is going to provide leadership to the public service in dealing with a change of culture with whistleblowers. That will be one of the biggest issues. The letter that the Minister for Education referred to stated -

Mr Harken may have expressed a number of opinions with regard to the restructure and possible appointments that resulted in an atmosphere of uncertainty,

People in the department had reason to believe that during the process, the potential existed for a breach of the Public Sector Management Act. Whistleblowing is everyone's responsibility. In particular, the public service need not look any further than its own code of ethics. Under the public service's code of ethics, it is clear that employees must act without fear or favour, and report fraud, corruption and maladministration. They must assume responsibility for the best deployment of human, natural and financial resources, seek the efficient and effective use of public assets and minimise waste. It is clear that if there is a breach of the code of ethics, whistleblowing becomes everyone's responsibility.

The real issue in this matter is the culture. Essentially, this Bill does no more than bring together in one piece of legislation the current practices and processes that are already in place. What will the chap with whom one works, an employee's immediate superior or the ultimate boss of a department or agency, think of an individual when he or she raises with an agency a concern about a breach of this legislation, a breach in contractual arrangements or a waste of human or financial resources? How will we overcome that process? Again, I refer to Chris Read because he provides a very good example of how these measures can work. If the Government is really serious about this matter, Chris Read's situation is a key example of where the process has gone wrong, and how it can be rectified when we put in place the framework and guidelines by which an agency or department must operate.

In a report from the Australian Associated Press titled "Whistleblower 'vindicated'", it is pointed out that Mr Read -

...warned others to be cautious about going public with complaints.

We do not want a whistleblower advising other people within the public service to be cautious before they go public with complaints. Mr Read also stated -

A person who felt strongly, out of conscience, that something seriously wrong had happened, and had very substantial evidence to prove it, might consider it.

However, Mr Read stated that the Government did not know how to deal with whistleblowers, and he had been victimised for his actions. He continues -

They're the ones who sneered at me and said how entertaining it was to watch me committing professional suicide.

That is a sad reflection of the situation in the public service. With the House's indulgence, I will now read into *Hansard* some of Chris Read's views about the process and how it affected him. This is very important, because the whistleblower becomes the victim, and unless he or she is returned to his or her original position of employment, he or she will be continuously victimised. Unfortunately, Chris Read has not returned to his original position of employment. In a report titled "Whistleblowers - forgotten heroes and abandoned victims", Chris Read states -

The public service does not attract thrillseekers and it supposedly offers a safe and thoroughly moral working environment. Whistleblowers are just ordinary people who are not prepared to turn a blind eye to the deliberate wrongdoing and wastage of public money, which are depressingly common in the public sector. They speak up expecting that the problem will be resolved but far too often The System

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turns on them instead and they are treated as “the problem”. They then go to the watchdog agencies, the media and the politicians, seeking only for the wastage to be stopped. There is never the slightest possibility that the whistleblower will benefit personally. On the contrary your friends queue up to warn you that you will be victimised - how sad a reflection on The System is that? But it is just something your conscience compels you to do - It is your duty to Society, if not to your boss.

He continues -

I was ridiculed, victimised, defamed, turned out of my job and demoted. I suffered severe stress and effectively lost 4 years of my life due to ill health and the threat of being left bankrupt and unemployable.

He further states -

I naively expected someone to tell me “You were right all along. Thank you for persevering and ending this terrible waste of public money. We’re sorry we didn’t believe you. We’re going to deal with all the people who helped cover this up, and we will compensate you for your losses.”

The bizarre events at the City of South Perth would never have come to light without the courage of staff whistleblowers.

I will not deal with that matter, because I do not know if the report has been tabled in the other place. The member for South Perth will obviously refer to that when he returns to the House.

The article continues -

In the case of the Ombudsman and South Perth, there has been some sort of enquiry and some of the issues have been exposed. But this is very rare - the huge majority of whistleblowers never managed to persuade anyone to look at their allegations. They end up as tragic, bitter, disillusioned, broken figures. With their careers, health, family and finances destroyed many of them teeter on the brink of the final abyss. Several such people have approached me after my story was published and their plight is a disgrace to our society. These are the true heroes who did more than their duty in the face of hopeless odds, knowing the likely risks to themselves and with not the slightest possibility of any personal gain.

... the Ombudsman’s office and the agency to which I reported him are the two agencies which already have whistleblower protection provisions in their Acts? How much more effective will the new legislation be?

Chris Read was right. His allegations were proved to be correct. He went through the proper processes by going to his immediate boss. He went to the person who was the Ombudsman at the time. He went through the process for several years before he turned to an outside agency. He turned to the Anti-Corruption Commission and a parliamentary committee, and he even wrote a letter to the Premier. In return, what did he get for his trouble? He became the target of a whisper campaign. Rumours began that he was a bit unstable and could not be trusted. That is a major concern, and it highlights the issue of culture that must be addressed. However, it cannot be addressed in this legislation because the wording is black and white. Only the process can address the issue of culture. Even today, Chris Read is a victim. Even though his allegations were proved, he was removed from his position at the Ombudsman’s office, and he is probably one of those people who floats through the system. Although he now has a position within the Department of Local Government, there are problems about his classification level and the salary that he was receiving at the Ombudsman’s office. His salary level is being maintained - but for how long? Why is he not back in his old job? Why is he still floating around and being treated like a victim? He is being treated like a pariah. Chris Read did the right thing. As I stated earlier, whistleblowing should be good for society and good for one’s career. Whistleblowers should not continue to be victimised. Chris Read will continue to be victimised until he assumes the position of employment he had prior to blowing the whistle and being proved correct. That is the critical issue - he was proved correct. These types of issues will be the Government’s biggest challenges as it tries to change the culture. In that respect, a report identifies clearly that ultimately the answer is for employers, in both the private and public sectors, to learn to appreciate the merits of whistleblowing, and to reward genuine whistleblowers with promotion rather than the sack. It must be put clearly in the process to be established that public servants can go to their agency and/or the independent agency, if the matter is its responsibility, and put the issue firmly on the table. Whistleblowers must be supported, rewarded and appreciated.

I referred earlier to the “Report of the Royal Commission into Commercial Activities of Government and Other Matters”. In part II of its 1992 report, at paragraph 4.7, the royal commission identified three issues dealing with whistleblowing. It referred on to the Commission on Government the issue of what should be in the legislation and how it should work. At paragraph 4.7.1, the royal commission observed -

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The Queensland Fitzgerald Report (1989) made the observation that “[h]onest public officials are the major potential source of the information needed to reduce public maladministration and corruption. They will continue to be unwilling to come forward until they are confident that they will not be prejudiced.”

This legislation cannot achieve that. The process underpinning the legislation must ensure that public servants, or anyone who comes forward, will have confidence in the process. At paragraph 4.7.5, the commission deals with the vital prerequisites for a whistleblowing scheme. It states -

- (a) that it be credible so that officials and others not only feel that they can use it with confidence but also can expect that their disclosures will receive proper consideration and investigation;
- (b) that it is purposive in the sense that the procedures it establishes will facilitate the correction of maladministration and misconduct where found to exist; and
- (c) that it provides reassurance both to the public and to the persons who use it. Consistently with the preservation of confidentiality in relation to operational matters, there should be appropriate reporting to Parliament.

That point is one of the issues that has been picked up in the legislation. It continues -

The public is entitled to know that where allegations have been made, they have been properly investigated and, if substantiated, remedial action taken. Persons using it are entitled to expect that they will be protected from reprisal.

Of course, that is another issue that has been addressed in the legislation.

At paragraph 4.7.12, the commission goes on to deal with the issue of reprisal. It states -

Of central importance in whistleblowing legislation are the measures to protect the whistleblower from reprisal, whether it be from harassment, intimidation and discrimination in the workplace or otherwise, from civil actions for breach of confidence or defamation, or from criminal and disciplinary proceedings. It is essential that a whistleblower, not only should have avenues through which to make the disclosure, but should also be able to turn to an appropriate agency for counsel and for protection against reprisal. It is inappropriate that a whistleblower be given rights against reprisal but then be expected to rely upon self-help for their vindication.

Of course, that is the issue. Although the offence of reprisal has been included in the legislation, the process underpinning that offence, in the context of supporting the whistleblower, will be crucial in whether this legislation will work.

The “Commission on Government Report No. 2 - Part 1” deals with the whole issue of whistleblowing. Chapter 5 is headed “Whistleblowing as a Mechanism for the Prevention and Exposure of Impropriety and Corruption in Western Australia”. It deals in great detail with what should be included in the legislation. It appears that the majority of what was picked up in that report has been addressed in the legislation. Again, I will go through parts of that in the consideration in detail stage.

Overall, this legislation does little more than provide, in one Bill, all the procedures and processes that are currently available to whistleblowers - those individual agencies and public service processes that currently exist. It provides for a report to an individual agency and to the respective independent authorities. It creates an offence of reprisal. It even provides for an action in tort. However, whistleblowers do not want to keep going further; they do not want to keep fighting and defending their position. They do not want to be required to take an action in tort to be compensated for what it has cost them. Although it is nice to have it in the legislation, the real crux of the legislation will be the underpinning process. That process should protect whistleblowers so that they do not need to take action in the courts for compensation as a result of reprisal. The crux of the matter is that that is a last resort. Whistleblowers say that they have been victimised and that their family life has been under threat. Often, the cost to them, not only personally but also financially, has been so enormous that it might seem that an action in tort is an appropriate mechanism. However, that is at the back end. The process should be put in place at the front end so that they do not ever need to utilise that provision in this legislation.

I have outlined a little about Chris Read. However, I did not identify step by step all the actions that he took. They are well reported, and there are probably files that are far thicker than mine - mine is a pretty hefty file - about the concerns, the issues and the process that surrounded Chris Read. Interestingly, the question that should be asked is: under this legislation, what would be different for Chris Read today? I venture to say that nothing would be different. I hope that the Attorney General, in his response on this legislation, is able to give a glimmer of hope and light to whistleblowers - even to Chris Read - of the future that this legislation will work, because

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there is a real commitment to ensuring that the process underpinning it will guarantee that whistleblowers are not only protected but also valued, and that it will be good for their career to blow the whistle. It is a critical issue, particularly given the fact that Chris Read's complaint was against one of the independent agencies; that is, the Ombudsman's office. If people cannot have confidence in the Ombudsman's office, it is a critical failure of the system, because it is an investigative body to which allegations and/or complaints go. Under this legislation, what would be different for Chris Read in the whole public sector sense, particularly if another complaint were made against the chief executive officer or the head of an independent agency that is also an investigative body? What would happen? To whom would the whistleblower go? Chris Read was a very brave young man. He went to the CEO. After going through the deputy, he went to the Ombudsman and highlighted the critical issues. He was happy to be involved in trying to rectify the situation. He had knowledge and experience of information technology, and he was willing to share and utilise that knowledge and experience in overcoming some of the problems that he could foresee. However, those problems multiplied until hundreds of thousands of dollars were wasted. That is only one issue. Would it be different today for Chris Read or anyone else who had a complaint against the head of an independent agency that is also an investigative body?

It has been suggested that there should be an overseeing body. Bodies can be created on top of bodies to ensure that people do the right thing. That often takes away the responsibility of the agencies and/or bodies in the first place. We do not want to do that with this legislation, because we want them to have that responsibility and to carry out their responsibility in a very serious way. With an overseeing body, it would be too easy to say that there is another avenue for whistleblowers. That is not necessarily good. Going through all the steps that the Chris Reads of this world have gone through leads us where? Chris Read eventually went to the media. This legislation does not deal with people going to the media, as does the New South Wales legislation. Chris Read went to the media only after several years of not getting anywhere and becoming totally frustrated. That is when the whisper campaign started. The journalists were told that he was very unstable. He was victimised further and received no redress. Although I do not support the establishment of an overseeing body, it is one suggestion for dealing with complaints against independent agencies. Where else does a person go?

What else is needed to underpin the legislation's effectiveness? Support is needed for individual whistleblowers. Mentoring is needed for people as soon as a complaint is made. Mentoring is normally one-on-one, although a lot of current literature suggests mentoring should include more people. Some material from the United States suggests that a group of eight is appropriate to support a person. Mentoring is absolutely critical from day one.

There should be no cost to the whistleblower. I am not referring just to financial cost; I am talking also about personal cost and the impact on a person's health. A person starts to wonder about himself when everyone seems to be against him for saying something he believes to be true. A person starts to question himself. That can have a big impact on a person's health. Counselling is critical. It is something that can be combined with mentoring. Fundamental to all that is that the person should not be removed from his position. If a person makes a complaint against another, he should not be removed from his position. The Police Service has a very effective format that it has worked out quite extensively. We all understand the culture of the police that they do not dob in a mate. The critical feature of the police process is not to remove the individual making the complaint. Such a person is given constant follow-up and support. If the Government is not aware of it, it should look at the process the police have put in place. It needs to be reviewed to ensure that it is effective. It is absolutely critical to ensure that the person making the complaint is not victimised further. Such a person should not be the victim; he should be the hero of the situation. I have referred to a number of different authors and reports that clearly identify that whistleblowers need to be looked after because of the value they provide to Governments, public sectors and private sectors. This legislation will work only with strong public sector support and process, and a change of culture. As I have pointed out, that change of culture needs to start at the top. It needs to start with leadership from the Government in its public statements about the way it deals with issues brought to its attention. People must have confidence in the system, the process and the people with whom they deal. They must have confidence that they will be well received, rewarded and looked after. If that process is put in place to underpin the legislation, it should work but it will be a real challenge. As this House has heard from a recent whistleblower, it will be a real challenge to change the culture to ensure that whistleblowers are good for society and that whistleblowing will be good for their career, and that it will support both.

**MR BOARD** (Murdoch) [4.47 pm]: The Opposition welcomes this Bill and commends the Attorney General for bringing this legislation forward in a timely manner, as it is important. The legislation goes to the heart of accountability and transparency in government. This legislation will assist government in its objectives, assist the community with the transparency and accountability of government, and assist those who work with or are employed by government, either directly or through government authorities, bodies or local government.

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Although this can be dealt with during the consideration in detail stage, I want to broach with the Attorney General the name and terms used in this legislation and debate. Much has been made of the Australian culture of protecting one another and protecting one's "mates"; not dobbing in people. Unless someone is severely affected, people tend, under Australian culture, to prefer not to turn a person in. It seems inbred in the Australian character. It is not something with which I agree, but it is bred into Australian culture. It is a form of comradeship and support. It may have been entrenched in Australians during pioneering days when people in remote areas and communities sometimes banded together against the Establishment in order to survive. It may be part of the convict culture when people tried to make a life for themselves after experiencing difficult circumstances. In many ways they took on the Establishment to provide a better life for themselves. They tried to stay out of trouble and support one another.

Some of the issues surrounding the legend of Ned Kelly and so forth probably promoted the Robin Hood-style image and the protection of those who are Aussies through and through. I hope we have moved on. While it is nice to have folklore, the reality is that we are protecting those who are hurting and ripping off our community and individuals, and bringing government departments and others into disrepute.

The title of this legislation will be dealt with in committee, but this Bill is about transparency and accountability of government and other bodies. I would prefer to see the emphasis on that very point and have the Government pursuing further accountability and transparency, rather than using the term "whistleblowing", because that term conjures up an idea of "dobbing in" and isolates an individual as a whistleblower. If a person in an organisation or community were to stand up and say, "I am a whistleblower", it would take a long time for that group or community to slap that person on the back and say, "Thank God you're here." The reality is that that person needs protection because of the culture in our society at present. This Bill is about greater transparency - communication with and protecting the community - and I would have thought it would be in the Government's interests to push that line rather than whistleblowing itself. Whistleblowing is part of what is happening, but it is not the only part of this legislation. The term should be addressed in a different way in the year 2002. I know it reaches the heart of the issue, and has been accepted in legislation, both state and federal, but I do not like the term, because it conjures up images of somebody who is working against another group or against individuals. It may be in the community interest but it does not change the culture. This legislation cements "whistleblowing" as a term, and it is something that we ought not foster.

Mr McGinty: The member has hit the nail on the head about one of the difficult issues with this legislation that we had to decide. Normally, the difficult issues are the meaty matters of substance. One of the more difficult issues we had to decide was whether to use the technical name "public interest disclosure", which would not have meant anything to anyone, or the more popular terminology "whistleblower". We compromised, so that the word "whistleblower" appears only in the title of the Bill; it appears nowhere in the text of the Bill, for the very reasons the member is talking about. The Commission on Government said not to use the word "whistleblower" for reasons similar to those being advanced by the member. Believe it or not, this was something that we agonised over, because there are clearly two points of view. I do not wish to detract from the member's time, but I will make one final point. The Australian culture of mateship and not dobbing does not apply to public sector waste and illegality. Something that is deeply ingrained says that it is okay to blow the whistle on public sector waste, excesses and illegality; I do not think anyone has a problem with that. It might be a different issue in the private sector.

Mr BOARD: I appreciate the Attorney's comments, and it is good that they have been put on the record so early. I have no doubt that this legislation will be successful and we can address these important public disclosure issues without using the term "whistleblower", which I still think has detrimental connotations.

The Attorney General might recall the public discussion that took place when the campaign for "dob-a-dealer" was first introduced and how important it was right around Australia that there was a day on which people could ring up and dob in someone who was trading and selling drugs in our community. During the first year or two of that campaign, there was public reaction that in some ways this was un-Australian. I remember the press articles at the time: the Government was asking the community to do something that it would normally not do - to dob in somebody - because it was very anti-Australian. We have turned a corner on that issue. That campaign was successful and now people ring up and report crimes more readily. We have a higher incidence of that in Western Australia than in any other State. There is now direct input by the community on a whole range of issues affecting legal or police matters. It is a good thing that this has increased dramatically and has thereby changed our culture; and it is something that this legislation will take further.

This legislation is far reaching in that it deals with government departments, authorities, commissions, boards and local government. Although I do not see it printed, I hope it includes members of Parliament and elected city councillors, because it is important to include local authorities in this legislation and to make it as far reaching as possible.

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When reading the legislation, I did not notice any time frames. I assume this legislation is of a retrospective nature so that people currently in the public sector may come forward with issues that they may have been concerned about one, two or three years ago. It seems to relate to the individual rather than the offence.

Mr McGinty: That is right. It attaches to the date of the whistleblowing. It does not relate to events in the past, but it can.

Mr BOARD: In many ways there is a retrospective nature to the reporting, and therefore some of these issues could go back a decade or more.

Mr McGinty: The member is not going to oppose retrospectivity in this case, is he?

Mr BOARD: I am certainly not, but it is an interesting matter that has either been omitted or not addressed in the legislation. That may have been done on purpose. If that is the case, I suspect that during the first term of this legislation various agencies will have a bit of a rush of people wanting to get issues off their chests. I would encourage them to do that.

This legislation contains some important aspects that were addressed during the Attorney General's second reading speech. Certain provisions relate to people who are in the private sector and who are also protected by this legislation, including those who wish to "whistleblow" on issues about government - in particular, government contracting, which is a far-reaching area of government activity. The public sector today is a very different place from what it was 30 years ago. The public sector now is about management of particular services and not necessarily about the delivery of those services. Contracting and working in partnership with the private sector is widespread in our most social areas of community service, extending to prisons, policing, housing and statutory bodies. It would be very difficult to think of a public sector agency today that did not have some relationship with the private sector in the delivery of a service or a contract. It is a competitive situation, and in an environment of tendering, the private sector bodies compete with each other for government contracts. One of the areas that will open up as a consequence of this legislation - it may become the busiest area - is government tendering and contracting. Malicious and vexatious complaints could possibly be made by people who are concerned about competition, or who are not in the circle and want to be. All sorts of issues could be raised in the area of the propriety of contracting and tendering by public sector agencies. It has always been a controversial and competitive area. By its very nature, there will be winners and losers, which creates conflict, resulting in complaints. During the consideration in detail stage, the House will need to consider very carefully who will deal with these issues. I am not sure what is currently happening in government about complaints that used to be dealt with by the State Supply Commission or by the Department of Contract and Management Services. At one stage, the previous Government intended to bring in a contract ombudsman, an office that could independently look at the difficult competitive and pecuniary interest issues. Many of those issues have been raised in this Parliament. The present Minister for Planning and Infrastructure, when in opposition, on a daily basis in this House raised issues of pecuniary interest or conflict of interest in public sector tendering, particularly in relation to the construction of freeways, bridges and tunnels. Complaints will always come forward from people wanting to "whistleblow" about decisions that are made or not made in favour of various people. It will be interesting to see how the Government deals with that in this legislation. Some of the complaints will come from within agencies themselves, but allowing the private sector to be covered by this legislation will open up a raft of commercially motivated complaints. That is not to say that mistakes are not made and that offences have not been committed in decision making as a result of pecuniary interest or favouritism, which goes against the community interest. Such cases in the past have been dealt with by a public sector body, through either the State Supply Commission or the Department of Contract and Management Services. They may now end up in a different forum, which may not have the expertise to deal with them and which may need to find other investigative bodies to deal with them. As a result of that, this legislation may not be a better way to deal with that aspect of disclosures in the public interest. This area will need to be worked through in the consideration in detail stage, to make sure that the Government has it covered.

In making sure that the Government is protecting the interests of the whistleblower, another area that needs to be explored is the way in which that person is to be protected. The legislation protects the whistleblower by establishing penalties for anyone who victimises such a person and by making it illegal for the whistleblower to suffer a consequence which in any way results in his or her position being diminished. It may happen that, as a result of the whistleblowing activities of that person, far more action than that is required. It may be necessary to transfer the person out of a particular job, and this may be desired by the whistleblower. The Government may need to provide the whistleblower with additional support to deal with the consequence of his or her actions. It is often not simply a matter of protecting whistleblowers by allowing them to remain in their jobs. Although the legislation requires a level of secrecy by not only the person making the claim, but also the person on the receiving end of that claim, the reality, as members know, is that within a very short time, if not instantaneously, people will be aware of the disclosure and probably of the person who made it. As a result, the Government will



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have to make sure that it has some very proactive policies in place that really protect the whistleblower to the highest possible degree. If necessary, this protection should be provided in the way that the whistleblower wants. Flexible arrangements are required, as they would be when a person is moved from the public to the private sector. I call on the Government to make sure that that is the case, because if whistleblowers are to be supported and encouraged, and if the culture is to be changed, the Government must be proactive at the front end. If this is not done, the legislation will look good, but on the ground individuals will still suffer, and as a result they will be discouraged, and the openness and accountability the people of Western Australia deserve will not develop.

I commend the Attorney General for introducing the legislation. It contains some challenges, which will be dealt with during the consideration in detail stage. The Opposition will require some explanations, but it does support the legislation, which hopefully will create more open and accountable government in Western Australia.

**MR MARSHALL** (Dawesville) [5.07 pm]: I support the Whistleblowers Protection Bill 2002, and I am very pleased that it has been brought into the House so quickly, because it is important to the community. However, the word “whistleblower” carries negative connotations for many people, and I believe that many Australians feel uncomfortable with it.

Mr McGinty: This point also was raised by the member for Murdoch. If members opposite have a strong view that the Government should delete that word from the title and substitute a more appropriate word, I would be more than happy to entertain such an amendment. Even on this side, there was a divided opinion on that matter.

Mr MARSHALL: I take the point of the Attorney General. I believe there could be more investigation into what would be a better word. I will return to this matter later in my speech, but it is something that carries overtones of the undesirable “dobbing in” or “pimp” element that is trained into youngsters from an early age. It is something that could be improved. People are uncomfortable with the word, but the following excerpt from the Attorney General’s second reading speech explains what it is about -

There is nothing more fundamental to ensuring openness and accountability in Government than to ensure that people who have the courage to stand up and expose wrongdoing are able to do so without fear of reprisal. It is totally unacceptable that such people should be maligned or victimised as a result of their efforts to report - and therefore stop - improper or illegal behaviour in Government instrumentalities.

That is a very important summary of what a whistleblower would be, and I agree with it. Also, this Bill will make sure that victimisation of such people will not happen again. People who are aware of improper, corrupt or illegal behaviour must feel confident that they can report any misdemeanour without fear of reprisal from managers within the government system. This legislation provides that comfort. They must also feel comfortable that they will suffer no financial recrimination. Most whistleblowers reveal wrongdoing at great risk. They automatically lose the respect of their colleagues and income, and their families could become stressed.

I am very pleased to note three measures in the Bill with which I wholeheartedly agree. First, it will enable and encourage whistleblowers to disclose wrongdoing or improper conduct by providing a framework for making such disclosures, either to the agency concerned or another watchdog authority. That is very important to ensure fair play. Secondly, it will require state and local government departments and agencies to investigate disclosures and remedy any defects and wrongdoing. Once again, that protects those who are brave enough to disclose wrongdoing. These people must be brave and confident. Thirdly, the legislation will provide protection for whistleblowers, including confidentiality, employment protection and immunity from any criminal or civil liability. However, the legislation does not really provide for the loss of income or entitlements that might occur during an inquiry. That is a concern.

At primary school, whistleblowing is called pimping and in the sporting arena it is called dobbing. Many terms are used to identify it in the workplace and it has traditionally been contrary to the Australian culture. This legislation confirms that Australia has reached the age of maturity and that covering up improper behaviour is no longer acceptable. Because of that, I support the Bill.

My only reservation about this legislation is how it might deal with whistleblowing triggered by a personality clash. Someone involved in a personality clash could purport to be a whistleblower and make false accusations. While those accusations are being investigated, media reporting could result in irreparable damage to the victim. I have scanned the legislation, but I cannot find any provisions dealing with false accusations. Someone might have an ulterior motive - perhaps to square up with management - or there might be a personal vendetta. The purported whistleblower might use the protection provided by this legislation to settle a score. I cannot find any provisions dealing with such a situation.

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I support the Bill. Government agencies employ many people, so we must promote whistleblowing. I congratulate the minister for introducing this legislation.

**MS GUISE** (Wanneroo) [5.15 pm]: I support the Bill. Whistleblowing legislation, or legislation that allows for public disclosure, has repeatedly been recommended to Governments in Western Australia. The first such recommendation was made by the Royal Commission into Commercial Activities of Government and Other Matters in 1992 and the second by the Commission on Government in 1995. It is pleasing to see that, despite a long period of inaction, the Government is now doing something.

The two strongest protections our society has against institutionalised corruption are the rule of law and the willingness of people to stand up and be counted. People who stand up against corruption and mismanagement help to preserve our community and deserve to be protected by the law and that community. In many cases, whistleblowers do more than merely report problems - they save people's lives. I refer members to the famous case of Dr Steve Bolsin, a young anaesthetist at the Bristol Royal Infirmary. He blew the whistle on poor practices in that hospital's cardiac surgery unit that led to the unnecessary deaths of young heart patients. His actions sparked a series of inquiries and led to some of the hospital's consultant surgeons being barred from practising. His actions undoubtedly saved the lives of many young patients at the hospital. However, Dr Bolsin was not rewarded for his actions; in fact, he now practises in Australia because, in his view, he was hounded from Britain because he was unable to continue to develop his career there. Being at the top of one's profession is no protection. Philip Bowman, a former chief financial officer with Coles Myer Ltd, blew the whistle on what he saw as the dodgy financial practices of a vice president of the company. Mr Bowman was forced to engage in a two-year lawsuit for wrongful dismissal as a result of his actions. That probably saved the company a substantial amount of money, but he was also forced to leave the country to seek work elsewhere.

Whistleblowers often lose more than their jobs; they also lose their homes, sometimes their families and, more often than not, their health. That is most unfortunate. Many of them give up before the wrongdoing is established; the process is too hard and the personal toll is too great. Recently a police officer in New South Wales who was giving evidence to a parliamentary inquiry said that he was battle weary, it was all too much and he intended to resign. They are examples of what has happened to people who have gone down this path. This legislation will offer hope to people such as Dr Bolsin and others who have had the courage to stand up on behalf of the community.

This legislation requires accusations to be investigated. The community will take some joy from the fact that these issues will no longer be swept under the carpet. Informants will also be advised of any action taken. The legislation includes provisions to prevent the subject of the accusations being adversely affected. Most importantly, the legislation provides immunity. It also contains provisions dealing with reprisal, remedies for acts of victimisation and confidentiality. Those protections are all very important and the community will take comfort from the fact that they are being provided for not only people who are prepared to disclose wrongdoing, but also the subjects of disclosure. Unfortunately, in the past people have been wrongly accused. Such people also deserve to have their rights protected. On that note, under part 5 of the Bill, it is an offence to give information or make a disclosure that is false or misleading.

I am pleased to say that this Government is not afraid to enact this legislation. I do not believe that we have anything to fear from its being introduced. In fact, we should all aspire to live up to the recommendations about whistleblowing that were included in the Commission on Government report, because they were correct. The people who are brave enough to stand up in public in defence of what is right and honest deserve our protection. For that reason, I commend the Bill to the House.

**MS SUE WALKER** (Nedlands) [5.20 pm]: My comments will echo those of the member for Kingsley. I listened to her contribution to the debate from my office. The Opposition supports this legislation. However, the critical point is whether it will be effective. I spent 12 years working in the government sector and during that time I observed how government departments operate. Twenty years before that, I was involved in private enterprise. My knowledge of government and private enterprise could be said to be in sharp relief. Other members who have worked in the government sector would know that it is different from working in private enterprise. The government sector is about power over people; that is what people seem to aspire to in terms of status. Private enterprise does not mind if a person shines, because it thinks that person will make money for it. For example, a private law firm does not mind if an employee shines because it wants that person to bring in money, which is good for everybody. However, the government sector is different; government departments can operate in ways that members of the public or politicians might never know about, because those people do not know how they work.

Although the Opposition supports the legislation, I am concerned about its effectiveness. In applying my mind to the Bill, I found that it in some way reminded me of the support and enabling legislation that was provided for

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the reporting of sexual offences. It was not so long ago that people were afraid to come forward to report sexual offences. It was the fastest growing area of criminal law in the 10 years that I was with the Director of Public Prosecutions, because the definition of "sexual assault" became much broader. The coalition Government underpinned and supported people who came forward by allowing them to make victim impact statements. I note that the member for Wanneroo said that whistleblowers could lose their homes, families, health and jobs; they give up hope after getting so far. That is the same for sexual assault victims. What happened, and I hope it happens here because I have doubts about the effectiveness of this Bill, was that people were encouraged and supported every step of the way to come forward to report sexual assault. It gave people confidence to come forward. However, many victims of sexual assault do not come forward until they are older. That is why many cases are old cases.

In his second reading speech, the Attorney General states -

There is nothing more fundamental to ensuring openness and accountability in Government than to ensure that people who have the courage to stand up and expose wrongdoing are able to do so without fear of reprisal. It is totally unacceptable that such people should be maligned or victimised as a result of their efforts to report - and therefore stop - improper or illegal behaviour in Government instrumentalities.

A problem was outlined in an editorial in *The West Australian* of Monday, 24 September 2001, to which the member for Kingsley referred. It states -

Although the laws would be welcome, they would not be effective unless they were accompanied by a government-led culture of openness and accountability in the public sector.

That is why it is so important to provide support. I will be interested to see what happens with people who decide to come forward to report a wrongdoing, particularly in the government sector. My experience and knowledge of the culture of different government departments suggests that most people who work in those departments have mortgage and car payments to make and kids at school, so they are reluctant to come forward. A wrongdoing occurs but people stay quiet. I have seen that happen in different government departments. People still stay quiet about wrongdoings. They will not come forward even after this legislation is passed. As the editorial states -

Being a whistleblower is a hazardous undertaking. They usually end up losing more than they achieve and are seldom thanked by anybody . . .

Although most people think that a whistleblower was right to speak, they would not have the courage to do the same and would think he was a fool for putting himself forward. The editorial states that whistleblowers are seldom thanked by anybody, even if they are proved right. Examples of that have been provided today. The article continues -

In fact, they are often looked down on and ostracised for being dobbers or for upsetting comfortable situations.

That can again be related to victims of sexual assault. The families of those people often turn against them because they have upset the family situation. I hope that through this legislation, people will eventually feel that they can come forward. When I first looked at this legislation, I looked at what the Attorney General said in his second reading speech. He states -

There is nothing more fundamental to ensuring openness and accountability . . .

I totally agree. However, it reminded me of the saying from the Australian movie *The Castle* - "You're dreaming". I hope that we are not dreaming with this legislation. The legislation needs to be enacted further down the track to give whistleblowers further support. The Government must support any people who come forward because they feel confident about this legislation. The editorial states -

Political parties have a tendency to support the concept of open government when in opposition, but to lose enthusiasm for the idea once they gain power.

It also states -

The Gallop Government claims strongly to support accountability and is drafting whistleblower legislation that is expected to be introduced in Parliament later this year.

That is what we have before us. The editorial continues -

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However, its treatment of Mr Chris Read, the man who revealed the breaches of guidelines on buying practices and recruitment in the Ombudsman's office, suggests there was a reluctance to bring Mr Allen to account.

Mr Read, a former senior investigator in the office, says that he was treated with disdain by Dr Gallop's office and misled by the Premier's staff.

I will look keenly at how the Government deals with the legislation. To that extent, I will speak on different aspects of the Bill during the consideration in detail stage.

**MR BRADSHAW** (Murray-Wellington) [5.28 pm]: I reluctantly support this legislation. Although there is a need for whistleblower protection in our State - it is important that when things are done for the wrong reasons, illegally or improperly, it should be brought to the notice of the appropriate authorities - over the years I have found that some people have other agendas and do not necessarily blow the whistle because of genuine concerns but because they have a gripe against somebody or think somebody has done something wrong. The second reading speech indicates that if a whistleblower makes a disclosure in a vexatious, misleading or knowingly false way, he will not be given protection. How can it be proved that the information is vexatious, misleading or knowingly false? It is a difficult area. I have always had problems with local government situations in which people can make any allegations they like against a council or councillors from a local government, and there is no come back on them at all. I have seen a couple of cases over the years in which this has occurred. In one case, a councillor was standing for re-election and did not get re-elected because one of his opponents issued a pamphlet indicating that he was being investigated for corruption, or something to that effect. After the inquiry, it was found that this councillor was certainly not corrupt. However, somebody had made the allegation that he was being investigated. In other shires, allegations have been made that have not generally come to anything and in these cases people are just trying to be nasty, vexatious or have an axe to grind and want to get even with somebody.

I reluctantly support this legislation because the general whistleblower needs this protection in his job and to deal with the discrimination that may take place against him.

**MR QUIGLEY** (Innaloo) [5.31 pm]: I support this legislation. Before coming to this place, I appeared as a barrister before a number of royal commissions. One of these touched upon Aboriginal deaths in custody, another related to the substitution of donkey meat for other meat for export, and I spent a couple of years appearing for people before the royal commission into WA Inc. In my role as counsel in those commissions, I was invariably approached by people with information, including departmental heads who had information to disclose about the highest levels of government. They perceived - probably rightly - that should they prosecute their complaints on the information that they had, their careers would be damaged. From my experience with the Western Australia Police Force, that was true, because officers were confronted with a culture of camaraderie and standing by each other and not making loose allegations against other officers. Officers were deterred from making true disclosures about what they had witnessed their superiors doing. Similarly, I experienced that a decade ago when a number of public servants who were giving evidence before the royal commission were loath, or indeed too intimidated, to bring forward their complaints and supporting evidence. This happened not by reason of anything that had been said to them by any member of government, the royal commissioner or anybody else, but because of the culture of society. Often the evidence that is brought forward would not be admissible in a court of law. It might be secondary evidence or evidence constituted by hearsay. However, just because it is not admissible in a court of law does not mean that it cannot constitute quality information of improper conduct. If there is no scheme or known regime in place to protect people who come forward, the community of Western Australia will be lessened because people will be able to engage in improper conduct undetected, although not unobserved, by their colleagues who may want to make a complaint but, by perceiving that to be injurious to their future careers, will not do so.

Clause 8 casts an obligation on the proper authority, which is defined in clause 5 as the nominated appropriate authority for various areas of government activity. Clause 8(1) states -

A proper authority must investigate or cause to be investigated the information disclosed to it under this Act if the disclosure relates to -

- (a) the authority;
- (b) a public officer or public sector contractor of the authority; or
- (c) a matter or person that the authority has a function or power to investigate.

In those circumstances in which government building inspectors, health inspectors and the like have observed public sector contractors behaving questionably, they will have cast upon them a duty, or an obligation really, to

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disclose this information to the appropriate authority and that authority must, as a matter of mandatory conduct, conduct an investigation. I had to correct myself when I said “duty to disclose”, because under clause 5(1) the legislation gives that person a discretion; that is, it is his call whether to disclose the information. The provision still offers a regime of protection that we hope will encourage disclosure and offer a climate in which a person can feel safe in coming forward to make that disclosure. Clause 10 is important and casts an obligation. Subclause (1) states -

If an appropriate disclosure of public interest information is made to a person . . .

That is, to an authority, it must -

. . . not more than 3 months after the disclosure is made, notify the person who made the disclosure of the action taken or proposed to be taken in relation to the disclosure.

This is an important part of the legislation because it visits accountability upon the proper authorities to action the information or complaint. My experience in the Western Australia Police Service - the agency with which I have had most dealings, apart from the legal profession - is that officers, or junior officers, make disclosures from time to time and learn months later that the matter has not been acted upon, or the weakest and most useless investigation was embarked upon with no final resolution of action. I support the Attorney General in the inclusion of clause 10 in the legislation.

The protection is contained in clause 11 of the Whistleblowers Protection Bill 2002. It provides that an informant should be notified of the action taken only if it is appropriate, and that information cannot be transferred back to the informant if it endangers the safety of the informant, or if it compromises the investigation of the matters that were brought to the attention of the appropriate authority by the informant. Also, a person must not be reported back to if such information adversely affects -

the existence or identity of a person who has made a disclosure of public interest information other than the person being given the information.

To do otherwise - that is, to take the matter to the person about whom the complaint has been made - would necessarily mean that the person who was the subject of the complaint would learn about the existence of the informant, and the whole scheme would collapse.

This legislation will protect informants who come forward. It is important that a person who makes an appropriate disclosure does not incur a civil or criminal liability. These people must be totally protected from the laws of criminal and civil defamation. They must not be liable for any disciplinary action under written law, because an agency, such as the Police Service, may retaliate by taking disciplinary action against people who raise matters concerning superiors on the basis that they are being disruptive within the Police Service. I applaud the Attorney General for including that measure in the legislation. Similarly, in the police and other services, and in the law courts, duties of secrecy are cast upon employees, and communication by an informant to a proper authority would not constitute a breach of duty. Appropriately, such protections will be lost if a person who has made the disclosure fails to assist in the investigation of the matter. In my time I have seen that, having raised the complaint, some complainants become very precious about to whom they will talk. Once the appropriate authority embarks upon an investigation, the protection will be lost if that informant does not fully cooperate. Also, an informant will lose his or her protection if he or she discloses information to a branch of the media, such as talkback radio or the like.

I commend the Attorney General on introducing this legislation, I will support its passage through the Parliament and I believe this legislation will go a considerable way towards raising the standard of behaviour of public sector dealings in Western Australia.

**MR JOHNSON** (Hillarys) [5.45 pm]: The member for Innaloo’s contribution to the debate was riveting. He relied upon his vast legal experience to express his point of view, and he gave an interesting and legalistic speech, the detail of which was grabbed at as he went through the Bill. I will not go into the fine detail of the legal ramifications of this legislation, but will talk mainly in generic terms.

I have a great interest in this Bill, because I had the privilege of being the Chairman of the Joint Standing Committee on the Commission on Government.

Mr Barnett: Was that a standing committee?

Mr JOHNSON: Yes, and I am in favour of sending Bills to the Joint Standing Committee on Delegated Legislation. This Bill may be presented to that standing committee so that we can determine its merits. It was a recommendation of the Commission on Government that Bills be presented to the standing committee. I am pleased that this recommendation was supported, because, in this day and age, it is essential that we have whistleblower protection legislation. Such legislation exists in many other States and countries. We need this

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legislation because if something untoward happens in the work force - whether it be in the public service, local government or in government itself - the only opportunity that Parliament and the public of Western Australia have to become aware of it - it may be something that is totally inappropriate or corrupt - is if somebody blows the whistle; hence, the Whistleblower Protection Bill 2002. The term "whistleblower" is a colloquial term that was used in days gone by.

When we move to the consideration in detail stage, I will ask the Attorney General many questions about the Bill. I am fully aware that vexatious and frivolous claims made by an individual will be dealt with in an appropriate way; that is, a form of retribution will be made against a person who makes a vexatious claim. That is as it should be. If an issue arises in the public sector, or any workplace, which an individual honestly and genuinely believes to be wrong, it must be brought forward. If an individual acts in a corrupt manner, very often the only way in which we will hear about it is if somebody blows the whistle. Of course, this goes back to not only the Commission on Government, but also the WA Inc years. Those years were a disastrous and black period in the history of Western Australia. Unfortunately, in those days we did not have whistleblowers protection legislation. Perhaps if we had, many of the things done by the Government of the day during the WA Inc years might have been raised earlier, and the public of Western Australia could have been informed earlier by the media.

I have just been handed a note by my colleague asking me to finish my contribution at 5.55 pm. I was going to ask for an extension - I doubt if I will get it - because I enjoy speaking on good legislation. I like legislation that protects the public of Western Australia. After all, members of Parliament are here to protect the public of Western Australia.

Mr Barnett: From the Labor Government!

Mr JOHNSON: My colleague the Leader of the Opposition said, "from a Labor Government". That is a serious issue.

Mr Barnett: It is a big job too.

Mr JOHNSON: It is a big job and it takes a big person to do it. The men and women on this side of the House will do that.

A government member: All three of you!

Mr JOHNSON: Three people from this side of the House are worth 30 from that side of the House any day.

Mr Barnett: We are better than that!

Mr JOHNSON: The Leader of the Opposition may well be right.

Mr McGowan: You may well go down to that after the election.

Mr JOHNSON: No; this is a one-term Government. I hope that before Labor loses government in less than three years, my friend and colleague the member for Rockingham makes it to the front bench, because some of us on this side of the House have a lot of time for that young man. We think he has a lot of potential and a lot of talent.

Mr Templeman: He answers the telephone very well!

Mr JOHNSON: He does many jobs. He is multiskilled. He is the acting Whip at times as well. We are watching him very closely.

Mr McGowan: The call was for you.

Mr JOHNSON: Was it?

Mr McGowan: It was one of your colleagues telling you to sit down.

Mr JOHNSON: That is not a problem. I think the member is misleading Parliament.

Mr McGowan: Are you whistleblowing on me?

Mr JOHNSON: No; I would not do that to the member, unless there was justification. That is a good point. Are members of Parliament covered for whistleblowing?

Mr McGowan: Yes, they are.

Mr JOHNSON: If the member does something that is illegal or corrupt, I can blow the whistle on him outside this House and be protected.

Mrs Edwardes: To the Presiding Officers.

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Mr JOHNSON: I would blow the whistle to the Presiding Officers. I tell members opposite to watch it, because we will be watching them, and so will the public.

Ms Quirk: We are the epitome of probity.

Mr JOHNSON: That is what some of the member's former colleagues said during the WA Inc years, but they fell well short of that description.

It is a pity that the Attorney General is not here because I would have liked him to respond to some of my questions by way of interjection. Who will decide whether a person is guilty of making vexatious or frivolous claims and complaints? What body will be set up to look at that and make a decision? I cannot find it in the legislation. I have not looked at it thoroughly yet, but I might find it if I look more deeply.

Mrs Edwardes: When we get to the consideration in detail stage.

Mr JOHNSON: We will deal with it in the consideration in detail stage. That is important because I want to know the answer to that question before I fully support the legislation. I support it in general terms, because it is essential that we protect those people who have the courage to speak out against corruption and wrongdoing.

Mr Templeman: Hear, hear!

Mr JOHNSON: The member for Mandurah agrees with what I am saying, and that is good. There is bipartisan support for certain parts of this Bill. That is quite unique.

Mr Hyde: You are supporting the whole Bill.

Mr JOHNSON: It depends whether my colleague the member for Kingsley wants to move some amendments. I have great faith in the member for Kingsley. She is very knowledgeable on legislation, particularly that introduced by the Attorney General. She has a fantastic background and she spent many years doing the job that the Attorney General is doing now, and did an excellent job.

Mr McGowan: You are right.

Mr JOHNSON: What?

Mr McGowan: You said that he is doing an excellent job.

Mr JOHNSON: No; I said that the member for Kingsley did an excellent job. I am a little disappointed with the Attorney General; in fact, I am hugely disappointed with some of the ways in which the Attorney General has dealt with certain legislation in this House. He is aware of the legislation I am talking about. Because we are discussing the Whistleblowers Protection Bill, I will not talk about the other legislation. However, I am disappointed with the Attorney General.

Mr McGinty: Tell me how happy you are with this Bill.

Mr JOHNSON: I am fairly happy with this Bill. It is a pity that the Attorney General missed the earlier part of my speech, because I made some fantastic comments.

Mr McGinty: I can imagine!

Mr JOHNSON: It is a great shame that he was not here, because they were quite poignant. The member for Perth is looking at me absolutely aghast.

Mr Hyde: I was just thinking that if we vote on it now, you could get the credit for this legislation passing through Parliament quickly.

Mr JOHNSON: No. I have been asked to sit down at five minutes to six because one of the member's colleagues wants to have a little blast. I could talk about this legislation for hours. However, I will not do that. I want every member who wants the opportunity to speak on this Bill to have that opportunity.

Mr McGowan: You are not going to move the gag today?

Mr JOHNSON: Absolutely not.

Mr McGowan: I have seen you do it before.

Mr JOHNSON: No. It is almost five to six. As I said, this is very important legislation. I would like to hear what some of my colleagues on that side of the House have to say.

Mr McGowan: Are you saying that that was not important?

Mrs Cheryl Edwardes; Mr Mike Board; Mr Arthur Marshall; Ms Dianne Guise; Ms Sue Walker; Mr John Bradshaw; Mr John Quigley; Mr Rob Johnson; Mr Peter Watson

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Mr JOHNSON: No. I will talk to the member later, because he did not understand the subtlety of that move the other day. I will have to explain it to him and perhaps draw some pictures and show him in detail the purpose of that act. In the spirit of cooperation and bipartisanship for this legislation, and to give every member an opportunity to speak so that we can continue with the debate, I now defer to my colleague the member for Albany.

**MR WATSON** (Albany) [5.56 pm]: I stand here today as a whistleblower. As a postman in the electorates of the members for Cottesloe, Innaloo and Perth, I was a whistleblower.

Mr Barnett: Only since you have admitted to that have I realised why the mail delivery was so unreliable all those years ago. I did not realise you were my postman. I have blamed Australia Post all these years!

Mr WATSON: Posties can pick these things in advance. Today I listened to my learned colleague from Innaloo talk about the legal side of this issue. However, I will talk about the personal side. One of my constituents who was a whistleblower came to me. She has had a very torrid time. She has lost her credibility, she is probably going to lose her job, and her family is breaking up. She will have to move to Perth to get a job because she cannot get one in our local community through doing nothing but highlighting a situation in a government service that was not right. This woman came to me and we have tried every avenue to right things for her. We have tried every system, but there is nothing to protect the whistleblower. From the moment she opened her mouth about the situation in her workplace, she was maligned as a stirrer. She has received no cooperation from her peers; they have all looked on her as a pariah.

Mr Johnson: Is this a government agency?

Mr WATSON: It is a government agency. Everywhere she has turned, she has not received any help. She is a mental wreck. She is on medication to try to get her through the day, and naturally it will affect her job. Her job performance and standards have dropped and the people she works for are trying to get rid of her. After working for a government agency for many years, there was nowhere for her to go in the proper system. The issue would always be passed on and when it got to a certain stage, it would go no further; it would get caught up in the system. There should be something better. I have read the Bill and I have listened to my learned colleague talk about the legal side of the issue. However, I speak from a person's point of view.

Mr Johnson: The legal stuff was riveting!

Mr WATSON: I thought it was very riveting, but the member for Hillarys was exceptional in following on from the member for Innaloo and he kept up the standard. It was a close call, but I think the member for Innaloo made a bit more sense. I commend the Attorney General for introducing this legislation; it is long overdue. There must be an avenue through which people can voice their complaints without losing their jobs, health and families. Some people have even gone further than that; some have taken their own lives. There is no support system. This is one of the best pieces of legislation to be introduced since I have been in this House, and I fully support it.

The ACTING SPEAKER (Mr Edwards): I remind members that mobile telephones are not allowed in the Chamber.

Debate adjourned until a later stage, on motion by Mr Kobelke (Leader of the House).

*Sitting suspended from 6.00 to 7.00 pm*