INTEGRITY (LOBBYISTS) BILL 2014

Second Reading

Resumed from 26 November 2014.

MR J.R. QUIGLEY (Butler) [4.35 pm]: I am not the lead speaker on this bill; the Leader of the Opposition is. I will just take a moment.

MR M. McGOWAN (Rockingham — Leader of the Opposition) [4.36 pm]: I rise as the lead speaker on the Integrity (Lobbyists) Bill 2014, which is designed to ensure that a legislative regulatory regime is put in place in relation to the occupation of lobbying in Western Australia. The history of this bill goes back some time. There was a version of lobbyists legislation introduced in 2010 or 2011. It was debated in this house in perhaps 2012. The then member for Churchlands and I introduced a range of amendments to that version of the lobbyists laws. It was debated here. I cannot recall exactly whether the amendments were debated before the house or whether we went to consideration in detail stage or otherwise, but it received some consideration by this house. The opposition, with the then member for Churchlands, attempted some amendments. As I recall, regardless of whether it went to the consideration in detail stage, the government disagreed with the amendments. The bill then lapsed with the prorogation of Parliament prior to the 2013 state election. There was no opportunity for it to be passed into law. In addition, some regulation has applied around lobbyists that has been more of an informal rather than a legislative kind for a long period. As I recall, the code of conduct, the website and the registration requirement was brought in back in 2007.

Mr C.J. Barnett: Can I interrupt? It did go through consideration in detail and it passed through this house.

Mr M. McGOWAN: Was it passed, but it did not get through the upper house?

Mr C.J. Barnett: That is right.

Mr M. McGOWAN: It lapsed with the election.

Back in 2007, a registration requirement was brought in for lobbyists in Western Australia and a website was established by which lobbyists were required to be publicly identified and their client lists were placed on the website. That occurred back in 2007 and then it progressed with around 60 or so lobbyists on the register—some of them were national and some state—and that proceeded along. With one or two exceptions, these laws are a legislative version of that arrangement established by Premier Alan Carpenter back in 2007.

The requirement currently, as I understand it, is that lobbyists must be registered with either the Department of the Premier and Cabinet or the Public Sector Commission. Their name, and their client list, is then placed on a website that is publicly available. That ensures that there is some transparency about who lobbyists are and on whose behalf they are acting. However, this system essentially has no legislative backing. I am not aware of whether this system has ever been tested legally and whether lobbyists are complying with that obligation. I suspect that people who are not registered are engaging in lobbying, but I have no proof of that. Therefore, this legislation will at least put some additional strength behind the requirement that lobbyists be registered.

The current government made a commitment during the 2008 election campaign that lobbying laws would be implemented, or, as I recall, introduced, and perhaps passed, within 100 days of the government arriving in office. It is now 2015, and we are dealing with this legislation in the last week of the 2015 lower house parliamentary year. Therefore, these laws have had a long gestation period under this government. Much play was made of this issue in 2008, and we are now dealing with the actual laws involved. I am dubious about whether this legislation will be passed by both houses of Parliament this year. I suppose we can assume that these laws will be passed before the 2017 state election. That is roughly eight years later than the original commitment that was made.

This legislation will create a statutory scheme by which lobbyists will be required to be registered and to publish the names of their clients. The legislation distinguishes between lobbyists and people in other occupations who may engage in lobbying. A range of occupations engage in what could broadly be described, under a dictionary definition, as lobbying. Lobbying is engaged in by engineers, lawyers and accountants. Most major businesses have a corporate affairs or public affairs division that lobbies government members on behalf of their clients. Under this legislation, engineering firms, law firms, accountancy practices and the like are excluded from the definition of lobbying. That means that people who have a practising certificate as an engineer, a lawyer or an accountant can essentially engage in lobbying activity without being required to be registered and to disclose their clients. The issue that has been raised with me is that it is unfair that one group of people who lobby are required to disclose and another group of businesses that lobby are not required to disclose. It would be difficult to cast the net wide enough to capture every occupation that engages in lobbying.

However, it is unfair that the same transparency and accountability obligations are not imposed on those people. I do not have a way of trying to legislate to overcome that issue. I am not seeking to amend the bill to require the same level of transparency, accountability and disclosure from the people who are engaged in those professions as is required of individual lobbying firms. One would hope that the ethical obligations that are placed on the people in these professions would mean that they would not transgress any particular code of practice that might be applied to a lobbying firm. The bill outlines some categories of activity that are outlawed under the lobbying laws. That should provide us with some comfort that even if people in these professions are engaging in what might broadly be known as lobbying, they are engaging in that activity in a relatively ethical manner. A lot of people work in those professions and in the corporate affairs or public affairs divisions of major corporations—a lot more than work in lobbying firms—and they deal with government regularly.

Mr C.J. Barnett: Corporate affairs people are clearly representing their employer. If it is a corporate affairs or government affairs manager from a mining company, we know who they are. However, we could have problems, I guess, with a consulting engineer or a lawyer. There could be a grey area there.

Mr M. McGOWAN: The line between legal work and lobbying is a very difficult one to draw. A lawyer may be putting a case to government on behalf of a client and say they are not lobbying. It is a very difficult line to draw.

Mr C.J. Barnett: An engineer or a lawyer is employed to represent a case. We know who they are representing. The problem is someone who just hangs up a shingle and says they are a lobbyist, and they turn up and start talking to us and we do not know who they are, where they are from and who they are representing. That was the historic problem, I think. They would turn up as a mate or a friend.

Mr M. McGOWAN: That is right. Under the laws that are before us today, there are two additional requirements for a person who wishes to be a lobbyist. The first is that they cannot have been a member of Parliament, or a senior public servant, for 12 months prior to becoming a lobbyist. Of course, that would not apply to a lawyer, an engineer who had worked in the Water Corporation, or a person who had worked for the state emergency service or the like. The other is that they cannot receive a success fee. Under this legislation, those requirements do not apply to people in other professions. As I have said, I do not have an easy way of dealing with that. I supported the amendments that were proposed by the former member for Churchlands, Hon Liz Constable, four years ago. She proposed a significant body of amendments to try to deal with those issues. She did a lot of work on the lobbying legislation, and it was impressive. We are not planning to move those amendments this time around. These laws will stand or fall as they are passed by the house. If there are occasions on which people transgress, or issues arise, amendments may well be made by a future government on those issues.

The other group that is not captured by this legislation is non-government organisations. That is because, one would assume, non-government organisations are not involved in commercial activity in working with government. If a non-government organisation is putting a case to a government, it is known for whom they are working and what they are working on. Again, if it is not for commercial advantage, one would have to think that the capacity for inappropriate or unethical conduct to occur is reduced. That is not covered by these proposed laws.

Members of the state Parliament, members of the senior executive service and federal parliamentarians are excluded from becoming lobbyists within 12 months of them leaving their former profession. The reasoning behind that is obvious. If a person is a minister, in particular, who has knowledge of the public sector or who might have appointed senior public servants in agencies that they then want to deal with after leaving Parliament, there is a cooling-off period, if you like. A year seems rather short to me. It is a remote prospect that the people a person may have appointed and the knowledge that they may have gained whilst serving as a minister are not current after a year. After a year, in many cases, a person's knowledge would still be very relevant and probably valuable to a lobbying firm, particularly if the government in office is one that that person was a part of and they left on good terms. If that is the case, a year seems to be a short time. The counterargument to that is: just because a person is a former member of Parliament, a former minister or a former senior public servant does not mean that they should be stopped from being able to have an occupation and to earn an income like anyone else, and perhaps their skills are valuable. I am sure that many members in this chamber have some sympathy with that view. There are two counterarguments. It seems to me, though, that a cooling-off period of a year is rather brief.

Mr C.J. Barnett: You might think it's brief, but it's bizarre that people leave federal Parliament and, you know, the next day they are a lobbyist. I think that's particularly unhealthy.

Mr M. McGOWAN: Clearly, it is. A lot of money is to be made in lobbying. If a person is someone of note and they have authority inside political parties, there is probably the capacity to make significant money. That is an unfortunate fact, I suppose.

A year seems brief, but a lot of the lobbyists who are around are former ministers who have been a long time out of Parliament but they still retain their connections. No simple, straightforward date will resolve those issues. If we ban people who were in parliamentary service from this form of occupation at any time in the future—as one former federal minister said to me, "A lot of people who leave Parliament are not much good for anything else"—we will just be banning them from earning an income. I thought what that former federal minister said was rather unkind, but it was obviously his perception of some people who go through the political process.

I understand that the rule also applies to members of the senior executive service; therefore, the same issue arises. Although they may not have political contacts, they certainly would have contacts within the agencies that they might lobby. As we know, a lot of state government agencies issue big contracts, particularly Main Roads Western Australia, the Department of Housing, the Metropolitan Redevelopment Authority and LandCorp. I am not exactly sure how this legislation applies to government trading enterprises and whether the same rules apply to people who work for them. Maybe that is something we will have to tease out later. All the issues that relate to ministers are there for members of the executive, although they might be slightly different. A person's capacity to use knowledge gained while serving in government for commercial advantage afterwards is very obviously in the legislation to deal with a member of the senior executive service. Again, the one-year cooling-off period for people in that line of work seems to be rather brief. Once a person has taken their holiday entitlements, had a break and what have you, quite often a year is pretty much up. It is not exactly a great impediment to a person becoming a lobbyist. As I said, there is no easy answer to that question. A year is outlined in the legislation and I do not propose to amend it.

Success fees will be prohibited. We have seen success fees before; that is, a person's payment is enhanced based upon whether they are successful in the task they are given. A lobbying firm is given a task and I understand it will often receive a quite significant bonus if it successfully achieves the outcome. The idea behind banning success fees is that it removes the incentive for lobbying firms to engage in what might be called unethical or improper conduct. If a firm is paid only to undertake a role on a weekly or monthly basis, it is being paid anyway. If the role was incentivised by putting in place a success fee, it would encourage unethical or improper conduct on the part of the lobbyist. I fully see the reason for that and I endorse the thoughts behind it, but lots of areas of activity in commercial life have success fees in place. Payment of success fees is something that the business community and the professions engage in, and it is a condition that lobbyists will have imposed on them that other sections of the commercial, business and professional world do not have imposed on them. I understand the reasoning behind the provision and I think it is a wise move. If the government were to learn about the payment of a success fee, the provision gives it the capacity to make void the payment and to seek to recover it. I do not know the circumstances in which that might happen, but the government can seek to recover such a payment if it wishes to do so.

There is an obligation on a lobbyist to register as a lobbyist. We have heard people say that they are not lobbyists, and trying to determine whether a person is a lobbyist when they say that they are not a lobbyist, or that all they are doing is talking to government, is another problem. I do not see the answer to that, and I might seek some advice from the Premier on that during the consideration in detail stage of the bill. If a person refuses to register as a lobbyist, who has the obligation to determine whether that person is a lobbyist—is it a judge?—and how do they do that? Is the matter justiciable? How does that work? I do not particularly want to go into names. I am sure that other people will, but I do not want to be partisan in this debate. I know of a former minister who said that he was not a lobbyist whilst working for a lobbying firm. He may well have registered as a lobbyist by now. What capacity is there to ensure that someone working as a lobbyist, who everyone knows is a lobbyist, registers as a lobbyist? How does government enforce that and, indeed, would government bother attempting to enforce that?

Mr C.J. Barnett: They will not get access to a minister if there's a suspicion they're a lobbyist.

Mr M. McGOWAN: Again, how will the government communicate that? The public sector is 130 000 people or thereabouts. A lot of agencies out there are doing a lot of commercial activity and we do not know who is friends with whom, so how would that be communicated and enforced? I think it will be difficult. Under the proposed laws, people who are not of good character or who previously have been regarded as engaging in improper conduct will not be allowed to register as a lobbyist.

How is the fact that they are not permitted to speak to someone enforced, apart from when it is in a newspaper article somewhere?

Mr C.J. Barnett: There is a protocol. You can seek appointments, for example. They will be asked whether they are lobbyists. There is a protocol for that.

Mr M. McGOWAN: A protocol will be established?

Mr C.J. Barnett: Yes; it is established already.

Mr M. McGOWAN: Will that apply to government trading enterprises?

Mr C.J. Barnett: That is a good question; I do not have the answer for that, but I am thinking about it.

Mr M. McGOWAN: Clearly, government trading enterprises probably engage in more commercial conduct than other government agencies.

A lot of money is involved in lobbying, and I think on the register today more than 100 people are registered as lobbyists. I suspect a lot of them are registered in the hope that they will obtain some business and do not have much. A lot of them would have no business, but they register and the idea is that a business seeking engagement with government can go to the Register of Lobbyists and see a firm and they might pick them. In a way, the government website is a pretty good advertising tool for some lobbyists. If someone goes to the website and notes that one particular firm has dozens or scores of clients, it can be seen how it is a really good commercial tool for that lobbyist. If another lobbyist has no clients, it is probably like looking for a restaurant—people go to the one that is full rather than the one that is empty. There is certainly a commercial incentive for successful lobbyists to be on the register, because I think it probably drives business. As I said, a lot of money is tied up in lobbying. I am always a bit surprised by some businesses that engage lobbyists, because in my experience businesses get access to government anyway. However, if that is what they want to do, it is a commercial matter for them.

I had some experience lobbying maybe 13 years ago when I went to the United States representing the then government of Western Australia to lobby for defence work from the United States Navy in Western Australia. I learnt a few things about the United States. First of all, I learnt that it is a very protected economy and it does not like giving work to any other country anywhere else. Some work was given to us as a trial—some repairs in Cockburn to ships coming to exchange crews here. As far as I am aware, it has not continued, but it was an effort designed so that the US Navy, which operates in the Indian Ocean, and particularly in the Persian Gulf, might see Perth as a place to do work and thus create some commercial activity here. As I said, I learnt that the United States is a very protected place when it comes to commercial activity. When it comes to government work, the home of free enterprise is very much a home of free enterprise as long as it is at home. The second thing I learnt is that the lobbying industry in the United States of America is massive. I went to Washington and met a bunch of former admirals—three-star admirals and even four-star admirals—and their job in life was to lobby congressmen. I forget the exact figure but in Washington, for every elected representative of the federal government, scores and scores of lobbyists are all plying their trade and making obscene amounts of money out of it. They are very engaged in the political process. We are nowhere near that stage in this country, fortunately, and we are nowhere near that stage in this state, and I hope that we never reach that position.

As far as I am aware, the lobbyists over there are engaged in all sorts of fundraising activities on behalf of potential candidates and congressmen. There is very much a total integration of lobbying and the elected representatives of the Senate and the House of Representatives in Washington. I assume that happens at the state level as well in the US. The way all of that that went on and the amounts of money involved in the whole lobbying process in the United States were an eye-opener for me. As I said, former bureaucrats, former defence personnel and former congressmen occupy offices that infest the precinct surrounding the Capitol Building and the White House. The building we were in with these former admirals was over the road from the White House—I could see the White House out of the window—and those admirals undertook to meet with someone on our behalf. I was unaware of the extent of the process, but I would say this: with the integration of the whole fundraising process with the lobbyists, I learnt something about the United States; that is, congressmen and senators spend the majority of their time fundraising.

Mr C.J. Barnett: Especially when there is a two-year cycle.

Mr M. McGOWAN: It is absolutely ridiculous. They spend the majority of their time —

Mr C.J. Barnett: It is soothing listening to you with the music in the background!

Mr W.J. Johnston: There is a party going on!

Mr M. McGOWAN: I like to help out in these moments and put the Premier off to sleep!

That level of time the elected officers in the US spend fundraising is absolutely counterproductive. They spend all that time doing that rather than doing their real job. It is an unfortunate fact in the United States of America. I find that here it is not like that and I hope it never gets to that stage. That is a side issue to this bill, but I hope it does not ever get to that stage.

In overall terms, the opposition will support these laws. We might tease out some of those issues I referred to in the consideration in detail stage and we will see when the laws get through both houses of Parliament. I am confident, though, that it will not be in the first 100 days of this government!

MR W.J. JOHNSTON (Cannington) [5.07 pm]: I start by expressing my appreciation to my good friend the member for Girrawheen, who let me speak next because I am paired from the dinner break. I wanted to make sure I got some comments on the record about this Integrity (Lobbyists) Bill 2014. I first endorse the comments of the Leader of the Opposition. The Labor Party looks forward to the passage of this legislation. We did not oppose the legislation in the last Parliament. We were very pleased to support some sensible amendments from the then member for Churchlands, Hon Liz Constable, in the committee stage. I understand from the Premier's second reading speech that some of those amendments are in fact included in this —

Mr C.J. Barnett: Some of the opposition amendments have been included too; we have conceded some things.

Mr W.J. JOHNSTON: Excellent. I always say, Premier, that the best legislation is properly considered. I hate to say so, but the Cat Act was much improved because of the conciliatory nature of the member for Bunbury, who is just leaving the chamber now and probably not even listening to me, when he was Minister for Local Government. He has come back in. I was just complementing his handling of the Cat Act.

Mr C.J. Barnett: He will long be remembered for that!

Mr W.J. JOHNSTON: Yes, I am sure he will. He was very good, because he listened. I think the opposition suggested 17 amendments to the legislation and about 13 or 14 of them were accepted by the government. I thought it was a good example —

Mr C.J. Barnett: Dogs don't like him though!

Mr W.J. JOHNSTON: That is right! I was talking about it more in terms of the operation of the Parliament.

I will draw attention to a couple of issues the Premier raised in his second reading speech. To quote the first page, he said —

> … the state's current Register of Lobbyists … was administratively established within the Department of the Premier and Cabinet under the Contact with Lobbyists Code in 2007.

In 2007, of course, there was a Labor government in Western Australia. Further in the speech the Premier said —

> Since 2007, all state jurisdictions in Australia and the commonwealth have followed Western Australia's lead and established lobbyist registers modelled on ours.

The Premier is acknowledging that since 2007 all the other states and territories have followed WA Labor's lead on lobbying registration procedures, which is a big compliment to the former Labor government. The Premier's second reading speech continues —

> Last year —

In 2010 —

> the public sector reforms spearheaded by this government led to the establishment of the Public Sector Commissioner as a statutory officer independently accountable to this Parliament.

Apart from the tabling of the Public Sector Commissioner's annual report, there is no parliamentary oversight of the Public Sector Commissioner. A Public Accounts Committee report was tabled by the member for Churchlands—that inquiry was commenced by the member for Alfred Cove when he was chairman of the Public Accounts Committee—into the operations of the Public Sector Commissioner. I urge members to have a look at that report; it was a good report. I do not necessarily agree with every single word in the document, but an interesting question that was asked on a number of occasions during the Public Accounts Committee hearing was: independent from whom? It was never clear who it is that the Public Sector Commissioner is independent from. Again, the Public Sector Commission made it clear—I am not quoting directly from the transcript of evidence, but it was words to the effect—that he does not operate in a political vacuum, which I think is very natural. It is what we would expect of the Public Sector Commissioner. Interestingly enough, in the 12 months prior to that committee's report, the commissioner and his minister—the Premier—met nine times. Those nine meetings resulted in the following: there was no written agenda for any of the meetings that took place between the Premier and the Public Sector Commissioner; no minutes were kept of any of those meetings between the Public Sector Commissioner and the Premier; and no documents were created from those meetings. At that time, the meetings included the complete restructure of the public service in Western Australia. It is an extraordinary position whereby the Public Sector Commissioner could meet with the Premier to discuss

effectively restructuring every element of the public sector in Western Australia and no documents were ever created out of that process. It is an extraordinary situation.

Mr C.J. Barnett: I don't find that extraordinary at all, in any way.

Mr W.J. JOHNSTON: I ask just one thing: how did the Public Sector Commissioner know that he was properly implementing the Premier's requests?

Mr C.J. Barnett: They were machinery of government–type matters.

Mr W.J. JOHNSTON: Yes.

Mr C.J. Barnett: You don't need an agenda or documents; we had a view, we discussed it, and he implemented it.

Mr W.J. JOHNSTON: How did he know that he was implementing what the Premier wanted?

Mr C.J. Barnett: Because I told him.

Mr W.J. JOHNSTON: If the Premier never recorded what he told the Public Sector Commissioner to do, which is what he said in evidence and subsequently through a question on notice, that is extraordinary. How did the Public Sector Commissioner know that he was correctly remembering what the Premier told him?

Mr C.J. Barnett: I think he's a competent person; the changes were not all that complicated.

Mr W.J. JOHNSTON: With respect, I think the Premier's media release ran to nearly three pages just describing the changes—before it even got to the detail of the changes. It is ridiculous that a senior official who is supposed to be accountable to Parliament would meet with a member of the executive government and then produce no documents upon which Parliament could act. Not a single document was created through that process. The Public Sector Commissioner is not supposed answer to the Premier; the commissioner is supposed to be accountable to Parliament.

Mr C.J. Barnett: I'm still the Minister for Public Sector Management, as all Premiers have been.

Mr W.J. JOHNSTON: Yes, but if the idea is that the Public Sector Commissioner is now a statutory officer who is independently accountable to this Parliament, how can he be accountable if no documents are produced? He is not supposed to act on behalf of the executive; he is supposed to act beyond the executive and be accountable to the Parliament. The Public Sector Commissioner had nine meetings with the Premier and produced no paperwork. If any member of Parliament sought to inquire what the conduct of those discussions were—because the person is supposed to be accountable back to us—there is nothing there; there are no records. How can we know what was discussed? How do we even know that he implemented what the Premier asked, and how do we know what the Premier asked was what the Parliament of Western Australia thought was the best outcome, as no documents were produced? There is no opportunity for accountability. We are providing the Public Sector Commissioner with the ultimate accountability, as is currently the case under the 2007 Contact With Lobbyists Code—but, again, how do we know how many times the Public Sector Commissioner discussed the contents of that lobbyists register with the Premier? How many times was it discussed with the Premier in 2013? We do not know because no documents were ever produced.

Mr C.J. Barnett: The lobbyists register is a policy matter. The independence of the Public Sector Commissioner is that he is effectively the head of the public service, not the Premier, as happened previously. I do not interfere in public sector matters.

Mr W.J. JOHNSTON: Clearly, that is not an accurate presentation of the position.

Mr C.J. Barnett: In policy I do, but not on individuals; I never have.

Mr W.J. JOHNSTON: Yes, but no Premier ever has since the Public Sector Management Act in the 1990s. That has never been an issue since then because, as the Premier knows, the only minister who is able to be involved in appointments is the director general—the secretary of the department. Everything below the DG level is not a matter that the Premier or any other minister can have anything to do with. The Premier knows that himself, given that he was in the cabinet of the government that introduced that. When the Premier said those things, that was not a change. As I say, who is the Public Sector Commissioner independent from? What exactly does that mean? To quote the Premier's second reading speech —

> … the Public Sector Commissioner as a statutory officer independently accountable to this Parliament.

How is the commissioner independently accountable to this Parliament? What mechanism will be used for that accountability? Currently, no committee has oversight of the Public Sector Commissioner. We have a range of other oversight mechanisms for statutory officers, but Parliament has no oversight of that one. Therefore, we do not get to ask questions about the operation of the lobbyists register. Also, in theory, because that is what the

Premier stated in his second reading speech, the Public Sector Commissioner is supposed to be independently accountable to this Parliament.

Dr A.D. Buti: There's a new Premier sitting in his seat!

Mr R.F. Johnson: We organised a coup!

A member interjected.

Mr W.J. JOHNSTON: I keep telling the Liberal backbench that they only have a couple months to go because if they have not done the deed by March, it will be too late. They only have this closing window to get rid of the most unpopular Premier in the state's history!

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Members! Excuse me. Hansard is trying to follow debate. It would be good if we could keep it with the member on his feet.

Mr W.J. JOHNSTON: Members should not speak out of their chairs.

The ACTING SPEAKER: Yes, thank you member. You took the words right out of my mouth.

Mr W.J. JOHNSTON: A question arises under the legislation from reading from the second page of the Premier's second reading speech —

> The transparency imperatives underpinning the bill do not require all types of interest groups, non-profit organisations, in-house lawyers or professionals such as architects or engineers to be regulated. Even organisations that represent the interests of their members like trade unions, employer groups, or occupational bodies are not required to be registered. Sufficient transparency already exists as to whose interests they are representing, and any lobbying that professional service providers do is incidental to their core business.

I quickly looked at the United States' registration procedures, and it is interesting that it states that if more than 20 per cent of a person's time is spent lobbying, they are a lobbyist—which is a much higher standard than the one we are applying here. Taking the example of engineers so I can raise the member for Nedlands, when the member for Nedlands was a consulting engineer working for his business after the defeat of the Court government and prior to his entry into Parliament, he lobbied government; in fact, he worked for government occasionally, too. That was incidental to his work as an engineer. In America, those organisations would all have to register and disclose; here we do not require them to. Although it is not in the second reading speech of the Integrity (Lobbyists) Bill 2014, I think in the second reading speech or the explanatory memorandum of the bill in the last Parliament the point was made that those organisations have their own codes. If an engineer is a member of Engineers Australia, they have to follow the code of practice of that body. Similarly, if a lawyer belongs to the Law Society of Western Australia, they have to follow the code of practice for that occupation. It may well be that this is something that we need to think about for the future.

I also note that, as I understand it, one does not need to separately register if one is a director of a company that is registered, on the basis that the person who is a director may not see themselves as being, in fact, a lobbyist. I think that is something that will have to be looked at over time.

I refer to an article that appeared in *The Sydney Morning Herald* of 29 June 2012, headed "Palmer sticks to his guns over lobbyists' roles in Liberal Party", written by Lenore Taylor. It reads —

> THE bitter feud between Liberal Party life member Clive Palmer and senior Liberal figures will spill into the party's federal council meeting this weekend, with Mr Palmer saying his concerns about "disgraceful" internal conflicts of interest are being swept aside in favour of "motherhood stuff about how Tony Abbott is a great leader".
>
> Mr Palmer wanted to propose a motion to the council banning party office holders from working as paid lobbyists, which would have disqualified two federal vice-presidents, former minister Alexander Downer and former senator Santo Santoro.

Further along, the article continues —

> But Mr Palmer said the alleged approach was "the perfect example of what I have been saying. Advances such as these are a disgrace for any political party and Mr Santoro should discontinue lobbying or resign from the Liberal party executive immediately."

The article continues, further along —

> Publicly, Mr Abbott said: "I think that there is no evidence whatsoever that any of the serving members of the executive have in any way been compromised."
>
> Mr Palmer described that response as —

I am quoting from the newspaper —

> "bullshit", saying the leader needed to explain why party executives should be allowed to take money to lobby their own party colleagues for policy outcomes.

I note that in Western Australia the current president of the Liberal Party is the chairman of Cannings Purple. I understand that he is not individually registered —

Mr C.J. Barnett: He is now.

Mr W.J. JOHNSTON: He is now? Fair enough; that is good. Excellent!

Mr C.J. Barnett interjected.

Mr W.J. JOHNSTON: Yes, Santo Santoro is a former Liberal–National Party —

Mr C.J. Barnett interjected.

Mr W.J. JOHNSTON: Yes, Palmer is an interesting guy. We will talk about him another time.

Mr C.J. Barnett interjected.

Mr W.J. JOHNSTON: Yes, he kept Bob Hawke in power because he led the "Joh for PM" campaign in 1987 and made sure that John Howard did not win the federal election; arguably John Howard probably would not have won anyway, but that certainly helped.

[Member's time extended.]

Mr W.J. JOHNSTON: As the Leader of the Opposition explained, we are not objecting to the bill, but there are many things that could be improved in the future. I note that this legislation, which is different from the original bill introduced in Western Australia, will now apply a ban on Western Australian Senators and members of the House of Representatives from seeking to be registered for one year after seeking to hold public office. I do not know when we are going into the consideration in detail stage, but it will be interesting to see exactly how we define Western Australian Senators and members of the House of Representatives, and whether that will be problematic.

I turn now to another comment from the Premier's second reading speech. He stated —

> Further, the bill prohibits agreements between registered lobbyists and their clients for the payment of a success fee or other reward that is contingent upon achieving a particular outcome.

That is interesting. I will read a bit from an exchange recorded in the *Hansard* of 12 November of consideration in detail the other day on the Perth Market (Disposal) Bill 2015. It reads —

> **Ms R. SAFFIOTI**: Who is the marketing agent? Is it Colliers?
>
> **Dr M.D. Nahan**: No, it is JL Australia.
>
> **Ms R. SAFFIOTI**: What was the price paid to that company?
>
> **Dr M.D. NAHAN**: JL is paid in two parts—a very minimal retainer and then a success fee.

I note that the government of Western Australia is actually paying a success fee to a consulting firm that is based on the price achieved for sale of the Perth Market Authority.

Mr C.J. Barnett: That's not unusual. You want them to get the highest price. I think "success fee" is probably not the right term.

Mr W.J. JOHNSTON: All right, so it is a question of definitions.

Mr C.J. Barnett: It's been a feature of privatisations I've been involved in. In the commercial sector that's pretty standard. I know your point.

Mr W.J. JOHNSTON: It is a bit unusual that a consultant for the government selling the Perth Market Authority will achieve a success fee based on the price, but a lobbyist who is working with one of the consortia trying to buy the property will be prevented from receiving a success fee.

Mr C.J. Barnett: If he's a lobbyist, yes.

Mr W.J. JOHNSTON: Yes. It is an unusual situation. I think that it demonstrates just one of the problems. For example, the exclusion of people in technical or professional occupations, as I understand it, includes real estate agents. A real estate agent will be able to lobby government and receive a success fee because that is the nature of their standard remuneration system, but other people will not be able to lobby government and receive a success fee. I am not arguing in favour of success fees; I am just highlighting the situation we have with success fees for some consulting firms and not others. I think the question of what happens with real estate agents is a broader issue that we are all going to have to confront because of the changing nature of what real estate agents do. I note that a real estate agent currently advertises with its telephone number as 1800 INVEST, but it is not covered by the same rules that financial planners are covered by; it is covered by a completely separate set of rules. Increasingly, we are ending up with all the rules having exceptions, and people can structure things to get around those exceptions.

As the Leader of the Opposition pointed out, there is a procedure that if one knows about a success fee, it is forfeit to the Crown. That is how I understand the legislation, but how would one actually discover that? When the original Collins-class submarines were purchased by the federal government, there was a Swedish design and I think the other design was French; I do not remember, but it was another European country. Consulting firms were working for those two businesses, and if a business wins a $3 billion contract, it is in a much better position than if it does not win a $3 billion contract, so the reward was huge for the successful firm and quite small for the unsuccessful firm. Indeed, in Western Australia during the period of the Court government I know of people who were asked to work for Pangea Resources and to lobby on behalf of its project. The figures thrown around in the late 1990s were astounding and often the amount depended on whether or not the lobbying effort was successful. As we know, it was not. The plan was to have a nuclear waste dump in outback Western Australia, and one minister at the time thought that we should look at it. I think the Premier's comments were along the lines that if we are going to export it, we have to be involved in discussing the outcome of the waste, which is not a particularly unreasonable position.

Mr C.J. Barnett: I listened to the debate.

Mr W.J. JOHNSTON: Yes. Saying that that is true, of course, does not mean that we should take all the waste, which is a separate issue, because it is currently illegal to import nuclear waste into Western Australia and into Australia. The commonwealth government has banned the import of nuclear waste from any overseas country and the Western Australian Parliament has banned the import of nuclear waste into Western Australia, even if it is comes from another state.

Mr C.J. Barnett: From memory, Bob Hawke was a keen advocate for that project.

Mr W.J. JOHNSTON: He may well have been, but I do not think he was at the time he was Prime Minister.

Mr C.J. Barnett: Afterwards he was an advocate.

Mr W.J. JOHNSTON: Afterwards, I am sure that he was.

Potentially, an extraordinary river of gold sits behind that, but the question is whether the community would accept nuclear waste in Australia. I do not think it would. I certainly would not accept that; I think that it is a bridge too far. However, it is a major problem for the world. It is my view that if countries decide to use those technologies, that is their decision and it is their problem; they should not make it our problem. Many countries do not go down that path. One clear problem in the United Kingdom is that the government has accepted all the liabilities of the dismantling of the old nuclear plants and the taxpayer has ended up paying for all the costs even though the facilities were privatised in the 80s. It is ridiculous how short-sighted countries have been about the actual long-term cost of these things. It is their problem and they should sort it out and not make it Australia's problem. Nobody made them head down that path.

Mr C.J. Barnett: I think, from memory, I took the view at the time that Australia should not be a repository for the world's nuclear waste, but if we export uranium, then maybe there was an argument that we could take Australian-produced uranium, which would be a small component.

Mr W.J. JOHNSTON: Yes. Had I intended to talk about this at length, I would have got out clippings from *The West Australian* that are on my computer and that contain the Premier's quotes; I am not trying to put words into the Premier's mouth, however. A royal commission is going on in South Australia and it will be interesting to see what comes out of that, but I am getting away from the bill. I was just using the example of success fees and why companies might want them. As the Leader of the Opposition has made clear, we support the ban of success fees. We think they are a potential perversion because they can provide an unreasonable incentive for lobbyists to act improperly. Large sums of money might be waved in their faces and they could act inside the bureaucracy, in particular, in a corrupt or dishonest fashion, so we should remove those incentives, and this bill

does that. I have contrasted that with the government employing a consulting real estate agent for the sale of the Perth Market Authority, and I acknowledge the success fee in that case.

I look forward to the bill going through the consideration in detail stage. If I am around at the time, I will look forward to making a contribution to the debate on some of the clauses. I wait to hear from my good friend the member for Girrawheen who is always so knowledgeable and well prepared on these issues.

MS M.M. QUIRK (Girrawheen) [5.34 pm]: The second reading speech of the Integrity (Lobbyists) Bill 2014 informs us that the government's constant priority has been to restore integrity and to promote fair, open and accountable government. We are further told that this government was elected on a platform of honesty and integrity and that the Liberal–National government has made significant progress to restore community confidence in the public sector and government decision-making processes. This proposed legislative reform recognises the need for clearer direction for, and independent oversight of, that part of the lobbying industry that is retained to influence government on behalf of third parties. I will have more to say on that later.

This bill should not be viewed in isolation but as part of a suite of measures aimed at providing greater levels of transparency and accountability in government. The other components of those accountability mechanisms are things such as the Freedom of Information Act 1992, the provisions in the Electoral Act 1907 relating to financial disclosures, the members' pecuniary interests register, ministerial codes of conduct, the Financial Management Act 2006, and oversight by the Auditor General and Parliament. As we have already heard from the Leader of the Opposition, the opposition supports this bill, but I observe that to achieve optimal levels of transparency and accountability the various components need to act well for the purposes for which they are intended and operate in a complementary fashion. For example, lobbying events or disclosures need to be matched with possible political donations. However, the outmoded donation regime under the Electoral Act means that sometimes it can be as long as 18 months from when a donation is made to when returns are made public by the Electoral Commission. I note that this is outmoded because in many jurisdictions—some in the United States, representatives of which I have met with and talked to—there are much shorter reporting time frames in which election donations are to be declared and that much of the information on the returns are available progressively online. That is something for other legislation, but it is important to get the whole picture. If there is lobbying activity, there may well be a political donation, yet the requirements under these pieces of legislation are complementary.

Similarly, an under-resourced Information Commissioner enables spurious exemption claims, which can be sustained for many months until he has the opportunity to deal with them. That can be coupled with the failure by agencies and ministers to act in a manner consistent with the overriding principles of the Freedom of Information Act, contained in section 3 of the act, which is that the object of the act is to facilitate provision of access. As it stands, the net effect of all the current circumstances surrounding the treatment of FOI requests is to render freedom of information legislation of very little utility.

Likewise, the ministerial code of conduct tends to be honoured in the breach. I believe under this government that several ministers have been let off the hook despite infractions of the code. In fact, it has been observed that every time the Premier has waved away as trivial some unambiguous breach of the ministerial code of conduct, the bar has been lowered, and lowered again. Also, I believe this Parliament is routinely held in contempt when ministers cynically refuse to answer questions, which requires the Auditor General to investigate the assertions contained in the refusals. It is either that, or they cynically suggest to the questioner that they should instead make application under freedom of information. For the reasons I have explained earlier, that of course buys the minister sometimes as much as six months breathing space.

Despite our growing population in Perth, this town in many ways remains a small town. Casual encounters can occur for example at places such as the Boatshed Market. I recall reading an email that was obtained under FOI written by Andrew Forrest in which he claims to have buttonholed the Premier at a cocktail party and to have gained a concession from the Premier on a particular issue. Those occasions may not necessarily fall within the purview of the Integrity (Lobbyists) Bill 2014. We need to recognise that the reality is that informal networks exist in a city of this size, and that this bill will not eliminate what I describe as informal lobbying. Similarly, something like the Leaders Forum, for which $25 000 is paid to the Liberal Party by an interested party to gain access to the Premier or ministers, enables matters of government to be discussed face to face, and would not necessarily be categorised as lobbying activity.

Mr C.J. Barnett: You won't accept it, but can I tell you that the Leaders Forum is not face to face or one on one. The only meetings I go to have 25 people around the table. There is no personal lobbying around individual projects.

Ms M.M. QUIRK: Yes, but I hasten to say, Premier, that a number of people attend and that the Premier could be sitting beside someone at the dinner table or standing next to them having a drink at those events. They would have the opportunity to talk to the Premier one on one; I am not saying the function is one on one.

Mr C.J. Barnett: I agree there is personal contact and people wander up to me at cocktail functions—everyone has been through that. I place on record that the Leaders Forum, or whatever it is called, is just a group of people who talk about general business issues. No-one has ever lobbied me at those on an individual project of their interest. It is just a Liberal Party fundraising group of wealthy people.

Ms M.M. QUIRK: I recall the dearly departed Len Buckeridge was quoted in *The West Australian*, and it was suggested that he gave the Premier some advice on how to run government. I accept that there is no evidence to suggest it was in relation to a particular project.

Mr C.J. Barnett: Len used to just tell me I was useless on a periodic basis.

Ms M.M. QUIRK: No-one is naive enough to expect that this bill will, overnight, create a climate of probity and the highest integrity; where there is a will, there is a way, and it can be evaded. In that context I am concerned about the omission of lawyers from the regime. I raised that during finalisation of the debate on the original legislation; I was unhappy about it then and I am still unhappy about it. Probably we can all cite examples of lawyers having been highly active lobbyists. It is pure lobbying; it is not the provision of black-letter law advice that would attach to the normal provisions of legal professional privilege. I do not understand why an exception has been made for lawyers.

I acknowledge and commend the government for including in the bill restrictions on post-parliamentary employment. Those kinds of constraints exist in a number of jurisdictions all over the world. Britain has a Parliamentary Commissioner for Standards who oversights matters such as post-parliamentary employment. Our jurisdiction is too small to warrant the creation of such a commissioner, but an objective measure such as the disqualification of someone from being a lobbyist for a period of a year after they finish being a member of Parliament is a great improvement. It will stop former ministers from hawking their skills around the private sector, which is clearly not in the spirit of good governance. They may have gained knowledge that is of great commercial value and known to only a few people during their time as minister, and its use in lobbying would have the potential to subvert and corrupt the system. That also applies to a minister who is about to retire and starts making overtures to gain post-parliamentary employment. It will stop information acquired as ministers from being used after people leave that position, and will also stop concessions being made while they are still ministers and in a position to grant favours to particular individuals or entities.

In conclusion, there is what I believe is an unacceptably high level of cynicism and mistrust in the public and media about the ethical standards of politicians. By and large, most parliamentarians try to do their best honestly and in a straightforward fashion. But that attitude has been around for a while and it is very hard to know how to dispel the public's cynicism and mistrust. It has been entrenched in popular culture and the ethos of the public for many, many years, but I will give members an excellent example from one of my favourite films. In 1935, Frank Capra's *Mr. Smith Goes to Washington* dealt with the issue of political sleaze. The protagonist—a naive but honourable senator played by none other than James "Jimmy" Stewart—is caught in a web of intrigue and corruption. As the film progresses, the senator discovers he has no power and that the business of the Senate is controlled entirely by shady deals. He owes his seat to sinister interests who backed him because they thought he would be a patsy. When he falls out with his former patrons on a matter of principle, they concoct lies to discredit him and say that he has personally profited from his office. He cannot get a hearing in the media, which is controlled by the same corrupt issues. The only authority he has is moral example. Eventually, he mounts a filibuster of heroic proportions, speaking endlessly of the floor of the Senate and accusing his accusers and proclaiming his innocence and ideals. The machinations of *Mr. Smith Goes to Washington* graphically illustrate the obstacles to regulating for cultural and ethical change in the face of entrenched values.

In a case of life imitating art, decades later the British Parliament was rocked by accusations of sleaze in the cash-for-questions allegations. In response, the Committee on Standards in Public Life, chaired by Lord Nolan, was established, with a brief to focus on the duties and ethical obligations of public life. I refer to those values and obligations of members in the context of this bill. The obligations are —

> **Selflessness**
>
> Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
>
> **Integrity**

> Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
>
> **Objectivity**
>
> In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
>
> **Accountability**
>
> Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
>
> **Openness**
>
> Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
>
> **Honesty**
>
> Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
>
> **Leadership**
>
> Holders of public office should promote and support these principles by leadership and example.

To the extent that this bill will assist in enshrining those ideals and values, we certainly commend it; however, it can be discerned from my comments that this government has much to do to improve its level of accountability and transparency, and conscientiously comply with various elements of existing checks and balances I have referred to. Unfortunately, the government pays cynical lip-service to those checks and balances, and laughs and accuses those who call for greater accountability of being naive. Even after the passing of this bill, this government has no reason to be complacent or smug. We are a long way from an open and accountable government. It is important not for its own sake but to deliver better standards of government for the people of Western Australia. I conclude with the words of the eminent United States jurist Louis Brandeis —

> Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.

DR A.D. BUTI (Armadale) [5.50 pm]: I rise to make a contribution to the debate on the Integrity (Lobbyists) Bill 2014. The issue of lobbying is becoming much more prominent in modern-day politics and it is very important that the government has brought to the house a bill that seeks to regulate lobbying activity. I want to make some specific comments on the bill, but before I do so, I wish to make some general comments on lobbying and the role of lobbyists and the process that it plays in our democratic society—the good and possibly the bad.

David Combe was at the centre of the most famous scandal in Australian history involving a lobbyist. He was the National Secretary of the Australian Labor Party who then became a lobbyist. When the Hawke government was elected in 1983, I am sure that he was in a prime position to use his connections within the Australian Labor Party to assist him in his lobbying activities. Within a year he was embroiled in a scandal in which he had had quite a personal relationship with Valery Ivanov, the first secretary of the Russian Embassy in Canberra, who from all accounts happened to be a KGB spy. It was known as the Combe–Ivanov affair of 1983. The Combe–Ivanov affair developed out of a trip to Russia in 1982 that Combe had made with his wife when he then formed a relationship with Ivanov. The Australian Security Intelligence Organisation was concerned that, being closely aligned with the Labor Party, Combe had too close a link to Ivanov and in 1983 Bob Hawke expelled Ivanov from Australia. As a result, the Hope Royal Commission on Intelligence and Security was established. It was never proven whether Combe was a spy himself or that he had passed over any national security secrets to Ivanov; however, his career as a lobbyist was ruined. He rebuilt his career as a trade commissioner in Vancouver and then went to Hong Kong or somewhere to work in the wine industry. On an interesting personal note, the Russian Embassy in Canberra was opposite the road from where I lived in a university flat. The last flat in the apartment complex was always vacant, allegedly for ASIO spies to use to observe what was happening at the Russian Embassy.

The Leader of the Opposition talked about the lobbyist situation in the United States. Lobbying in the US is very developed and has been part of its culture for a long period. The Association of Government Relations Professionals in the US have produced a paper about the code of ethics, which states —

> Lobbying is an integral part of our nation's democratic process and is a constitutionally guaranteed right.

That right is the right to freedom of speech. It continues —

> Government officials are … making public policy decisions that affect the vital interests of individuals, corporations, labor organizations, religious groups, charitable institutions and other entities. Public officials need to receive factual information from affected interests and to know such parties' views in order to make informed policy judgments.

The AGRP has a code of ethics. Article I is about honesty; article II, compliance with applicable laws, regulations and rules; article III, professionalism; article IV, conflicts of interest; article V, due diligence and best efforts; article VI, compensation and engagement terms; article VII, confidentiality; and article VIII, which is about public education, states —

> A lobbyist should seek to ensure better public understanding and appreciation of the nature, legitimacy and necessity of lobbying in our democratic governmental process. This includes the First Amendment right to "petition the government for redress of grievances."

Article IX is about the duty to governmental institutions. We do not have that constitutional guarantee to lobby in Australia, but arguably it could be part of the implied freedom of political communication.

What is lobbying? The bill outlines what a lobbying activity may be—I want to talk about that a bit later—but it is actually very difficult to determine what lobbying is, and that is part of the problem. An article from Santa Clara University states —

> Most people think they know what lobbying means, but this field is one where the definition is part of the controversy. One clear definition is offered in the "Principles for the Ethical Conduct of Lobbying" developed by Georgetown's Woodstock Center: Lobbying "means the deliberate attempt to influence political decisions through various forms of advocacy directed at policymakers on behalf of another person, organization or group."

Then it discusses fairness, and states —

> The most obviously unethical (and illegal) practice associated with lobbying is paying a policy maker to vote in a favorable way or rewarding him or her after a vote with valuable considerations.

Of course, that is corrupt behaviour. In the US, as we know, the need to raise money by members of the House of Representatives and senators is phenomenal. Members of the House of Representatives can receive phenomenal amounts of money from a company then go into the house the next day and vote on a bill that directly relates to the economic interest of that company. That is a problem that we all face when members receive funding. Another debate to have at another time is on the issue of public funding. Maybe it would be a better system if we just got rid of the ability of political parties to engage in fundraising and they were publically funded. It will not happen, but to a large degree it could alleviate some of the problems. The problem, though, is third party funding; that is, trade unions and business groups engaging in their own activities. There is a real problem with fundraising, especially with large donations. They are often not necessarily given because people just like a member; it is often done with a sense of trying to influence the person at some stage during their political career.

John Menadue was a very senior public servant in Canberra who formerly held the positions of Secretary of the Department of Prime Minister and Cabinet, Secretary of the Department of Immigration and Ethnic Affairs, chief executive officer of Qantas and general manager of News Limited. He wrote an article published in *The Age* of 18 May this year headed, "How the rise of the lobbyist is corrupting Australia's democracy." It states —

> Australia's capacity to tackle important public issues—such as climate change, growing inequality, tax avoidance, budget repair, an ageing population, lifting our productivity and our treatment of asylum seekers—is diminishing because of the power of vested interests, with their lobbying power to influence governments in a quite disproportionate way.
>
> Lobbying has grown dramatically in recent years, particularly in Canberra. It now represents a serious corruption of good governance and the development of sound public policy.
>
> In referring to the so-called public debate on climate change, Professor Ross Garnaut highlighted the "diabolical problem" that vested interests brought to bear. Ken Henry, a former secretary of Treasury, says he "can't remember a time in the last 25 years when the quality of public policy debate has been as bad as it is right now". He was followed as secretary of Treasury by Martin Parkinson, —

I believe he is being brought back to work for Prime Minister Turnbull. The article continues —

> who has warned about "vested interests" who seek concessions from government at the expense of ordinary citizens. The former ACCC chairman, Graeme Samuel, has cautioned that "A new conga line of rent-seekers is lining up to take the place of those that have fallen out of favour".

Sitting suspended from 6.00 pm to 7.00 pm

Dr A.D. BUTI: Do I have 10 minutes left? I cannot see the number up there.

The ACTING SPEAKER (Mr N.W. Morton): Yes; you have nine minutes and 34 seconds.

Dr A.D. BUTI: I will seek an extension of time now.

[Member's time extended.]

Dr A.D. BUTI: I probably will not take the whole time, so members can relax.

Just before the dinner break I was reading from the article by John Menadue about how lobbyists can corrupt Australian democracy. I suppose that is the whole issue of how lobbying is entertained or practised in Australia. I have some issues with the Integrity (Lobbyists) Bill 2014 that I will address shortly. Queensland's Integrity Act 2009 goes further than the bill before us in determining what lobbying is. In this bill, lobbying is determined under clause 4(1), which states —

> **lobbying activity** means communicating with a government representative for the purpose of influencing, whether directly or indirectly, State government decision-making.

Section 42(1)(a) of the Queensland act defines lobbying activity as —

> contact with a government representative in an effort to influence State or local government decision-making, including —
>
> (i) the making or amendment of legislation; and
>
> (ii) the development or amendment of a government policy or program; and
>
> (iii) the awarding of a government contract or grant; and
>
> (iv) the allocation of funding; and
>
> (v) the making of a decision about planning or giving of a development approval under the *Sustainable Planning Act 2009*;

It is much broader than the provision in this bill. It could be argued, though, that the provision in this bill would include all of that, but I am not 100 per cent sure. Interestingly, the Queensland act also includes lobbying of the opposition. Our bill just talks about the government or the ministers—it is about influencing state government decision-making, which presumably would be just the state government. The Queensland act extends the scope of the definition to include —

> (b) contact with an Opposition representative in an effort to influence the Opposition's decision-making, including —
>
> (i) the making or amendment of legislation;

It goes on. That is quite interesting. Under that act, lobbying also includes influencing the opposition's decision-making.

The bill before us has a purpose. The Premier stated in the second reading speech —

> This government recognises that lobbying is a legitimate part of the political process. This bill seeks to strike the right balance of allowing communications between lobbyists and government representatives on behalf of clients, while at the same time ensuring that all parties to those communications remain appropriately accountable and abide by rigorous standards of conduct.

I have no problem with that; none at all. However, there are a couple of things I want to get to, and one provision in particular is in clause 14. As has been mentioned by others, lawyers generally will not be caught up in this. It is a bit strange to say that lawyers will be excluded. I can understand lawyers not being included if they are acting for a client in a court process as part of litigation, but when they are acting as a lobbyist, as in-house counsel or even as part of a law firm engaged by a company, why they do not need to be registered is interesting. That is strange. Non-government organisations are not profit-making organisations, but the ability of one NGO to lobby a government to obtain a bigger piece of the pie is going to affect other NGOs, so it could be advantageous for an NGO to employ a lobbyist. The issue about not being able to take commissions is also an issue in the legal world—that is, whether one can take contingency fees. One argument against contingency or

success fees is that they might make lobbyists act in ways that are counterproductive to proper processes or that involve more aggression in order to win. I understand that, but some groups may not be able to afford up-front lobbyist fees. The fact that if a lobbyist was successful and would then receive a commission might allow certain organisations to obtain access to ministers et cetera, which they would not otherwise be able to do. Therefore, that raises issues of fairness and equity.

I will move to clause 14. We all agree, and I am sure the Liberal Party agrees, that people should have a right to use their experiences, skills and qualifications to engage in commerce. That relates to freedom of trade. We have a common law doctrine of restraint of trade.

Mr C.J. Barnett: My apologies; I did not realise it had gone beyond seven o'clock.

Dr A.D. BUTI: That is okay.

Mr C.J. Barnett: I have a very loyal deputy.

Dr A.D. BUTI: The Premier missed some of my outstanding contribution.

Mr C.J. Barnett: I am sure I did; I will read it.

Dr A.D. BUTI: One point I raised was that Queensland's Integrity Act 2009 also includes lobbying of the opposition and not just of the government, which is an interesting view.

Mr C.J. Barnett: It is, yes.

Dr A.D. BUTI: Anyway, I will move on from there. Clause 14 is headed "Certain persons disqualified from registration or listing". The most pertinent issue here is that senior public servants and members of Parliament are restricted for a year from registration. When the Premier was outside the chamber, I stated that, looking at his second reading speech, he was trying to get the balance between engaging in lobbying and also having proper accountability. The main way of doing that is by ensuring that lobbyists register so that everyone knows who they are et cetera. I am not 100 per cent sure why we need to disqualify parliamentarians for 12 months. For a start, what is the difference between 12 months and 13 months? It is an arbitrary measure. As I stated earlier, a very sound principle has developed over hundreds of years about freedom of trade and there is a common law prohibition against unreasonable restraint of trade, which used to have legislative affect under the Trade Practices Act—now we have the new Competition and Consumer Act, and section 4M of the new act tries to carry over the old Trade Practices Act provision. I am not trying to be smart here, Premier.

However, my problem is that this may be okay for politicians who are on the old superannuation scheme and who do not need to earn an income straight after they retire from Parliament, but those of us who are on the new scheme do need to engage in employment after we retire from Parliament. Most of the public think we are on the old scheme. I wish we were on the old scheme, but that is not the case. Why should people who have obtained skills and experiences as parliamentarians be prevented from engaging in employment as lobbyists for 12 months after they have left Parliament? The bill before the house provides sufficient regulation to ensure that people will meet their obligations. The Premier stated in his second reading speech —

> This bill seeks to strike the right balance of allowing communications between lobbyists and government representatives on behalf of clients, while at the same time ensuring that all parties to those communications remain appropriately accountable and abide by rigorous standards of conduct.

Mr C.J. Barnett: I am not making a political point, but your leader argued the opposite view. That is part of the dilemma. We have deliberately provided that staff in ministerial offices, for example, will not be subject to the 12-month cooling down period. Ministerial staff are typically young people, and if they want to go into a lobbying firm, they should be able to do that. However, we did draw the line at members of Parliament and senior public servants, given that, we would hope, most of them have some sort of financial security. I take your point. It is arbitrary.

Dr A.D. BUTI: If a member of Parliament loses their seat and their side of politics goes into opposition, it may be very difficult for them to gain employment. There are cases of people who lost their seat in the 2008 election having great difficulty in obtaining employment. Arguably, they might not have been very successful as a lobbyist in any case because they are from the other side of politics.

Mr C.J. Barnett: Our side of politics experienced that in 2001. People who had been ministers, and other prominent people, were devastated. They generally walked out with debts and no job prospects. This is a hard profession that we are in. It is okay for me. I have been around long enough that I am, in a sense, bulletproof. However, I am very conscious of how hard it is on members of Parliament. The public does not understand that.

Dr A.D. BUTI: That is exactly right. That is why I do not believe we should place this restriction on the ability of former parliamentarians to obtain employment and to engage in proper activity. Although there are concerns about lobbyists and the threat to democracy, as I outlined from the John Menadue article, lobbying is now an established profession, and it will be regulated by requiring lobbyists to be registered. I do not think it is appropriate that we place this restriction on former parliamentarians. I know my view will not be popular in the public, and hope I do not receive letters in the opposite way to what I normally receive with regard to my contributions. However, I believe this is an unreasonable restraint of trade. The bill provides for registration and for a code of conduct to be formulated. Therefore, I do not see any reason why a former parliamentarian could not be engaged as a lobbyist. I might be able to work for a law firm as a lawyer and be a lobbyist, but my colleague the member for Mandurah will be denied the opportunity to be a lobbyist.

Mr D.A. Templeman interjected.

Dr A.D. BUTI: I will give the member for Mandurah a couple of dollars each week. Do not worry about that. The only reason he will be denied the ability to be a lobbyist is purely because he was a parliamentarian. That is not right. I think we are doing a disservice to our profession. We are saying that parliamentarians cannot be trusted. We should be trusted. In any case, the restriction is arbitrary. As the Premier has said, the Leader of the Opposition believes the period of restriction should be longer than 12 months. We could argue that the currency or the ability of that person is reduced the longer they are away from the scene. However, whether it is one year or two years, I am not sure that it makes a difference. So long as the proper processes are in place, we should not be imposing this unreasonable restraint of trade. Of course it will not be illegal, because it is being legislated for. However, we should reconsider this matter and not try to erode the ability of former members of Parliament to earn an income.

MR D.A. TEMPLEMAN (Mandurah) [7.15 pm]: I wish to make some brief comments on the Integrity (Lobbyists) Bill 2014.

Mr C.J. Barnett: If I can just interject on you to the member for Armadale, I acknowledge what he is saying, but one of the other aspects is protecting the integrity of Parliament. When a former member of Parliament, particularly a minister, is wandering around the courtyard and the members' bar, basically lobbying, that becomes an issue. That is one of the reasons why we need a 12-month cooling-off period.

Mr D.A. TEMPLEMAN: To take up that point, there are ways around that. One of them might be that if they are not a registered lobbyist but they are a former member, it is not appropriate for them to be at Parliament House for meetings.

Mr C.J. Barnett: Both the Speaker and the President have made some decisions about that.

Mr D.A. TEMPLEMAN: I wish to make some brief comments in line with what the member for Armadale has highlighted. We need to understand exactly what we are doing here, particularly in clause 14. The fact remains that I do not know of any profession in which a legal impediment has been imposed to prevent people who have left that profession from being able to utilise the skills, knowledge and experienced that they gained in their previous employment. I find that fundamentally wrong. I understand the principle of the bill in wanting to ensure transparency and integrity. However, we can do that through codes of conduct and other means. I am flabbergasted that we are proposing for both existing members of Parliament and future members of Parliament an impediment to their future employment. That is what we are doing in clause 14. The Premier cited the experience of the 2001 election when some members lost their seats. We know that in 2001, unless those members who had been defeated had served fewer than seven years in Parliament, they were recipients of the since repealed parliamentary superannuation scheme.

Mr C.J. Barnett: Don't blame us!

Mr D.A. TEMPLEMAN: No. I am just saying that is the reality.

Mr C.J. Barnett: It was Alan Carpenter's idea—silly stuff.

Mr D.A. TEMPLEMAN: The point I am making is that that was, if we like, a safety net for that cohort of members of Parliament. That so-called safety net is not in place for existing and future members of Parliament. I am always conscious of any decision that the Premier or we may make about a person who may serve in this place after us. I do not believe it is my right to determine the working conditions, or impede the potential working conditions, of those who come after me. I therefore have serious concerns about clause 14 of the bill. I understand that the debate on this bill will be adjourned. If this bill comes on for debate next year, we should seriously reconsider clause 14. There is always a discussion or debate about trying to attract more people to the profession of being a member of Parliament. This is another example of an impediment, whether real or perceived, for future members of Parliament. Why would people put themselves forward for public life when, if

the fickle fate of election experiences is to be believed, the chances are that they will not be able to use, for at least 12 months, any of the skills, knowledge and experience that they gained while they were in this place in their future employment? If they are to be a lobbyist, that is a legitimate employment field. I caution members to ensure that they understand what they will be doing for themselves and for future members of Parliament if this bill passes.

MR C.J. BARNETT (Cottesloe — Premier) [7.20 pm] — in reply: I thank members for their support for the Integrity (Lobbyists) Bill 2014 and for their contributions. I hope that we might be able to progress this legislation this week, but that may not happen, so it might be early next year. I will reserve my further comments to a later stage.

A member interjected.

Mr C.J. BARNETT: I will not give my response to the second reading now. I simply will continue my remarks at a later stage and move that the debate be adjourned.

Several members interjected.

Mr C.J. BARNETT: What we will do is adjourn the debate. When we return to the bill either later this week or next year, I will respond to the comments made. I thank members for their support and their comments. I seek leave to continue my remarks at a later stage.

The ACTING SPEAKER (Mr N.W. Morton): Is leave granted?

Mr C.J. Tallentire: I didn't get a chance to speak.

Mr C.J. BARNETT: I have no objection to the member for Gosnells speaking. The call came to me and I responded.

Several members interjected.

Mr C.J. BARNETT: Mr Acting Speaker, I am perfectly happy for the member for Gosnells to speak, if you can find a way of doing that.

The ACTING SPEAKER: Members, the advice I have received is that the Premier has the call and the Premier is the final speaker in the second reading debate stage. He sought leave to make those remarks at a later sitting of Parliament, so unfortunately that would exclude the member for Gosnells from making a contribution at this stage.

Point of Order

Mr M. McGOWAN: What happens if we do not give leave?

The ACTING SPEAKER (Mr N.W. Morton): If leave is not granted, the Premier has to continue his second reading reply.

Debate Resumed

[Leave granted for the member's speech to be continued at a later sitting.]

Debate adjourned, on motion by **Dr K.D. Hames (Minister for Health)**.