The Whistle

Newsletter of Whistleblowers Australia Inc
Box U129 University of Wollongong, Wollongong NSW 2500

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Note: The text of all major items in the March 1997 issue is included here. The order is not the same and some typographical errors have been rectified.

In this issue

FROM THE NATIONAL PRESIDENT

Corporate culture: poison for whistleblowers

Whistleblowers can readily understand other whistleblowers. They have seen a problem and spoken out about it. They know when something is wrong and are simply doing the right thing by trying to correct it.

On the other hand, often it is not so easy for whistleblowers to understand why others don't react the same way. Why do co-workers sit by and do nothing?

Why do top managers try to cover up the problem? It is tempting to say that such co-workers are "gutless" or that such managers are "corrupt". But that doesn't help to explain why they behave the way they do. How do they perceive the problem? How do they justify their behaviour? What do they really think about whistleblowers?

Most books about bureaucracies don't provide much insight into these issues.

Finally I've found one that does. It is by Robert Jackall and titled *Moral Mazes: The World of Corporate Managers* (Oxford University Press, 1988).

Jackall obtained access to a couple of big US corporations as well as a public relations firm. He spent many months interviewing managers and watching them in action, as well as reading many documents.

Jackall treated the world of corporate managers as a culture. He was like an anthropologist studying an alien tribe. His aim was to understand the social dynamics of corporate culture. He gives many case studies of activities and crises to illustrate his analysis.

Moral Mazes can be heavy-going at times, as some of the quotes below indicate. But it is worth persisting with the book because of the insights it offers. Unfortunately, Jackall just describes corporate life and doesn't give any suggestions on how to change it.

Here are some of his important insights.

* Corporations are in a constant state of upheaval. When a new executive takes over a post, he (or occasionally she) brings in a whole new crew of cronies. Bureaucracy is a set of networks of patronage.

* Corporations often respond to the whims and inclinations of the chief executive. Even an off-hand comment by the chief executive

can trigger subordinates into intense activity to do what they think is being suggested.

In many cases the result is ill-advised or disastrous.

* Conformity is enforced to amazingly fine details.

* Managers, to be successful, must continually adapt their personalities to adjust to the current situation. This is not just acting. They must become so natural at what they do that they "are" their act. Much of this adaptation is fitting in. Clothes must conform to expectations, but so must speech, attitudes and personal style. Those who don't adapt don't get ahead.

* Managers don't want to act until the decision is generally accepted. They experience a pervasive indecisiveness. Each one looks for signals on what decision will be favoured. Signals from the boss are especially important.

* Responsibility is diffused and hard to pin down. Managers avoid taking responsibility. The key thing is to avoid being blamed for a failure.

* Morality is doing what seems appropriate in the situation to get things done. Morality is doing what the boss wants. Having absolute principles is a prescription for career stagnation or disaster.

* The symbolic manipulation of reality is pervasive. For any decision, managers discuss various reasons in order to settle on a way to give legitimacy for what the corporation does.

* Public relations is simply a tool. Truth is irrelevant.

The successful manager is one who can adapt to the prevailing ideas, who can please the boss, who can avoid being blamed for failure, and who can build alliances with supporters above and below.

Jackall devotes a chapter, "Drawing lines", to the corporation's response to whistleblowers. White was a health professional who tried to raise concern about hearing loss among many workers at a corporation's textile mills. He collected data and wrote a report. Due to his professional training and religious background, he felt this was a clear moral issue. But his attempts failed. He did not have supporters higher up. As well, his recommendations for change threatened powerful interests. Other managers felt uncomfortable with White's moral stance. "Without clear authoritative sanctions, moral viewpoints threaten others within an organization by making claims on them that might impede their ability to read the drift of social situations. As a result, independent morally evaluative judgments get subordinated to the social intricacies of the bureaucratic workplace ... Managers know that in the organization right and wrong get decided by those with enough clout to make their views stick." (p. 105). White ended up leaving the company.

Brady was an accountant who found various discrepancies in a company's financial operations. At one stage, "Brady discussed the

matter with a close friend, a man who had no defined position but considerable influence in the company and access to the highest circles in the organization. He was Mr. Fixit - a lobbyist, a front man, an all-around factotum, a man who knew how to get things done." This friend took Brady's anonymous memorandum to a meeting of top figures in the corporation. "Immediately after the meeting, Brady's friend was fired and escorted from the building by armed guards." (p. 108). Brady now realised it was the chief executive himself who was fiddling the books. Brady was under suspicion of having written the memo. He eventually presented all his evidence to the company's chief lawyer, who wouldn't touch it. "Right after Brady's boss returned from Europe, Brady was summarily fired and he and his belongings were literally thrown out of the company building." (p. 109).

Nothing new here. Another whistleblower is dismissed. What is most interesting in Jackall's account is his description of how other managers saw the situation. They saw "Brady's dilemma as devoid of moral or ethical content. In their view, the issues that Brady raises are, first of all, simply practical matters. His basic failing was, first, that he violated the fundamental rules of bureaucratic life. These are usually stated as a series of admonitions. (1) You never go around your boss. (2) You tell your boss what he wants to hear, even when your boss claims that he wants dissenting views. (3) If your boss wants something dropped, you drop it. (4) You are sensitive to your boss's wishes so that you anticipate what he wants; you don't force him, in other words, to act as boss. (5) Your job is not to report something that your boss does not want reported, but rather to cover it up. You do what your job requires, and you keep your mouth shut." (pp. 109-110).

The second response of managers to Brady's case was that he had plenty of ways to justify not acting. Others obviously knew about the fiddling of the books but did nothing. They were all playing the game. Why should Brady worry about it? He would only make himself vulnerable.

The third response of managers was to say that those things that Brady got upset about - "irregular payments, doctored invoices, shuffling numbers in accounts" - were ordinary things in a corporation. "Moreover, as managers see it, playing sleight of hand with the monetary value of inventories, post- or pre-dating memoranda or invoices, tucking or squirreling large sums of money away to pull them out of one's hat at an opportune moment are all part and parcel of managing a large corporation where interpretations of performance, not necessarily performance itself, decide one's fate." (p. 110).

The fourth and final response of managers to Brady's case was to say that he shouldn't have acted on a moral code that had no relevance to the organisation. "Brady refused to recognize, in the view of the managers that I interviewed, that 'truth' is socially defined, not absolute, and that therefore compromise, about anything and everything, is not moral defeat, as Brady seems to feel, but simply an inevitable fact of organizational life.

They see this as the key reason why Brady's bosses did him in. And they too would do him in without any qualms. Managers, they say,

do not want evangelists working for them." (p. 111).

After all these events, the chief executive - the one who fiddled the books - retired, elevated his loyal lieutenant to his former position and took an honorary position in the firm, as head of internal audit.

Concerning this case, Jackall concludes: "Bureaucracy transforms all moral issues into immediately practical concerns. A moral judgment based on a professional ethic makes little sense in a world where the etiquette of authority relationships and the necessity of protecting and covering for one's boss, one's network, and oneself supersede all other considerations and where nonaccountability for action is the norm." (p. 111).

Jackall's analysis is based on just a few US corporations. He had to approach dozens of corporations - and adapt his pitch - before he found a couple that granted access. There is no easy way of knowing which of his insights apply to other corporations, other types of bureaucracies, and in other countries. But in as much as the same sorts of dynamics occur, Jackall's examination shows that whistleblowers are up against something much bigger than a few corrupt individuals, or even a system of corruption. The problem is the very structure of the organisation, in which managers who adapt to the ethos of pragmatism and who please their bosses are the ones who get ahead. To eliminate wrongdoing in corporations requires not just replacing or penalising a few individuals, but changing the entire organisational structure. It is the structure, within the wider corporate culture, that shapes the psychology of managers and creates the context for problems to occur.

BRIAN MARTIN

SCHWEIK ACTION WOLLONGONG

SAW is a small voluntary group fostering awareness of social defence.

Social defence is nonviolent community resistance to aggression as an alternative to military defence. It is based on widespread protest, persuasion, noncooperation and intervention in order to oppose military aggression or repression. It uses methods such as boycotts, acts of disobedience, strikes, demonstrations and setting up alternative institutions.

Some of our activities have been:

* organising the first Australian social defence conference, in 1990;

* networking with nonviolent activists in Australia and other countries;

* interviewing telecommunications experts to learn how the technology can be used to support nonviolent struggle;

* writing leaflets and articles;

* providing mutual support and enjoying ourselves in meetings, often held over a meal.

* studying how to use nonviolent action to challenge bureaucratic elites.

The group is named after the fictional character Schweik (or Svejk), a soldier who created havoc in the Austrian army during World War I by pretending to be extremely stupid. See Jaroslav Hasek, *The Good Soldier Svejk and His Fortunes in the World War* (Penguin, 1974).

Schweik Action Wollongong, Box U129 W'gong Uni, Wollongong NSW 2500. Phone (042) 213763. E-mail: *b.martin@ uow.edu.au*

We have just published a booklet, *Challenging Bureaucratic Elites*. If you'd like a free copy, let us know.

Adversarial justice (letter to the editor)

Evan Whitton has written a most valuable and thoughtful article "Blowing the whistle on the adversary legal system" in the January, 1997, edition of "The Whistle". However, a whistle of caution needs to be blown on the article itself.

It is an over-simplification to convey an impression that the UK, Australia and other countries have a purely "adversarial" system of justice, while continental Europe is entirely "inquisitorial". In fact, in all instances, we have a mixture of the two, even in France, where, broadly, criminal matters are essentially inquisitorial and civil ones adversarial. Denmark has recently changed its legal system to adversarial and so has Italy, although it has run into a lot of problems as a consequence. By recent legislation, some aspects of the British court system are officially inquisitorial.

In Australia, civil and criminal courts are adversarial, while courts of inquiry into marine and aviation accidents are inquisitorial. Perhaps that is why it is statistically infinitely safer for me to fly to London and back than it is to walk to the post box to post this letter.

But that does not mean we should toss out our adversarial system holus-bolus and substitute the inquisitorial one. A grossly incompetent or corrupt judge hazards a trial under either system, but is more critical to the inquisitorial.

In his more recent writings, Ludovic Kennedy, who broadly shares Mr. Whitton's views, is more cautious than when he wrote of the grossly wrongful outcomes of the Birmingham Six and numerous earlier trials under the adversarial system. He acknowledges a widespread dissatisfaction in the French population with their inquisitorial system.

Mr Whitton concedes that the adversary system might be useful as a check on dubious members of the judiciary, e.g. Sydney magistrate Murray Farquhar, but such types are surely extremely rare. Unfortunately, my own information is that such faith is not in accordance with the real situation, either on the European continent or here in Australia.

The urgent requirement of a complete overhaul of our justice system revealed by Mr Whitton's article may involve combining the best aspects of the adversarial and the inquisitorial system, and perhaps grafting on innovations presently part of neither.

We should look very hard at what we pay all those judges and magistrates and other court officials to do. Essentially, they are there, as are the police, to "maintain the Queen's Peace". To what extent do the courts give us value for money in developing a happy and harmonious society?

While I have criticised Mr. Whitton on detail, I have to thank him, and Ludovic Kennedy, for what they have done to expose the deficiencies of our present system of justice. But ultimately it is true that the price of liberty is eternal vigilance. We need to develop in our people a passion for fair play and a capacity courageously and effectively to express its outrage should a corrupt government deliberately appoint a corrupt judge and crush a whistleblower who discloses this has happened. That means looking very hard at our education system and the other processes whereby the wisdom accumulated over the ages by a civilised human race is passed on to its young.

BRIAN COE
E ST KILDA, VIC

Writing to Authorities: Is it worthwhile? (letter to the editor)

Brian Martin comes, in a nutshell, to the conclusion that writing letters to government is largely a waste of time. I find this statement somehow too negative. Speaking from my own experience, and I wrote quite a few letters to Ministers (later described by a psychiatrist as "handwritten in poor or less perfect writing") as well as to The Ombudsman.

I believe it was time well spent.

But before going any further I must point out a few things. Since I have come into contact with other WBs I found that my case was an exceptional one: I could, despite some tight moments, hang on to my job, I got protection from the Industrial Commission, I did not lose much money nor much sleep.

How come?

FIRST: It was not corruption I was dealing with. In my case there existed a clearly defined dividing line between right and wrong: The Water Board was licensed by the State Pollution Control Commission (SPCC) under the Clean Waters Act to pollute receiving waters up to a certain level, clearly expressed in numbers, e.g. up to 20 mg/L. Therefore 200 mg/L was a clear breach of the licence condition. As I did the tests in the laboratory of the sewage treatment plant myself there was never any argument about the figures. I was clearly right, the Water Board and the SPCC wrong, the latter for not prosecuting the Water Board, my employer. This enabled me to attack.

SECOND: I was supported by my union.

THIRD: Water pollution was very much in the public eye and in the Public Interest.

Back to Brian Martin's article. I received responses to all my letters to Ministers bar one with their names at the bottom. Is the Minister for the Environment an UNIMPORTANT minister? I do not know. Were my "individual person's" complaints ignored or dismissed? No. I definitely was not a "powerful force" and I am certainly not, was not and will never be a "prestigious" figure. But I have conscience and feel very strongly about my integrity.

When I became aware of the discrepancy between licence condition parameters and factual results from laboratory testing, saw the "so what" attitude of my work mates and management, I wrote to the Minister and went as a first step to the local newspaper. So the conflict started. I expected to loose my job. I had a young family.

The first caution was issued for speaking to the media. I continued going to the newspapers, wrote more letters to the Minister. I contacted the ABC. The Law Report, then in its infancy, took up the story.

Caution two and three followed.

The replies from the then Minister and later other Ministers for the Environment as the complaints continued over the years from 1980 to 1993) were defensive, admitting shortcomings, promising compliance in the future. Their contents nearly always supplied material for myself, and by making the letters available to the media provided them also with opportunities to attack as well as giving substance to my claims. The Water Board was embarrassed. Three cautions and you are out. A motion put to the Water Board's board of Management asking for my dismissal was watered down to transfer. I refused to be transferred. I was stood down deemed to be on strike. The union by this time got really involved and notified the Industrial Commission of a dispute. A few days later a short hearing took place: I was reinstated pending a hearing a few months later. For this the union supplied a barrister. The result after the one day hearing was interesting .

The ABC's Law Report put it thus:
"A most unusual recommendation. In a qualified way it allows an employee to use information gathered by him in the course of his employment against his employer" and "Mr. Schroeder to continue

his employment with the Water Board at the West Hornsby Sewage Treatment Plant".

In the meantime writing to the second in the line of Ombudsmen brought also some results. His investigating officer "urged him to write a report to the appropriate Minister finding wrong conduct". Unfortunately, the inaugural Ombudsman had previously knocked back my complaint and Ombudsman Number 2 would not review a decision which Number 1 had made "rightly or wrongly" on policy grounds. He further stated in his letter that in his view I "had acted at all times in the Public Interest and that the complaint could in no way be said to be vexatious".

More useful statements to be used by the Law Report.

So I have to disagree with Brian Martin's general observation that "writing letters to Government is largely a waste of time. I personally found it a very helpful tool, amongst others, to attack.

And isn't it nice to hear Bob Carr saying as the then Minister for the Environment in a letter in 1985 that "your interest in this matter is much appreciated" or Tim Moore in the same position in 1988: "I commend your strong personal dedication to the environment". Isn't that alone worth the effort? (Lest somebody should take that the wrong way I say that with my tongue in cheek.) My recommendation to fellow Whistleblower's would be: write to all and sundry, try to disseminate your message through print, radio and TV, prefer the broad sheets and the ABC, try to get Union support. And there is also the Public Interest Advocacy Centre (PIAC) and the Environmental Defenders Office (EDO).

Quite a few of the approaches will fail, but some may succeed.

Did I do something right? Was I just lucky? Did I succeed? Have conditions changed since 1993? I do not know.

What I do know is that I kept my integrity intact, that I spoke out and at the same time kept my job.

I don't want to finish without thanking all the people who are involved in bringing "The Whistle" about. It has come a long way from its beginning.

FRITZ SCHROEDER WHOSE USE-BY-DATE AS AWB EXPIRED IN APRIL 1993.
HORNSBY, NSW

Whistleblower protection (letter to the editor)

I have read a number of comments in The Whistle re the coalition Federal Government's approach to whistle blowers protection and felt obliged to bring you up to date on AWA's push for a Royal Commission into Banking with specific reference to corruption in banking.

The Coalition's Public Administration Policy (point 11) shows clear intent to legislate in accordance with the SSCPIW 8/94 report "In The Public Interest". I refer WBs to that policy and the relevant 8.104 banking recommendation as well as the Federal AG's 6.11 confirmation of the constitutional possibility. I hope the NSW Government has prepared the way to fill those gaps the AG's described. However the ALP policy on whistle blowing prior to 2/3/96 did categorically reject banking sector protection.

In a letter to me dated 9/4196 the AG's Civil Law Division said that whistle blowing laws were being designed as a part of a comprehensive review of Commonwealth Statutory Law under the new Commonwealth Government's Law and Justice Policy and that as part of the program of simplification of corporation's law draft legislation would be considered by Parliamentary Committees and that the opportunity would be provided to put forward views on protection and on appropriate standards for the behaviour of corporations. The ASC have sought Corporation Law amendments to protect from liability informers as a part of their submission to the Financial System Inquiry.

In the meantime in the NSW Parliament on 18/9/96 the Liberal who took John Hatton's old seat, Eric Ellis moved for an inquiry into banking and attempted censure of the Minister for Fair Trading (lost 38/48) over serious banking issues.

1. It is essential that if the finance sector workers are to be afforded the protection recommended in 8/94 and politically endorsed 3/96 that the review of Public Disclosures legislation in NSW reconsider what I put to the earlier committee plus the need to be amicable with the coming Federal reforms.

2. Since NSW usually leads Australia, if Eric Ellis gets the inquiry into what has and has not happened in policing as it relates to banking fraud i.e. through extension of existing inquiry to cover money laundering / fraud, this would provide concrete evidence to support legislative reform by way of whistle blowers protection at a Federal level.

The issue of NSW legislative compatibility with proposed Federal reforms is one on which those who seek to ensure nothing happens keep passing the jurisdictional buck on.

I note also WBA has much to say about ICAC in the negative however careful reading of the ICAC operation Talisman hearings on 16/1/96 and 17/1/96 (report coming) would suggest that they have pursued the CBA and as a network of money launderers which defrauded the SRA, with a great deal of vigour.

BRUCE HAMILTON
KILABEN BAY, NSW

Correspondence

Long-term Telstra whistleblower Eddie Saul has been haing considerable media exposure lately, thanks to a report from the Federal Auditor-General's office by David Berthelsen on the Telstra travel allowance and tax rorts.

Jean Lennane's letter (below) about this was published in the Sunday Telegraph on 23.2.97.

Dear Sir,

The heading "Rort cheats get off lightly" (Sunday Telegraph 16.2.97) says it all. The gentle handling of employees involved in Telstra's billion dollar corruption contrasts starkly with the treatment of employees who blew the whistle on it. In the six years it's taken to get any action they've been victimized, harassed and driven out of Telstra, losing jobs, health, careers, life savings, and family in the process. Rorters at worst have lost a month's pay. The Australian taxpayer has lost some 2 billion dollars. Whistleblowers have lost everything.

One of the Howard government's pre-election promises was for effective whistleblower protection legislation. It still hasn't happenend. How many more billion dollars will be lost, and how many more whistleblowers' lives destroyed before that promise is kept?

JEAN LENNANE
VICE-PRESIDENT WBAMEDIA

Ownership a critical factor in democracy

By BRIAN COE

Recent developments in the structure of the Australian media, and some that are widely mooted, are very disquieting to those who know how much our quality of life depends on a blown whistle being clearly audible.

We have the moves to emasculate the ABC, by driving away its home audience and cultivating corrupt and oppressive governments in Asia by abolishing the highly effective ABC broadcasting into the area.

At the same time, private ownership of the media becomes more and more concentrated, with the proprietors riding roughshod over journalists who have a conscience. Here in Victoria we have two TV journalists, Jill Singer and Jana Wendt, in dispute with their employers, clearly over matters of conscience.

Particularly ominous are the ongoing changes in the Fairfax empire since Warwick Fairfax inherited control. The acquisition by Brierley Investments Ltd. of the Conrad Black interests is highly disturbing, whether they are in this for the long haul, or, as is widely predicted, it is only part of moves by the Government to

concentrate virtually all media into the hands of Packer and Murdoch, clearly hoping that by facilitating these moves it will get favourable media treatment at the next election.

BIL has a substantial shareholding in the Coles Myer organisation and is represented on the board. There is widespread suspicion among shareholders that many millions of dollars of their funds in Coles Myer have been improperly diverted into private pockets.

Such suspicions could easily be dispelled by a full, open and properly conducted public inquiry. One would have thought that the Coles Myer board, if they had nothing to fear from a full disclosure, would have welcomed such an inquiry and pressured the government into holding one.

In fact there has been such an inquiry by the Australian Securities Commission, funded by the taxpayers, into this matter, part or all of which is popularly known as the "Yannon Affair". The Coles Myer Board has done everything it can to prevent a full disclosure of the facts.

It is now clear that pressure has been put from on high (how high?) on the Australian Securities Commission not to release its report on the Yannon matter.

In the course of the Coles Myer Annual General Meeting late last year, the chairman of the board made it clear that the decision to keep the public in the dark about the Yannon matter was a unanimous one by the board. The Brierley interest was pressed to deny it had in fact supported this decision, but did not avail itself of the opportunity presented to make its position clear.

We can only conclude, therefore, that an organisation that has demonstrated it is prepared to go along with a sustained process of denying the public knowledge of what it is entitled to know has now obtained possession of the Conrad Black interest in Fairfax. It also means that the quality of financial journalism of the Fairfax publications is under threat, as journalists are tempted to tone down any criticism of Brierley conduct in companies the subject of shareholder disquiet - for example Coles Myer and James Hardie Industries - in an atmosphere of contracting employment opportunities for journalists.

The problem of deteriorating quality of public information acquires more urgency as the proportion rises of shares in legitimate public companies bought with the laundered profits of crime. This puts the owners of these shares in a position to vote their nominees into the control of the board.

Clearly seeing the advantage of attracting such money into the economy of their own country, the Swiss have recently created two classes of shares in companies where the anonymity of the owners is guaranteed. Doubtless other countries, including our own, will be driven to introduce similar devices.

It is when a situation develops of interlocking directorates between these now criminal-controlled companies and major media organisations that we really have a potential for trouble. There are numerous examples, both in Australia and overseas, of politicians

being prepared to betray the interests of the electorate in order to curry favour with media moguls.

Willy Brandt, one time mayor of West Berlin and chancellor of West Germany, remarked that, in the history of a nation, the critical moment takes place when the people allow power to fall into the hands of criminals. Hopefully, that moment has not yet taken place in Australia, and the activities of people like whistleblowers will make sure that it never does.

The purpose of this article is to provide a focus for people concerned about such matters to get together and make a start to putting in place some organisation to see that the public is kept properly informed about the matters that concern it.

There does not appear to be any such body at present. There is an Australian Press Council, but its activities are confined to the printed media only and, anyway, it appears to be something of a rump since a number of its members, including the Chairman, Hal Wotton QC, resigned over what they took to be its unwillingness to act firmly on complaints against Murdoch-owned publications.

Any body formed by people responding to this invitation would, of course, cover electronic as well as print media, but would go further to include all means by which people are denied the freedom to know the things that concern them. It should cover the removal of books from public or school libraries that cover facts that it is important people should be aware of, or the failure to purchase such books or periodicals, interference with science programmes in schools, or university research, the latter which might, for example, demonstrate that people were ingesting dangerous pharmaceuticals or using harmful chemicals in the home or the workplace.

People interested in forming such a body may contact me - Brian Coe, on phone/fax is 03 9527 4086. Probably what it could achieve would be limited for some time, but at least a start could be made.

South Australian news

By MATILDA BAWDEN

Dear Readers

The last year has been very busy for us in South Australia on several fronts. First of all, congratulations are extended to Jack King on winning an appeal at the Supreme Court against a ruling by the Equal Opportunity Tribunal in mid-last year that it did not have jurisdiction to hear appeals under the Whistleblower Protection Act 1993. The EOT argued that, being a "creature of the state", it did not have the jurisdiction to hear complaints of victimisation by the Ombudsman (for failure to properly investigate a complaint under the WPA '93). This means that Jack and Ms Jean Sutton can now take their matters back to the EOT to have their matters reheard. [For the background to this, please see

my Letter to the Editor, Alternative Law Journal, October, 1996. Reprinted in the last edition of The Whistle for 1996]

With much hard work and effort of our branch President, Mr Jack King, we have issued a call for a Royal Commission into Police Corruption late last year. Jack has worked tirelessly and at tremendous personal expense to ensure a fair trial for people like Tony Grosser, Andy Winters and many others currently incarcerated because of questionable procedural "justice". Meanwhile, the media were nowhere to be found, so we didn't even make the obituaries. Although our concerns have fallen on deaf ears (not that we expected anything different!) Jack has been persistent in his efforts at gathering and collating information from across the country, in an effort to draw together many loose threads.

In a different (but, we could show, related) field, members of the WorkCover Support and Action Group and I have been compiling information aimed at exposing corruption and fraud by the WorkCover Corporation. We are gathering shocking evidence to show that the rorts happening within the workers' compensation system (contrary to media reports) are not even closely the result of fraudulent claims by workers, but the corruption and collusion involving white-collar executives employed by the Corporation, its agents, legal representatives and medical practitioners. Several of our members have evidence of insurance companies staging alleged surveillance videos of injured workers, for which actors are employed to play the role of "injured worker". So, the next time you watch a current affairs segment showing video footage of an injured worker hard at work, but with the person's face blacked out, start asking questions about the background of the person concerned (i.e. the court/ jurisdiction in which the matter was heard, judges findings, conviction and sentencing details, etc...). [Suspected fraud has been reported to the Board as being 2 per cent. However, the press was recently told by the Corporation that this figure was somewhere between 5 per cent and 20 per cent! Given that 237 are reported to be currently under investigation for suspected fraud out of allegedly 60,000 claimants in the system; and that only 18 have been successfully convicted for fraud in the last financial year, I am stumped to comprehend how these percentages were derived!]

In December, several of us stood outside the Corporation building distributing leaflets to all staff coming in to work for the day (between 7 a.m. and 9 a.m.), inviting people to come forward and make disclosures in the public interest to expose suspected corruption (some of which had been reported in the media leading up to the day). The exercise was a success insofar as several "leaks" have emerged - greatly assisting two members, particularly.

Sadly, the South Australian workers' compensation system is regarded as the "model" for all to follow, and we are aware of plans already in full-swing aimed at converting the other states to the same workers' compensation system - so be fore-warned and beware. Better still, take out maximum shares in rehabilitation firms and human resources management consultancies, because you can bet your life your investment will multiply faster than bacteria; and then start praying that neither you nor a member of

your family ever suffer a work-related disability! All indicators would suggest that, under the present system, more people are ending up in psychiatric care or hospital than back to their former duties, but of course the state isn't (admitting to?) keeping these statistics for the record. For more information on the problems being experienced by injured workers, please call me and I'll be delighted to send you an updated report on our findings. The report is intended to be a "living" document and will continue to evolve as more information comes to light from various sources, including individual case-studies.

Recently I watched an interview with David Copperfield in which he was asked how it is that he has been able to maintain the mystery of his illusions secret from the rest of the world. In reply, he said it was because (apart from binding every staff member to absolute secrecy as part of their employment agreement) he has made certain that no one employee knows any given illusion from beginning to end so as to be able to replicate it. Every employee only knows his/her own little piece of the whole illusion and undertakes never to tell others involved in the act. At worst, people might only discover two or three steps in the sequence of events - but never the whole!

This is, essentially, how white-collar corruption works. The receptionist who "fibs" a little when a caller asks to speak to someone in the office, by telling the caller that they are out of the office, no doubt, would not see herself as playing any role in the whole set-up. Neither would the Freedom of Information Officer who denies a client access to relevant documentation under the pretence of "legal professional privilege", at the instruction of her seniors; nor, the Receptionist who follows orders not to disclose the names of staff employed in the office to handle complaints. Further up the chain, of course, might be doctors who will simply provide reports in answer to specific (but framed) questions, without regard as to how the response will be misused and manipulated; and, solicitors who will follow explicit instructions without ever seeking to establish the truth behind the action or question the motivations of those giving the instructions - however false the allegations or sinister the action against the other party/ies may be.

The Case Manager who hides behind a section of the Act to harass a claimant by insisting on numerous medical assessments allegedly in order to "determine" a claim would be wise to convince himself that this part of the process is "scheme critical", rather than an act consistent with malpractice and/or harassment; and, the Review Officer/ Judge who fails to exercise the full extent of his/her authority to remedy acts of wrongdoing by the Corporation will have to hide behind the need to be seen as "impartial" so as to overt further appeals on the grounds of suspected bias.

And so the justifications and excuses go - each aimed at deflecting any responsibility from ourselves as playing any role (however small) in the bigger picture which enables the corruption to take place from right under our very noses.

Ironically, we now hear that WorkCover has provided (piece-meal) funding to the Working Women's Centre to do a study into the

nature of all forms of harassment and victimisation (i.e. not confined to the categories of gender, age, sex, religion and disability). The cynic (or the astute?), might predict that this is a Public Relations exercise aimed at pre-empting and countering allegations that it is, itself, guilty of brutally harassing staff and claimants. In six months time, one can safely predict that a budding journalist from "The Advertiser" will probably report on the findings and recommendations of the project - portraying the Corporation in a pro-active and caring light as protector and champion of the Occupational Health and Safety Act. Who might then suspect that the Corporation could be capable of harassment, let alone corruption?!

On a different note, our branch would be most keen to hear from people about their experiences with employer-sponsored Child Care services. One member recently had the devastating experience of having a mandatory notification made on his child to the Department of Family and Community Services (DFACS), for suspected child abuse. Co-incidence or otherwise, his distress was heightened as there were highly dubious circumstances used to justify the "reasonableness" of the report - just weeks before his orchestrated dismissal. In isolation, this would have meant very little, except for the fact that a fellow colleague had experienced similarly harsh treatment which was designed to cause maximum damage to both their professional careers and reputations.

The effectiveness of this form of reprisal becomes even more apparent when one realises that child care workers are swiftly shielded from prosecution or liability by the regulatory and child-protection authorities with the primary objective of protecting the relationship of trust between the three parties - allegedly in the best interests of children suspected of being "at risk". This argument does, of course, negate the possibility (let alone likelihood) of the child being placed at even greater risk of having a healthy relationship with their immediate family jeopardised or undermined by false or malicious reports.

We believe this issue, on the whole, has serious implications not just for child protection workers, children and families, but also Child Care Workers who are at real risk of becoming de-skilled as, it appears, they are no longer required to make conscious and informed judgements about the welfare and well-being of children (and families) in their care, as consistent with any notion of Duty of Care. It should alarm every parent to believe that the relationship of trust between Child Care Worker and parent is of insignificant value to child-protection workers than that between their department and the Child Care Service, since it is legislated that mandatory notifiers are immune from prosecution. Although several fathers accused of child abuse have, in recent years, set out to challenge this section of the child protection Act, to date, no-one has been successful. In fact, late last year the Full Supreme Court even affirmed the view of the Crown that the relationship between notifier and the child protection authority should be regarded as being of primary importance.

With this being the position of the State, it is easy to see how the whistleblower's family can become easy targets for swift but

effective victimisation - leaving no "fingerprints" as to the identity of the instigators of such reprisals!

So, as you see, life is hectic in the fast lane. As we awaken from our deep apathy, we discover that we are only weeks away from a State election, so tune in for another update soon!

Extract from *Finishing School for Blokes*, by Peter Cameron

"With the election of the lay counsellors there is far more scope, although not as much as there ought to be. Obviously, the Council will not consider a woman, or a non-Andrewsman, or someone without experience or contacts in the corporate world. Within that framework, the candidates fall into two groups. On the one hand, there are the successful men, prominent in the law or in banking or in industry; on the other, there are the "good blokes", the ones who were at school with you, or who were in your year at Andrew's, or whose families have been represented at Andrew's for generations, or who have lunch with you regularly at the Australian Club (seven of the eight lay counsellors are members of the Australian Club) - and who can be relied on to preserve the college's traditions.

"Now, when you have two clearly differentiated groups like this, two things happen. Firstly, the significant ones, those who are professionally successful are prevented by their very success from taking an active part in the running of the college. They may come to meetings regularly, and give their expert advice when it is required, but they have not time or energy to spare for Council politics, for manoeuvrings and plots and car- part conspiracies. Secondly, this is exactly what the ineffectual ones, the 'good blokes", do have time for, and they not only have the time, they have the inclination. This is a common phenomen in voluntary organisation: there will always be a proportion of those who volunteer for committees and so on who do so because they want to compensate for the general insignificance of their lives. And when they find themselves dressed in a little authority, it goes to their head. This is the chance they have been waiting for, to have an influence, to have as much effect as their successful contemporaries - and now they have an equal vote.

"To begin with, while they play themselves in, or until they have been lobbied by a powerbroker, they will seem what they are in the outside world: mild, harmless little men whose conversation is amiable but dull - slightly more sophisticated version of the beer, chicks and footy of the students - and who leave decisions to those who are better qualified. As soon as they are flattered and wooed by a troublemaker, and sense that they might be able to form part of a powerful faction with the potential even to outvote the successful ones, their whole character changes. All their frustration and inferiority come to the surface. They pour over the minutes of minutes and point out spelling mistakes ("I don't wish to be pedantic, Mr Chairman but...."). They make petty procedural objections, and come armed with textbooks on the law relating to

meetings. They use pompous phrases like "germane to the issue" and "predicated upon." They begin to assemble secretly outside meetings. They tell themselves that their overriding concern is "the good of the college', but all they are really interested in is ensuring that they remain members of Council until they drop and that their influence increases. What started as a hobby has become the ruling passion of their lives.

"And negatives attract. Most of the clerical members are accustomed to taking a back seat and bowing to the superior wisdom of the successful laymen. But while they are accustomed to it, they don't really like it. And when they see the lay equivalents of their own relatively colourless personalities coming into the ascendancy, they find it difficult not to join up - particularly as the powerbroker will have been working on them, too. In the meantime the successful men are either too busy to notice what is going on or they find the triviality of these little men too irritating and they pay no attention. And so it can come about, remarkably quickly and almost without warning, that the whole balance of power has completely shifted. All it needs is a troublemaker, the election of a new nonentity, and a couple of disaffected clergymen."

The process of whistleblowing - from helpless and hopeless confusion to self-respect and empowerment

By JEAN LENNANE with help from LESLEY PINSON

Whistleblowers Australia (WBA) was founded in 1991 because in the words of one of its founders - "We need to do something about these walking wounded". That is, about what was then the normal result in whistleblowing cases, of bitter obsession and disillusionment, chronic physical and mental ill-health, grinding poverty and personal isolation, with the family suffering or gone. The normal result, that is, in people whose only crime had been to do the right thing. The chances of any kind of justice or financial compensation then were remote. Occasionally a particularly resilient whistleblower would work through to some sense of peace and understanding in a desert of personal loss, but that outcome was rare.

Things have changed in the six years since then. Support through WBA, especially from the caring and sharing groups, and informal guidance from sharing experiences, information and ideas is leading to markedly better financial and practical outcomes for many whistleblowers today, although these are still usually very far from what could be called justice. Even more importantly, to far better psychological, health, and moral outcomes - a return to certainty and self-respect - winning by feeling empowered to do what you can, in the way you want to do it, from a position of

knowledge and strength, compared with the helpless, bitter, powerless defeat that was the rule before.

We have now seen many, many whistleblowers going through the process, which tends to follow a series of recognisable stages. Whistleblowers of course start as individuals, with a range of different personalities and psychological traits. One important difference is between the natural conformists (currently the great majority) who are forced into a collision course with authority against all their previous instincts; and the natural dissidents to whom whistleblowing is another facet of a dissenting life. The natural conformist has a harder time, as the unfolding of the total failure of the system they believed in turns their whole world, and their belief system upside down. Natural dissidents on the other hand may be shocked at the extent of the system's failure, but some degree of failure is what they expect. However nearly all whistleblowers share two common features: a strong sense of ethics and fairness, and an unwillingness to sit down, shut up or go away in the face of wrongdoing - often despite being easygoing, non-assertive, and even apparently anxious and timid by nature in normal circumstances. One of the most impressive features of whistleblowing is the determined courage shown by so many ordinary people who don't consider themselves brave at all.

As a whistleblower you may be faced suddenly or gradually with the awareness that something bad is going on around you, whether at your workplace or elsewhere in the community. Most whistleblowers have never experienced corruption before. It's like ebola fever or some other exotic disease - you realise it exists and is serious and nasty, but don't ever expect to encounter it, let alone in the virulent form in which it operates in Australia today. Once aware, there is a variable period of fluctuating belief versus disbelief, as you wrestle with the frightening reality while compiling more evidence. This is a period of enormous self-doubt and wondering if you're going crazy, especially if everyone around you seems to be going along with the wrongdoing. Eventually you come to a point where you can no longer avoid the conclusion that what's happening is wrong and you have to do something about it.

You often make your complaint or report with a sense of relief over a decision taken, thankful it's now out of your hands - though still often with conflicting loyalties and some feelings of guilt about 'dobbing', and 'making trouble'. When the sky falls on your head as the organization reacts to your complaint, usually very rapidly and crushingly heavily (see e.g. Lennane, de Maria) it usually takes some time to comprehend that you're under attack. It doesn't make sense, when you are only trying to do the right thing - often what you are required to do under your conditions of employment.

As the attack continues and you look around for help and support, you find yourself frighteningly exposed and alone as it melts away. Colleagues are hostile or frightened, and outside bodies you are approach are contemptuous, indifferent, or promise help and deliver nothing, often leaving you even more exposed and vulnerable than you were before. You pay through the nose to find that the legal 'justice' system is part of the problem. You find yourself feeling you're on a different planet - like the whistleblower who went to a police station late on a Friday after

receiving a serious death threat, getting the response "Can you make it quick? I've only got five minutes"; then "Can't it wait till Monday?" And on another occasion when he had actually been given protection, the four policemen who arrived with a bottle of whisky each were so drunk by midnight he ended up sending them home because he felt he'd be safer without them!

It is in a state of extreme stress, distress, confusion and fears of going crazy that most whistleblowers hear about WBA, and make contact, usually by phone. For the first time you are able to talk to someone who seems to understand what you are going through, and get some reassurance that it's not you who's crazy. At meetings you get the opportunity, often for the first time, to tell your story in its entirety to a sympathetic audience. Most whistleblowers take an hour or so to tell it the first time. It comes out in a confused and muddled way - the reflection of the stress and confusion in your mind, and your inability to make any sense of the crazy things that have happened to you. As time goes on, the story becomes clearer. You can extract the key points, and avoid the mountain of paper, of claim and counter-claim that the organizational response uses to bury and avoid investigating - forever if possible - your original complaint.

As you listen to others' stories, you can start to see the pattern, as you realize that all whistleblowers' stories are essentially the same. You also realize that it's not you who's crazy; that there are terrible problems with our society and with organizational structures; there are terrible problems with the 'protective' and other systems you had thought you could rely on. However you become aware of many other avenues which can be tried - some or most of which may not work either, but may; and having choices in itself is empowering.

One avenue which most whistleblowers have never seriously considered until they get involved with WBA is going public - via the media, or with pamphlets, demonstrations and the like. Yet the media has consistently been shown to be the only body that is consistently helpful to whistleblowers - at a rate of 60 per cent or more, compared with less than 5 per cent for the official channels and bodies they tend to rely on.

Going to the media, or indeed any publicity on what has happened, is completely foreign to most whistleblowers' previous experience and personality; it is also the reverse of the fearful isolation and shamed silence that the organizations' crushing response to whistleblowing is designed to achieve. Telling your story in a whistleblowers' meeting is an important first step in breaking the silence; and with ongoing support wider publicity can follow when and if you decide you want to do that.

As you progress, you start to comprehend that the people persecuting you are doing so out of fear, and that the strength of their response is a measure of the effect your whistleblowing has had on them. This knowledge gives you power.

You also realize that winning comes from doing, regardless of whether it seems to have any effect. Losing is giving up and doing nothing, and feeling helpless and bitter. You always have the choice of stopping when your conscience and sense tell you that

you have done enough - making the choice to stop from a position of being well-informed is quite different from giving up because you feel defeated.

You realize too that life goes on; that there is more in even a whistleblower's life than whistleblowing; and that you can be just as effective - if not more so - in trying to stop wrongdoing and fix the system if you can step back out of full-time obsession, wait for the waves of opportunity as they come along, and ride them to the beach.

But probably the most vital step in recovery is being able to see yourself and your struggle as more than an individual thing, as part of a greater pattern, of something transcending the self. Corruption and organized crime are out of control in Australia in the 1990's, just as Justice Athol Moffitt warned in 1985 in his book *A Quarter to Midnight* it would be if no action was taken to prevent it. Those of us who have heard hundreds of whistleblowers' stories know we are now at midnight, and a deep and dark night it can be seen to be, where few people would want to go. In doing what we can, however little that may seem to be, we can and should see ourselves as the pioneers of our time, explorers of uncharted territory, the chosen few finding the way both for us and for our whole community out of the darkness that now surrounds us all.

"And I said to the man who stood at the gate of the year: Give me a light that I may tread into the unknown. And he replied: Go out into the darkness and put your hand in the hand of God. That shall be to you better than light and safer than a known way."

Whistleblowers work with Democrats to expose a debacle

By SIMON DISNEY*

The announcement of an independent inquiry into NSW WorkCover by the Attorney General after it was widely reported that the deficit in the State Government's central workers compensation fund would balloon from about $450 million to around $1.2 billion if subject to industry based accounting standards has been welcomed by the Australian Democrats.

A rise in premiums for employers from 1.8 per cent of wages to 2.8 per cent in the past two years due to increased claims has done little to encourage businesses to hire more workers in the current economic climate. Unemployment levels reflect uncertainty.

Less widely reported, has been the role that Whistleblowers Inc. and associated supporters have played in forcing the hand of the Government to take remedial action with regard to the administration of the scheme.

Let's face it, politicians generally don't like to rock the boat, especially if a publicly administered organisation is likely to be

embarrassing during the lifetime of either a Liberal or Labor Government and fingers are bound to be pointed.

Governments come and Governments are voted out - but when was the last time you got to vote for a senior bureaucrat? Or the directors of a Statutory Authority who seemingly disappear or change hats at the first smell of trouble? What do you do?

Well after midnight on 26th November 1996 under Parliamentary privilege, Elisabeth Kirkby, MLC, NSW Parliamentary Leader of the Australian Democrats, attempted to table a pile of internal WorkCover documents in the NSW Legislative Council that showed that the fund had been well and truly warned about the projected blowout in 1993 - three years prior to its current circumstances.

Lis was denied leave to make these documents available for public scrutiny on a technicality, despite support from the Opposition.

Negotiations between the Democrats and the Minister's office began. It was made very clear that the South Australian Parliament was still sitting for another fortnight and that we were prepared to personally deliver the documentation to the South Australian Parliament and have our colleague, Mike Elliott, Leader of the South Australian Democrats, table them under Parliamentary privilege in the event that Parliament was prorogued or decided to finish business slightly earlier than expected. (Former Democrat Senator Paul McLean once exercised this option to table the "Westpac letters" after then Federal Opposition Leader, John Hewson returned documentation to McLean's office with a letter stating that "During Question Time today an envelope was delivered to Dr Hewson's office by a member of your staff who said it contained "Westpac papers". This material has not been requested by Dr Hewson and I return it to you unopened.")

The next night, on the adjournment of the House, again after midnight, the Government granted permission to table the documents and they became available for public scrutiny. Several journalists and industry professionals apparently took the time to sift through the papers after they had been tabled.

On hearing that the Attorney-General was to take the matter to Cabinet with the recommendation that there was to be an independent inquiry, Ms Kirkby stated that "I am fully supportive of an inquiry into WorkCover and commend the Attorney-General for his actions in this matter."

The powers of this inquiry, if agreed to by Cabinet, will be watched with interest by the Democrats. There seems little point in holding an inquiry that has no power to compel the attendance of key players in the debacle and the scope of the inquiry is yet to be established.

Still, the very reason that this matter came to the public notice when it did was simply because: "my constituent has requested me to do". The Hon. Elisabeth Kirkby, MLC, Hansard reference: Adjournment speech 27th November 1996.

Ms Kirkby has criticised those politically responsible by stating that "Evidently, governments comprised of both major political parties have failed to devise proper and adequate strategies to reign in the problem of the uncontrolled escalation in litigation costs of claims settlement."

The Democrats will consider all reasonable requests for action by whistleblowers and constituents. It is worth reflecting, as public opinion solidifies toward the idea of an Australian Republic in the 1990's, the words of Abraham Lincoln:

"The money power preys upon the Nation in times of peace, and conspires against it in times of adversity. It is more insolent than autocracy, more selfish than bureaucracy. It denounces as public enemies all who question its methods or throw light upon its crimes".

I wonder how much attention to the meaning of these words would have been paid in the heady days of the 1980's when the media were so keen to be flown in for free weekends at Queensland resorts or to breathlessly report the latest moves of Alan Bond?

Whistleblowing is not guaranteed to assist in career advancement, which probably explains the majority of contacts we have who tend to be approaching the end of their working lives.

To bitterly detest all that seeks to undermine the ethos of what it is to be a dedicated public servant is not an odd reaction, but a normal response for those committed to providing services that are not always attractive to the private sector and have little chance of being sold off.

The "money power" it seems, shows little interest in sharing the wealth of this nation with those who need a foot-stool to clamber for the small change. I trust that Australia will retain an accountable public sector and survive the embrace that has made economic rationalism a management style of the past two decades by retaining in both the private and public sectors what most of us fondly remember as the fair go'. Whistleblowing. Worth doing? Definitely!

** Simon Disney is currently a member of the Australian Democrats and is Adviser, Researcher and Media Officer to the Hon. Elisabeth Kirkby, MLC, NSW Parliamentary Leader of the Australian Democrats. He has worked in both the private and public sector and run his own small business.*

NSW NEWS

Caring and Sharing meetings - a consuming passion

NSW Branch has been conducting a weekly support group for almost two years. Initially they were quite small but they have now

developed to the point where say 15 to 20 each Tuesday is not unusual. On average they run four, sometimes five hours if you count the midnight hot chocolate and pizza at the local trattoria afterwards. Based on a steady stream of unsolicited opinion both private and public; sometimes aggrieved even angry, not always flattering, always helpful [of course] the meetings are considered worthwhile. And judging from actual 'feet through the door,' the growing 'core' group, irrepressible unrepentant often irreverent mirth, and consuming passions [commonly tea, coffee and biscuits] they are worth the regular trip to Balmain.

They are it seems ... warts and all ... fun! They are 'our' meetings. They are 'owned.' And they must be got right because they matter.

So I say, Caring and Sharing meetings are to be recommended. They can become the heart and soul of the organisation. They are a melting pot, a think tank and can sustain longterm moves for public action and reform.

However from an organisational point of view they are not for the faint hearted. Nor are they easy to run. They require versatility in style and substance; people skills, some insight, a deal of empathy and a wealth of practical whistleblowing knowledge. They also require [in the convenor] an unshakeable faith, commitment and tenacity of purpose. They are always a challenge and challenging!

The convenor must have a plan: one which can respond to; but at the same time mould the events as they unfold. Of course there are many things which you can always rely upon. For example:

1. No two meetings can be the same. And nor should they be the same.

2. It cannot be a business meeting. Indeed the two should never be confused.

3. The attendees:

[i] and their needs are always an unknown at the outset.

[ii] have an expectation largely based upon their needs.

[iii] often have little thought of what is possible, practical or desirable.

[iv] assume their assessment of what the meeting should provide to be full and adequate.

[v] have difficulty in making the transition from recipient to responsible participant.

Caring and Sharing meetings need to be able to evolve even during the course of any one meeting. At a general level the meeting should start by addressing the needs of the newcomers, then move to a format which allows the more regular attendee to follow up on earlier interests or advice. It should eventually move to an informal discussion before closing and breaking into small more intimate groups.

You can see perhaps how these smaller informal groups can in turn facilitate a committee meeting to be held separately at this later stage. Of course the wider group needs to have been advised of this at the outset and then later when the time is nigh, encouraged to get a coffee etcetera and continue as they will.

If you keep in mind the many things you want to achieve this might seem a fairly obvious or even natural progression. The thing is you need to have given these things considerable thought well before you step into the role of convenor/information provider for a variety of reasons.

For example you will need to be able, over time and in different ways, to impart these things to others so that:

1. you can provide a general plan of action at the beginning of each meeting.

2. you can condition the attendees' expectations.

3. there can be at least three others in attendance who are there to act as information providers and on occasion, convenor.

4. a corporate memory is developed by the office bearers.

5. expectations are generally satisfied and able to generate fresh directions.

Probably the most important thing is to get these fundamental directions clear in your mind and stick to them. But first and foremost, the meeting should pursue and reflect the ethic of whistleblowing in its many forms. This will unify and generate a sense of ownership [in the membership]. Naturally this will involve seemingly endless discussion as to its merits. This is obviously desirable and should not be discouraged.

Finally, where fairness in all things, good manners and a sense of humour prevail you can't get yourself [or anyone else for that matter] into too much mischief. And with a little luck and some foresight the meetings could become a consuming passion in their own right.

Bon appetit!!

CYNTHIA KARDELL
NSW PRESIDENT

NSW branch: administrative news and arrangements

The NSW Office is taking shape. Please make a note of the new telephone number [02] 9810 9468. It is in place although unfortunately we will not be moving in for a bit as there are a few things still to be done. The address is 7A Campbell St, Balmain. We have secured a computer, answer machine, fax, and a fair

number of sundry other items - as riveting [but necessary] as scissors and a stapler.

Thanks, and thanks again to all who have given, foraged, begged etc ... but don't slack off, keep it coming! We need another computer, a photocopier, a this and a that!! Our list is as long and as durable as a piece of string.

Caring and sharing meetings are flourishing with 15 to 20 attending most Tuesday nights [see separate article in this issue]. I think the highest attendance was 25. Usually say 4 to 5 Committee members, 1 to 3 newcomers and the balance are the regulars with current whistleblowing matters who attend on average 3 out of 4 meetings. Thanks go to all who attend and continue to make them worthwhile. And never dull.

Monthly business meetings are steady at say 18 to 25 in attendance. This is more of a mixed bag as it attracts the longterm supporter and member as well as those who make it on Tuesdays. Barbecued sausages and salad at noon eases the group into the business at one thirty. Generally by three say, we have moved to informal discussion and or broken into groups to renew old friendships and welcome newcomers.

Please note that there will be the usual guest speakers sprinkled throughout the year and there will be an Annual Celebration. We will keep you posted as we want you to be there. We look forward to catching up with old friends and supporters.

Finally a reminder about ongoing reform and targets . A recommendation is about due from the Executive on the report from the parliamentary joint committee on the Protected Disclosures Act 1994. The ICAC is still looking troubled: its future uncertain and a Protected Disclosures Unit [PDU] still a possibility. The Police Royal Commission is taking its toll and due to complete its task mid year. You can assist! See below.

Cynthia Kardell
NSW President

NEWS FROM WESTERN AUSTRALIA

Citizens versus mining in Greenbushes, WA

By JANE CARGILL

Mining operations near the town of Greenbushes are having serious impacts on health and environment. Citizen opposition has been met by intimidation and government inaction.

Greenbushes is 257km south of Perth, in the southwest of Western Australia, directly inland and east of the Margaret River. The nearest major town is Bridgetown. The current population is 400.

The first mining lease in WA was pegged in Greenbushes. Tin was first mined. Now tantalum, spodumene and lithium are the major profit-making minerals. In the "olden days" prospectors fossicked, panned and dug shafts. Nowadays the miners drill, blast and excavate in order to extract the minerals for processing. Contractors work in huge, crater-like pits several hundred feet deep.

In May 1991, Gwalia Consolidated Limited was granted approval to extend a tantalum pit adjacent to the southern boundary of Greenbushes townsite - hence named "the northern pit extension." A small (900 square metre) plot of land inside the townsite boundary was excised for this purpose. Approval was granted by both the WA Department of Minerals and Energy and the WA Department of Environmental Protection (DEP).

A formal assessment by the DEP was not considered necessary despite the fact that blasting, drilling and mining operations would be conducted in a pit whose edge was 450 metres from the centre of town and less than 50 metres from Greenbushes Primary School and residences. Mining leases 01/6 and 01/9 were placed over Greenbushes in 1983/84, allowing mining underneath the town. The Mines Act was not followed and owners were not notified.

The Bridgetown-Greenbushes Shire was aware of this northern pit extension plan, but ratepayers and residents were not. About 10 letters were delivered by Gwalia to those residents who were 200m or less from the edge of the tantalum pit in late September 1993, informing them of the northern pit extension and ordering some to "remain indoors" and informing the others that Gwalia would assist them to "evacuate your home" whilst blasting was being conducted and "road guards" would be positioned in streets to block them.

Townspeople "flipped out." Concerned Residents of Greenbushes was formed and several town meetings were held. Fifty to sixty people voted to investigate the possibility of applying for a court injunction on Gwalia to sort out issues before commencement of the northern pit extension.

The next meeting, in November 1993, was stacked by dozens of "out of town" mine workers. A town resident - a former local shire clerk and Gwalia shareholder - voted to allow the company access to town land (the 900 square metre plot). Intimidation tactics were adopted to put a stop to further meetings. One man rang me to say that his and others' car tyres had been slashed whilst he was at the November meeting. His wife had since lost her part-time job at Gwalia because, he believed, he was seen speaking with me after the meeting. He said he would be unable to attend any more meetings.

Business owners in town who were seen to be supportive of a court injunction lost custom. Threats of mine closure and loss of jobs are still used today by mine management if anyone protests.

In the years since 1993, numerous houses have been damaged. Windows have been "blown out," ceilings have fallen in, flyrock has been seen and heard to land on roofs and in backyards. Insurance companies do not cover this sort of damage. Thick dust clouds have contaminated rain water tanks. Fume emissions

containing nitrous gases and carbon monoxide (from explosives) often shroud Greenbushes in a pungent, blue-white haze. Children and pets are frightened by the vibrations and noise of blasts. Blasting is now six days per week, with one to three blasts each day.

Numerous government officials have visited, inspected and occasionally monitored the blasts in parallel with Gwalia's "self-monitoring." All have said that Gwalia is operating within its licence conditions - in spite of many breaches - and that there is not much that can be done.

The state ombudsman's office has had a file open on the Greenbushes issue for years but refuses to investigate. I was told "We can't do anything because the issue is more than six months old." The Mines Department denies that the mining lease and the Mines Act are being breached and refuses to consider any compensation for residents and ratepayers as applicable within the Mines Act.

The DEP has the power to immediately review Gwalia's licence conditions to reduce blast limits but refuses to modify any of them. The air blast overpressure limit is currently set at 120dB, never to exceed a ceiling of 125dB. This has been breached several times and caused serious structural damage. The vibration limit is set at 5mm/second, never to exceed a ceiling of 10mm/second. Neither of these limits is appropriate for blasting operations in close proximity to residences. Atmospheric and geological conditions should be taken into account within licence conditions. The "10 per cent" provision which allows the company the privilege of exceeding limits when conducting consecutive blasts should be deleted.

The Water Corporation and the Rivers and Waters Commission refuse to supply water analyses showing radionuclide levels in the Greenbushes town water supply. (Two years ago, I was refused access through Freedom of Information (FOI) to WA Water Authority documents on radiation levels.)

Recent WA Health Department documents obtained through FOI show National Health & Medical Research Council standards have for several years been breached for gross alpha and beta radiation levels in several groundwater monitoring bores adjacent to dams that have been used to top up Greenbushes and Balingup town water supplies. Lithium, aluminium and manganese levels are also of concern. An alternative town water supply is warranted immediately.

The WA Department of Conservation and Land Management has been responsible for attempting to initiate "land swap deals" with Gwalia, for example state government land adjacent to the northern townsite boundary of Greenbushes in exchange for Gwalia's virtually barren, partly revegetated blocks in the middle of state forest. (This move was contested in state parliament. I believe the company acquired freehold title to this land adjacent to the northern boundary.)

I was refused access to the Gwalia share registry for two and a half months.

The ASC eventually granted me access in January 1997. I have yet to sight the shareholders listing.

I have done hundreds of hours of research and years of work on all aspects of the problems. Hundreds of documents have been obtained under FOI. Reams of correspondence with scientists and other specialists have been collated.

Continual lobbying of politicians in successive governments has produced mountains of paper also!

I have made repeated protests on behalf of residents who are reluctant to be identified because of direct or indirect association with the mine. It is general knowledge that there have been secret contract agreements with several residents, whose names are known, including special structural assessments and guaranteed insurance cover and monthly payments to those inside various "zones." Radiation dust levels are on an "upward trend" according to the Radiological Council. According to the Council, Gwalia has acknowledged that it is aware of the health effects on its workers. The DEP has attributed all these problems to both increased mining activities and "hard rock" mining.

The happenings in Greenbushes raise important issues of private and public accountability as well as health and environmental impacts. A number of journalists have received material and prepared stories but, for some reason, only a few have been actually published or broadcast.

ABC faces new conflict of interest scandal

(The following extract has been republished from an article in Information Australia's MEDIA AUSTRALIA Update 3/3/97)

"This is good deal bigger than the Whitlam scandal. We want an internal inquiry from the ABC." - Dr Tom Lonsdale.

The ABC is facing another conflict of interest scandal with this edition of Media Australia Update revealing an ABC journalist who produced stories on animal ownership is associated with a major pet food manufacturer.

Dr Jonica Newby, who last month presented a four part series on Radio National's Science Show titled *Animal Friends*, also is employed by the Petcare Information and Advisory Service (PIAS) - a body funded by pet food manufacturer Uncle Ben's.

Dr Tom Lonsdale, a veterinarian from Riverstone, NSW, says the ABC report was "not objective" and accuses Radio National of broadcasting "pet food industry propaganda".

Dr Lonsdale, who believes artificial pet food contributes to illness in animals, claims the ABC reports ignored alternative views in favour of research he says was originally funded by Uncle Ben's.

"I have copies of my correspondence to the Science Show which were never followed up. If they had the alternative viewpoint and purposely excluded it then it's a big issue.

"It's pretty shocking to me Jonica Newby, an employee of the pet food industry, has been working for the ABC since 1994. Her chief role is as consultant to PIAS, a wholly owned subsidiary of Uncle Ben's of Australia.

"The fact she's in the science department of the ABC is just an outrage.

"That anyone in commercial industry should also have a foot in ABC affairs is disturbing - especially when the industry she represents can be damaging to the health of animals."

In a statement to Media Australia Update, the Science Show rejects Dr Lonsdale's accusations, insisting PIAS is "an autonomous, non-commercial organisation which promotes responsible pet ownership.

"The program contained no external funding and was fully paid for by Radio Science as a freelance series. The standard payments covered research, travel, writing and production.

"Dr Newby was commissioned to do a pet series because of her talent as a communicator and her interest in research on how people and companion animals evolved. Dr Newby looked at the health benefits of pets and about research into the future of pets in cities.

"The ABC Science Unit was aware of (Dr Newby's association with PIAS) when commissioning the series. The series has nothing to do with Dr Newby's consultancy to PIAS.

"She is in no way a spokesperson for the pet food industry. The executive producer is satisfied all assertions in the program can be backed up by credible scientific research."

However Lonsdale insists PIAS is closely linked with Uncle Ben's and claims there is a "considerable overlap" between the information presented on the Science Show and PIAS' promotion of the health benefits to humans of owning a pet.

"There's a great exchange of personnel between Uncle Ben's and PIAS. Frequently you'll find the same person pops up claiming to be an Uncle Ben's representative or a PIAS or vice versa. Effectively they're one and the same company.

"The programs' focus is very similar to the information you'll find at the PIAS Web site. In other words, the information PIAS first paid to have collated.

"Harlock Jackson, a town planning and architecture firm, is featured at the site. They were paid by Uncle Ben's to provide this information and then Jonica Newby speaks to them on the Science Show as if they're completely independent experts.

"The last program finished up with Hugh Mackay. Again if you look at the Web site, you'll see endless amounts of information he has generated for Uncle Ben's.

"He also went out on the air as an independent commentator."

While the Science Show initially identified Dr Newby as a Melbourne veterinarian, listeners were only told she works for PIAS at the end of the fourth program - coinciding with a complaint by Dr Lonsdale.

Lonsdale says the belated revelation is "not good enough", and plans to take the matter "much further".

"We're going to take it all the way until we get some kind of inquiry. We want an internal inquiry from the ABC and the results to be made public."

Note from the Editor: This issue was also exposed by Stuart Littlemore on ABC's Media Watch on 3 March who appeared very critical of the apparent compromise of the ABC, our so called 'independent' public broadcaster. It seems to typify those concerns about 'editorial corruption' which have been voiced by ABC whistleblower, John Millard. Have John's concerns and warnings been ignored? Given this issue raised by whistleblower Dr Tom Lonsdale it would seem so. At least with commercial media there is some honesty about who has paid for the programs and their presenters. How much other "propaganda" is being fed to the public by the ABC in this dishonest way? But for whistleblowers, we'll never know!

Food for thought: Whistleblowing - its always your choice!

An extract from Noam Chomsky, *Chronicles of Dissent, Interviews with David Barsamia*

David Barsamia: I sense in your work and observing you when you give lectures and talks that you see yourself as a presenter of information and analysis, but you're very hesitant to tell people what to do. What's the source of that reluctance?

Noam Chomsky: I don't think I'm in any position to tell people what to do. I felt the same way back in the 1960's when I was talking to young people whose lives were on the line. What do you tell them to do? That's for them to decide. It's easy for me to tell somebody to be a resister and spend a couple of years in jail or to go into exile and destroy your life, but what right do I have to tell people to do that? If you tell people to get seriously involved in dissidence, they're going to change their lives. This is not the kind of thing you can dip your toe into and then walk away from. If you're serious about it, it's going to affect you. It's going to change your life in ways which are serious. By certain measures you'll suffer harm. You can face repression, economic reprisal,

vilification, marginalisation - there are a lot of unpleasant things that can happen.

From another point of view there are compensations, but they're mainly moral compensations. You'll be able to look yourself in the mirror and say I've done something decent with my life. I don't feel in any position to tell people how to make those choices. I wouldn't tell my own children how to make them.

Fraud inaction will lead to culture of corruption

(Letter by whistleblower Bruce Hamilton published in the Australian Financial Review on 31/12/96)

The article titled "It's time to tackle corporate fraud" (AFR, December 13) by the president of the Institute of Chartered Accountants stated that "corporate fraud is most likely to be uncovered by other employees".

This is also the common finding in a number of fraud cases handled by the Australian Whistleblowers Association as a self-help group.

As many accountants and corporate solicitors are no doubt aware, instead of corporate fraud being reported as a matter of policy to outside law enforcement agencies, in too many instances the culprits are disciplined, warned thrice or benefit from both unofficial and official amnesty through a process of cover-up.

Not only are original offences against the interests of shareholders compounded by sweeping fraud under the carpet conspirators, but the culture grows, eventually developing into the final stage as institutionalised corruption.

At that stage other taxpayers suffer the tax deductibility cost write-offs of corporate defence if those with a limited financial capacity begin advancing a legal argument based on allegations of dishonest culture within some institutions.

Shareholders of powerful institutions also lose when for practical purposes, its defence having unlimited financial capacity, may seek to contest every point in law with a view to ruining the complainant financially before any argument is finished.

The accountants and auditors are familiar with the bills generated through cover-ups. The confidentiality and bonded agreements exist, mediation process signs away rules of natural justice too often leaving no legal precedent for the next hapless employee with a conscience, who stumbles over fraud, to be guided safely out of the toxic milieu.

The article quoted fraud costs at more than $400 billion in the US pa and $16 billion pa in Australia or $2,500 per household pa and the July/August edition of ICAC's journal Corruption Matters,

quotes an estimate at $500 billion worldwide or 2 per cent of world GDP.

Other recent reports in Australia have our Federal Auditor General finding on average $6 million pa recovered under proceeds of crime legislation from an estimated criminal value of between $4.2 billion and $4.7 billion pa.

The recovery rate is seen as in need of procedural research in view of the substantial differences between the estimates, if indeed the cost differential is between $11.3 billion and $11.8 billion pa and the mere $6 million recovered goes to consolidated revenue rather than being distributed by way of some dedicated trust arrangement.

Most interpreters say Australian fraud law enforcement lacks resources.

It seems, that while so much corruption continues to be swept under the carpet and the Federal Government continues to delay the establishment of Public Interest Disclosures Legislation nationwide, the NSW Government makes progress after bitter experience.

It remains impossible to eliminate dishonest work practices, even in the most secure environs, however there are very simple measures available to all those with a stake in commerce by way of having governments legislate to protect those stakeholders who choose not to countenance corporate fraud, in the same way as human rights are dignified through legislation.

While we continue to read valuable reform contributions from some accountants, it seems that others cast a blind eye in the interests of those criminals who confidently perpetuate the business of corruption without fear and plenty of favour.

Note from the Editor: Good letter but I'm not sure about the NSW government's progress in relation to whistleblower legislation. As far as I know a great report making recommendations for improvements to existing NSW legislation sits gathering dust in the Premier's office.

Worse, despite recent horrendous evidence of extensive sexual abuse and harassment of children in schools (and the WBA is aware of a number of whistleblowers from the field of education who were "crucified" when they attempted to report such occurrences) the government's current proposal is to continue allowing the bureaucrats in the NSW education department to oversee investigation of such allegations. With the available evidence that police have been unable to investigate corruption amongst their own, why would the education department prove any more capable of investigating what amounts to criminal behaviour within their ranks. The need to protect children from paedophiles if nothing else should have made the implementation of effective whistleblowing legislation urgent for all governments. Despite recent publicity of paedophiles in all sorts of places, governments have not acted. This begs the question 'who in government is protecting who, and why?' Perhaps it will take the uncovering of a few small dead bodies, and a march on parliament by thousands as recently happened in Belgium for anything to really change.

EDITOR'S SOAPBOX

Whistleblowing policies should focus on management

In the last Whistle, I wrote about Whistleblowing Policies which some organisations are now trying to develop. Having thought about this some more it has struck me that perhaps the whole idea of such policies is leading us all in the wrong direction. The focus should be on management and how they should act in certain circumstances to ensure they act ethically, i.e. a policy for the ethically challenged.

Developing this concept slightly further I would like to see such a policy include such things as:

If an employee comes to you with an allegation of corruption you must do the following:

(1) in writing, thank the employee for bringing these matters to your attention, advise him that the matters will be fully and independently investigated which might require some further assistance from him and telling him to return to you should he have any problems in his work situation

(2) complete a form which:

* contains a summary of the allegations

* identifies whether such allegations could be true,

* identifies which systems have failed which would have allowed such corruption to occur,

* identifies what systems must be put in place, or those which must be improved, to ensure that corrupt acts such as those alleged could not possibly happen again,

* identifies which truly independent investigator has been engaged to investigate the allegation,

* contains a declaration that you will do every thing in your power to ensure that the person who advised you of the allegation will have absolutely no grounds to claim that he has suffered from any reprisal for having provided management with this important information.

Also, if relevant, together with the investigator and in the interests of fairness, and if it is impossible to commence investigation without doing so, at some point provide those accused with a list of the allegations against them and ask for their response

In this process you must ensure that on no account is the identity of the 'source' to be made known to those accused unless you have express permission from the 'source'.

If the circumstances are such that the identity of the 'source' is likely to be identified and it is possible that the accused' will make life uncomfortable for the 'source' this should be fully and frankly discussed and warnings given. It may be nessessary to minimise the interaction between the two, to isolate them from each other or as a last resort consideration could be given to suspending both on full pay until the results of the investigation are known.

In the interests of everyone, this process must be carried out as expediently as possible

You must on no account question the source as to:

* his motives for providing you with this information

* his background

* seeing a psychiatrist, unless he wishes to see someone for counseling during what will be for him, an extremely distressing time

If he seeks a transfer, this must not be because he finds his working environment too uncomfortable or unpleasant. If this is of concern, those who are creating an unhealthy working environment must be immediately dealt with. Complaints of harassment or victimisation must be taken extremely seriously and dealt with immediately to ensure that the organisation will not have a liability under the Occupational Health and Safety Act.

Ummm. I see the possibility of a much nicer world than the one we have experience of! What do others think? Is there hope?

Estimates Committees

Readers might like to take advantage of the annual opportunities presented by estimates committees which provide a forum for serious questions to be asked of Government departments and senior bureaucrats about expenditure and waste. In New South Wales these committees will be sitting in March so there is still time to think up some pertinent and probing questions as to exactly how public money has been spent (wasted?).

WBA's National Media Contact list

Isla McGregor is producing a contact for the media which is to include names of people who are willing to speak publicly on whistleblowing in general and/or on specific cases or issues. Please could anyone who is interested in being on this list provide Isla (002 391 652) with their name, address, phone numbers Email, facs, etc. and details of what they are willing to speak about (please try not to make this not more than six words).

Fundraising stickers

We still have a number of stickers to sell at $3 each. These are fairly eye-catching, red and white writing on a black background which say:

"Whistleblowers - our right to know".

International Links

Some individual members have linked up on a number of issues with members of Freedom to Care, a UK organisation which has objectives which are similar to those of WBA. FtC have joined us in our campaign to amend the ILO on human rights to outlaw the discrimination of an employee who makes a public interest disclosure. We are trying to gain the support of unions both in the UK and overseas, so readers with union contacts could help by bringing this to the attention of their unions.

Geoff Hunt from FtC recently wrote to us suggesting we should consider more international campaigns targeting international organisations. Anyone interested should contact WBANational President Brian Martin on 042 213 763.

Some random thoughts on whistleblowing

By KIM SAWYER

I became a whistleblower on October 12 1992. I have consulted with many whistleblowers since October 1992 and have made many submissions to politicians and other interested parties. After over four years of whistleblowing experience, I would like to reflect on a number of contemporary issues.

1. Legislation

Whistleblowing is a long-term issue, encompassing at least three components fundamental to Australian democracy:

* The right to speak the truth.

* The obligation to protect the public interest, and in particular, to maintain proper accountability in a deregulated economy.

* The right that employees who make credible and non-frivolous allegations in the public interest should be free from discrimination.

Unfortunately, none of these rights or obligations exist in Australia in 1997. Those who attempt to fulfill their obligations have their rights violated. The first Federal legislation was proposed in draft form by Senator Chamarette in May 1993. This was never enabled, because it was superseded by the Senate inquiry initiated by Senator Newman on September 2 1993. No other private members bill has been introduced into the Federal parliament.

The previous Labor government responded to the first Senate Committee report on October 26 1995, 14 months after this report was tabled. Duncan Kerr, as Minister for Justice, rejected approximately two-thirds of the 39 recommendations of the Senate Committee, including the provision of protection for the banking sector, the health sector, the education sector, the local government

sector and the private sector. There was to be no education campaign, nor a tort of victimisation, nor a Public Interest Disclosure Agency(PIDA). The Howard government after 12 months in office has not indicated its intentions re whistleblowing legislation.

Despite two Senate Committee inquiries, with over 140 submissions, and unequivocal and bi-partisan recommendations, after four years there is no legislation. Why? I have some conjectures. First, whistleblowing legislation suits specific interests, typically oppositions and minor parties. It rarely sits well with governments or with the bureaucracy for whom secrecy is paramount. Authority is threatened by transparency. Secondly, whistleblowers have not been united on the importance of legislation. Many in WBA regard legislation as unimportant, indeed unhelpful. For these whistleblowers, their experience with independent government agencies suggests that a PIDA will be no different. I regard legislation as a base, from which other policy will develop. The establishment of a PIDA should remain one of the highest priorities of WBA. Thirdly, whistleblowers have not articulated the cost of the failure to protect whistleblowers. We live in economic times.

2. WBA

WBA is a diverse organisation, replete with all the attributes of whistleblowers; freedom of expression, diversity of style, forthrightness, ... To act as an office bearer can be quite demanding. It is easy to suggest, less easy to do. However, there have emerged certain disquieting tendencies in WBA which should be addressed.

2.1. Free Speech or Whistleblowing

The first Senate Committee adopted a definition of whistleblowing which referred to disclosures in the public interest referring to illegality, infringement of the law, fraudulent or corrupt conduct, substantial misconduct, mismanagement or maladministration, gross or substantial waste of public funds, endangerments to public health or safety or the environment. This definition has been widely accepted. The Senate Committee did not support, and neither do I, frivolous or unsupportable allegations. WBA should not pander to those who speak untruths. False free speech can be just as damaging as the suppression of true free speech. All whistleblowers know this.

In June 1996, I resigned as Chairperson of WBA (Victoria). However, I continue to take an interest in Victorian matters. In recent months in Victoria, there has been unfortunate divisiveness and as a corollary a series of demonstrably false allegations have emerged. The National Executive has chosen to distant itself from direct intervention in this matter, and, in particular, has allowed such false allegations to perpetuate. I regard this as unacceptable. Our organisation must support true free speech, and not be a repository for those who propogate falsity.

2.2. NSW-Centric

The organisation is dominated by NSW membership. It is incorporated in NSW, and the national membership fee is paid to NSW. There are many upsides to this centricity, but also some downsides. First, the national focus of the organisation is being dominated by NSW issues, such as the NSW Royal Commission rather than, for example, the need for Federal Whistleblowing legislation. Secondly, national Annual General Meetings tend not to be representative of whistleblowers in states other than NSW. Essentially Victorian members were unable to attend the recent November meetings. Thirdly, and as a consequence, there appear to be significant communication problems emerging between the states. Obviously, these problems are accentuated by the limited resources and mobility of much of our membership. However, some measures are possible. In particular, we should aim for a more flexible and devolved structure, where:

* The national Executive consists of the Chairperson of each state branch. This would enhance the representativeness of the organisation.

* The incorporation of the organisation be considered anew, so that a better matching of revenues and expenditures be achieved for each branch. Currently, virtually none of the membership fees are directed to local state initiatives.

* A national conference be convened each year in a different state.

* The organisation adopts a specific set of priorities; for example, Federal legislation,a public education program, benchmark cases with at least one case in each state, a web site, a data base, a research project.

2.3. Self Interest or Public Interest

As with all voluntary organisations, there is a tendency for some members to regard the office bearers of the organisation as paid public officials. In WBA, this tendency has been amplified by the importance which some whistleblowers attach to their own case. While benchmark cases exist, no whistleblower should regard their case as above the interest of others. We cannot assume a public interest role, and then subordinate the rights of others.

Fortunately, there are some exceptional examples of generosity within the organisation. In Victoria, the founder of the Victorian branch, Keith Potter, has unstintingly given his time to whistleblowers since the branch began in 1992. I first encountered Keith in early 1993 at the high(low) of my whistleblowing problem, and as for so many Victorian whistleblowers, before and since, found Keith one of the few counselling and consoling voices in difficult times. In June 1995, the Victorian branch launched the Skrijel case as a benchmark whistleblowing case. At that meeting, there were two new members, Peter McCartney and Judy Collins. No members have contributed more in in terms of time and commitment to Victorian whistleblowers over the last two years. Most of these efforts go unrecognised, yet it is these efforts in the public interest which will perpetuate the organisation.

3. Questionnaire

From November 1995 to January 1996, I distributed a questionnaire relating to the Labor government's recommendations regarding whistleblowing to approximately 50 whistleblowers throughout Australia. On January 27, I wrote to the then Minister For Justice, Duncan Kerr, with the results of this questionnaire. As these results have not been published before, I present them here. There were only 18 responses, which was disappointing. Nonetheless, the questionnaire represents compelling evidence that whistleblowers disagree, often strongly,with the central recommendations of the previous government with regard to whistleblowing .

A breakdown of some of the major recommendations of the government follows and the questionnaire response.

Q 1: The government rejects a national education campaign.

10 out of 18 whistleblowers strongly disagreed with the government rejection. The remainder disagreed.

Q 3: The government recommends Federal legislation.

All whistleblowers agreed.

Q 4: The government rejects the establishment of a Public Interest Disclosure Agency.

13 whistleblowers strongly disagreed with this rejection, and 4 disagreed.

Q 5: The government rejects extending the legislation to the private sector.

12 whistleblowers strongly disagreed and 3 disagreed.

Q 6: The government rejects extending the legislation to academic institutions.

14 whistleblowers strongly disagreed and 3 disagreed.

Q 7: The government rejects extending the legislation to the health care industry.

15 whistleblowers strongly disagreed and 2 disagreed.

Q 8: The government rejects extending the legislation to the banking industry.

11 whistleblowers strongly disagreed and 5 disagreed.

Q 20: The government rejects the need for a tort of victimisation.

14 whistleblowers strongly disagreed and 3 disagreed.

Q 28: The government rejects the committee recommendation that whistleblowers should have limited recourse to the media without being disentitled to protection.

13 whistleblowers strongly disagreed and 2 disagreed.

The results were transmitted to the government and media outlets in January 1996. They are still relevant today. Perhaps a new questionnaire should be implemented.

4. Lessons of the National Conference

In the October issue of the *Whistle,* an article appeared entitled *Tricky Dicky - where are you?* authored by Malcolm Barr. This article contains a number of factual errors, which should not remain uncorrected.

The speakers for the 1996 Conference program were determined by a National Committee across a number of sessions. Many people were invited to attend the conference, including by a letter sent to all names on the University of Melbourne Department of Criminology mailing list(which included a number of political science departments), by a letter sent to more than 200 community interest groups in Victoria, by an email sent to many members of Law and Legal Studies Faculties in Australia, and by a free advertisement in the *Labor Herald*, which I am advised reached 20,000 subscribers throughout Australia. In addition, I wrote to many whistleblowers throughout Australia. Contrary to Mr Barr's assertion, the Victorian Attorney-General, and indeed three representatives of her department, were invited to the conference, but none attended. The shadow Attorney-General gave his apologies. The representative of the Victorian Police was from Project Guardian (not Beacon) and I understand is a whistle blower.

Mr Barr suggests that disorganisation led to the disappearance of documents. Some documents were removed in the last hour of the conference, when I had left to prepare a media release. There are attendant risks associated with such conferences, and I accept that WBA must be suitably vigilant. However, I doubt that the problem could be sourced to disorganisation. The conference had over 80 attendees, covered costs (by more than $300), and received a considerable amount of publicity including ABC radio and SBS Television. A number of new members joined as a result of the conference. The feedback from attendees was generally extremely positive. The National Executive agreed on the Friday before the conference to write to the Prime Minister to seek a meeting to discuss whistleblowing issues. On July 29, I wrote to Mr Howard requesting such a meeting. Mr Howard's office declined the request for a meeting, suggesting we meet with the Attorney-General, Darryl Williams QC

In addition to acknowledging the efforts of the National Coordinating Committee, I would like to thank the Victorian members who provided assistance in the many organisational problems associated with the conference. In particular, I thank Ann Howard for considerable assistance, as well as Connie Cassar, Judy Collins, David Haskins, Tim Hutchison, Peter McCartney, Feliks Pereira and Keith Potter. Without the commitment of these people, the conference would have failed.

5. Resolutions of the National Conference

The National Conference on Whistleblowing held in Melbourne on the weekend of June 29-30 1996 passed the following resolutions,

which continue to be relevant. The organisation should reaffirm its commitment to these resolutions.

Resolution 1

The conference calls on the Federal Government to enact effective Federal whistleblower legisaltion, as foreshadowed in the unanimous recommendations of two bipartisan Senate Committees. In particular, we call on the Federal Government to establish a Public Interest Disclosure Agency and Board, and accompanying legislation with the widest coverage constitutionally possible both in the public and private sector.

Resolution 2

WBA will seek an urgent meeting with Prime Minister Howard in order to obtain a commitment to enact this legislation.

Resolution 3

The conference believes it is essential that a public education program be initiated to educate Australians as to the positive long-term benefits to society and organisations through the actions of whistleblowers. The positive contribution of whistleblowers needs to be recognised.

Resolution 4

The conference condemns the protracted delay and obvious anomalies and injustices in the case of Mr Mick Skrijel and his family. The conference calls on the Howard government to immediately establish a Royal Commission into the Skrijel affair as recommended by Mr David Quick QC. As a consequence, the conference supports the call by the former Chairman of the National Crime Authority for a Royal Commission into the NCA.

Resolution 5

The conference expresses its profound concern about the raid on Mr Alastair Gaisford's house in June 1996. Mr Gaisford has raised important issues, which have led to the paedophilia inquiry in the foreign service. The raid is contraryt to the protection measures which we seek for whistleblowers.

Resolution 6

The conference reaffirms the recommendation of the Chairman of the Senate Committee on Unresolved Whistleblower Cases that compensation be extended to Mr Bill Toomer.

The National Director comments:

1. I imagine 'true free speech' allows anyone to make any statement, true or not. *Free speech is the fundamental civil liberty upon which all other liberties depend and censorship in all its forms is incompatible with a free society* (refer Free Speech Committee brochure). The WBA is constituted to listen and to

provide support to those seeking to voice public interest concerns, to support them in seeking full and independent inquiries to determine the truth of their concerns and to protect them from victimisation in all its forms. The WBA is not constituted to form judgments as to whether allegations are true or false. It is not WBA's role to *prevent access to information and restrict people from seeing, hearing, or reading what is determined by others (even if they act in good faith) to be unworthy, threatening or dangerous* (paraphrased from the Free Speech Committee's brochure). Personally I devote my attention to those whose allegations I believe are worthy and likely to be true. I do not have time for those whose allegations seem less worthy of my attention but I try very hard to make sure I never act in any way which would amount to victimisation of individuals who come to the WBA seeking support i.e. by censoring their right to speak.

2. The majority of members of WBA **are** from NSW. This is as much as a result of the NSW Branch actively and successfully promoting whistleblowing and recruiting members as for the obvious reason of population.

3. No nominations to office-bearer positions within the WBA have been received from Victorian members despite repeated requests and invitations for nominations.

4. The chairpersons from each state are, and always have been, automatically members of the national committee.

5. The national executive has always been committed to promoting Federal legislation, a public education program and benchmark cases in each state. There already is a web site and a data base and there are numerous research projects going on all over Australia.

The efforts of anyone who is willing and able to donate their time to furthering the aims of the WBA are more than welcome.

Speech by the member for Wills, Kelvin Thompson in the House of Representatives on 22 August 1996

From HANSARD

I rise in this place to urge the government to pick up the threads of protection for whistleblowing in the public interest. I refer the House to the reports of the Senate Select Committee on Public Interest Whistleblowing of 1994 and 1995 and , in particular, their recommendation that the practice of whistleblowing should be the subject of Commonwealth legislation to facilitate the making of disclosures in the public interest and to ensure protection for those who choose to do so. In the then government's response of November 1995 that recommendation and quite a few others, let me say, from the Senate select committee were agreed to. This needs to be something that does not drop from sight, particularly in

the light of ongoing revelations about the mistreatment of whistleblowers.

I draw the attention of the House to the sad fate of Victorian Constable Karl Konrad. For those who are not aware of this case, Karl Konrad joined the Victorian police force in April 1993. In March 1994 he moved to Moorabbin police station. In September he reported to a superior that police officers were taking kickbacks from shutter companies for tip-offs about jobs. He indicates that harassment began the day he filed his complaint: his car was vandalised in the car park of Moorabbin police station. In March 1995, a year later, Karl Konrad took details of the window shutter scam and harassment to the police ombudsman's office and a month later he was forced to go on stress leave because of harassment. In September he went public with claims of corruption and details of the window shutter affair.

Precious little was done in relation to the window shutter affair and in mid-January this year Karl Konrad released a tape recording of an interview with the head of the Internal Investigations Department, chief superintendent Tom McGrath, who admitted the existence of a 'brotherhood' which protected corrupt officers. For his trouble, in February the police laid disciplinary charge against Constable Konrad for speaking to the media! He was fined $1,000 and some three weeks ago he was dismissed from the police force. The fate of Karl Konrad is a salutary reminder that we live in a society in which whistleblowing is a risky business.

I am indebted to Anthony Forsyth, who is now a staff member of the member for Hotham (Mr Cream), for the work he has done on the need for whistleblower protection, and I intend to draw on some of that work. Whistleblowing might conveniently be described as the disclosure by an employee of information relating to some form of wrongdoing by or within the organisation in which the employee is employed, usually in the public sector. It has long been suggested that the whistleblower should, as a matter of public interest, enjoy some form of protection from adverse treatment, retaliation or discrimination by employers about whom the information has been disclosed. This suggestion raises the need for balancing of the public interest in disclosure of such information, particularly in the context of employment relationships.

We need to see in this country legislation protecting public interest whistleblowers. The position at common law is that employees have an obligation of confidence to their employer. In the context of any employment relationship, any disclosure of information by an employee acquired during the employee's employment will quite likely constitute a breach of that employee's obligation of confidence. Theoretically, employers can bring a common law action against the employee for breach of that obligation. While the law will protect from disclosure of information that is truly confidential, it will allow disclosures in some circumstances in the public interest. To satisfy the public interest test, disclosures have to be considered to relate to a matter of 'serious concern and benefit to the public'.

The situation is far from being simple and the possibility of facing an action in civil courts for breach of confidentiality may well be

sufficient to prevent many would-be Public Service whistleblowers from coming forward. Reliance on that public interest exception to the duty of confidentiality in employment relationships as a basis for going public with revelations of graft, corruption or mismanagement in government is presently fraught with difficulties and uncertainties.

We are all familiar with the culture of fear and retribution that dominated Queensland's political life until the release of the Fitzgerald report on Public Administration and Criminal Justice back in July 1989. It was a central tenet of the Fitzgerald report that;

There is an urgent need.....for legislation which prohibits any person penalising any other person for making accurate public statements about misconduct, inefficiency or other problems within public instrumentalities.

Regrettably, Victoria is going the same way. Premier Kennett's speeding at 143 kilometres per hour, which should have resulted in an automatic loss of licence but, instead, resulted only in a fine, demonstrates the slide towards corruption. So does the treatment of Constable Karl Konrad.

It is little wonder that public confidence in Victoria's police force has recently been measured at an all-time low. The need for a legislative scheme of general application cannot be understated. Not only are there benefits in terms of protection for those who do come forward but benefits also flow from the creation of a culture which encourages rather than suppresses the disclosure of information.

Legislation raises a number of practical issues. First, what matters should constitute wrongdoing for the purposes of whistleblowers' protection legislation? They are the infringement of law, corruption, misuse or waste of public money, abuse of authority or position, and endangering public health or safety.

In the South Australian Whistleblowers Protection Act, public interest information is described as illegal conduct; irregular and unauthorised use of public money; substantial mismanagement of public resources; conduct causing a substantial risk to public health or safety or the environment; and, finally, in the case of a public office, maladministration in the performance of public functions.

Secondly, there are procedural issues. Disclosure needs to be made to a proper authority in order to attract the protection of the legislation. The South Australian Whistleblowers Protection Act also requires the person making the disclosure to believe that the information is true or believe on reasonable grounds that it may be true. The disclosure also has to be made to a person to whom it is reasonable and appropriate to make that disclosure. That will generally be a minister of the Crown but, where the information relates to illegal activity, the appropriate authority is the police force; where it relates to irregular or unauthorised use of public money, the Auditor General; and where it relates to a public employee, the commissioner of Public Employment, and so on.

The NSW Protected Disclosures Act 1994 offers protection to voluntary disclosures by public officials made to appropriate investigating authorities. So, for disclosures concerning corrupt conduct, the appropriate authority will be the Independent Commission Against Corruption; for those relating to maladministration, the appropriate authority is the Ombudsman; and for those dealing with serious and substantial waste of public money, the appropriate authority is the Auditor General.

Finally, what type of protection should be offered? It is my view that the principal protection that any legislative scheme of whistleblower's protection ought to offer is that against any reprisals or acts of discrimination which might follow the making of disclosure, such as disciplinary action, demotion, or termination. The legislation should also provide whistleblowers with a general immunity from civil or criminal liability and protect them from any potential claim or demand.

I would urge the federal government to take action, in the light of the Senate committee reports and in the light of the government's response of November 1995. I think it is possible to make a more robust response than the government's response. but , in any event, there is plenty in that response for this government to take up and act on.

I would urge the government to act on the ongoing evidence coming from the Konrad case, which is a Victorian case, and from others for the need of this kind of protection. All too often we hear it said that, when someone comes forward in the public interest with information about corruption, the only person who suffers is the person who makes the disclosure. Many whistleblowers have commented subsequently that they regret having come forward because they are the only people who have suffered for their displays of honesty, integrity and pursuing probity and higher standards of public conduct. So it is necessary that this kind of legislation and change does not slip below the surface, and that the government takes appropriate action at the earliest opportunity.

Meaning lost in corporate world

Democracy and capitalism have been edged out by corporatism, but many of us are yet to catch on

By JOHN RALSTON SAUL

Our civilisation calls itself democratic, but is in reality corporatist. A corporatist state is one in which legitimacy does not lie with individuals acting together as citizens - responsible individualism - but with interest groups and specialist groups. In spite of the rhetoric of the marketplace which has invaded every sector of society, corporatism is about power through structure. It is not about profits or competition.

The corporatists are truly in power today, in every way, at every level. The confusion over what is left wing, what is right wing, so common in political parties today, is an illustration of how corporatism has become our sole way of imagining and running society. The political debate has become so corporatist, so technocratic, so artificially complex, that most citizens cannot find their way into the public debate.

It is as if the language of debate over issues no longer has any purchase on issues, as if our language no longer enables us to identify reality. Everything is rhetoric or specialist dialects. And thus our debates circle around the illusion of absolute solutions to our problems - solutions which are presented as inevitabilities.

It used to be that when we were presented with absolutes and inevitable solutions to our problems, we immediately said "but that is ideology" or "that is religious superstition". Today, disguised as it is in the cloak of rationality and expertise, we passively accept ideology. Suddenly, to be absolute and inevitable is taken to be a sign of disinterested common-sense.

We are told that a "level playing field" will open up the marketplace thanks to deregulation. The whole vocabulary is that of manly struggle on the sports field. But sports is a totally regulated activity - number of teams, size of teams, rules, time, penalty, uniforms. In other words, a level playing field is actually accomplished through strict regulation in order to ensure that competition works and continues to work over long periods without boom and bust cycles.

"Efficiency" has become the legitimising word of our time. Where once we dropped in "by the grace of God" and still drop in some version of "reason", we have now pushed the concept of efficiency into a leadership role for our civilisation. But efficiency is little more than a foot soldier of reason, which is in itself little more than a mechanistic tool. Efficiency should be what you check on after you have set the direction of society and decided on how you want to live and put your governing structure in place.

Efficiency is little more than a useful shop floor mechanism. It has nothing to do with the expansive, creative, democratic process. A civilisation which insists in seeing itself through the eyes of efficiency is voluntarily reducing itself to a low level of intelligence - so low that it eliminates thought.

Privatisation, for example, is now trumpeted every where as the great solution to relaunching the marketplace. In truth, public ownership and private ownership are merely tools to be used in a pragmatic way in the best interests of the society.

But the believers in privatisation are particularly interested in shoving the basic infrastructures if society into the world of competition - water, electricity, transport, mail and so on.

However, this is profoundly anti-capitalistic ideology. After all, these infrastructures are fully developed, highly conservative areas of activity. And there is a limited amount of money available for real investment in the marketplace.

What privatisation of basic infrastructure does is remove enormous chunks of capital and capitalist energy from investments in new ideas, new growth, real risk and competitive activity. Instead this money and activity are locked away in the serene, staid activity of coupon clipping.

The privatisation of basic infrastructures slows down the economy. makes it less effective, even backward-looking.

Why then is the marketplace so enchanted with this sort of privatisation? Because it is not a marketplace and the players are not capitalists. They are technocrats. Managers of large private structures. They don't like capitalism, risk, new investments or creativity. They are frightened by capitalism. They would rather buy the work of others. They are corporatists of the purest sort.

This article was first published in the Sydney Morning Herald's opinion column on 21 March 1997.

"We've got to stop them treating us like fools" John Ralston Saul, author of The Unconscious Civilization *(Penguin)*.

FROM THE NATIONAL DIRECTOR

Update on campaign to amend the ILO Convention 111

After many months of behind the scenes effort by Isla McGregor, the Commonwealth Public Sector Union (CPSU-PSU) Group National Executive on 20 March 1997, endorsed the following policy:

Public Interest Disclosure and Dissent

National Executive reaffirms its support for the findings of the Senate Select Committee into Public Interest Whistleblowing and:

* endorses the committee's view that Public Interest "whistleblowing is a legitimate form of action in a democracy",

* retains the view that public sector employees have an obligation to act upon knowledge of corruption, maladministration and fraud; and a right to privately or publicly dissent from government policy and practices'

* believes the rights of members who are affected by allegation or investigation arising from public interest disclosures should be protected, and

* confirms that the rights of members to participate in properly determined union industrial action and activity should also be protected.

National Executive directs the Joint National secretary to:

* begin discussions with HREOC and the ACTU to support an amendment of ILO Convention 111, Convention concerning Discrimination in Respect of Employment and Occupation, Article 1,1(a) by the inclusion of "public interest disclosure" and "freedom of speech in workplaces" consistent with the International Covenant on Civil and Political rights, Article 19; and

* provide appropriate guidelines, advice and training to workplace delegates in the handling of disclosure and dissent cases.

Isla has spent many years campaigning for the right of free speech for state public servants. That she, together with Geoff Dannock and Matthew Reynolds, has got the CPSU to actively take on board the issues of free speech, whistleblowing and dissent as basic rights of employees is a major achievement.

Readers who are currently dealing with their union should ask them if they have a policy on whistleblowing and suggest they consider adopting one along similar lines to the CPSU's.

There will be more on this campaign in the next issue. Further information can be obtained from Isla on 002 391 652.

'This is not normal real estate, this is an example of pure greed' says John Newland

For those who may not be aware, in recent months there has been a major campaign in NSW against the both developers and government over a building at Circular Quay which has obstructed views of the Sydney's world famous icon, the Opera House. It seems the development was commenced without adequate community consultation, or despite the community's wishes. What is probably Sydney's prime piece of public land has been sold for private use and, obviously, profit. Outrage in the community has been so strong that the *Sydney Morning Herald* has recently published probably more letters about this issue than any other. At least one whole letters page has been devoted to the issue. I can only remember this happening previously for the issues of euthanasia and gun control.

What, readers may ask, has this to do with whistleblowing?

A major contributor to the publicity about this issue is John Newland. John is a TAFE teacher who has spent almost a year's salary on advertisements in Sydney's major newspapers identifying the problem and detailing protest rally dates. A copy of his latest contribution to a campaign which is very much in the public interest is reproduced below.

To me it represents a most innovative way of bringing a matter to the attention of the public and publicising a call for action which is what whistleblowing is all about. I would call it whistleblowing in most spectacular fashion.

John's endeavours have contributed to a recent major focus on the failings of Sydney's planning processes. His endeavours have also lead to a raising of public awareness of how our governments appear to attach more importance to the private interests of

developers and profit, at the expense of the public interest in maintaining open space and views for everyone.

As the WBA always says, 'going public' is your best hope of getting action. The NSW Government and the developers are now saying that they are prepared to talk to each other about alternative options although each is saying they are waiting for the other to intiate such talks. Gosh, it takes an awful lot to move the bureaucracies these days!

Additional Meetings in Victoria

Neville Ford and Mick Skrijel are convening additional meetings for whistleblowers in Victoria. These will occur on the first and third Saturday each month at 4.00 pm at 80 Gray Court, Rockbank & Melway. The meetings on the first Saturday are intended to facilitate discussion of individual cases so that people can share experiences and learn from each other. The meetings on the third Saturday are intended to be formal business meetings, to discuss proposed action and hear reports from members. An urgent issue is to discuss action required to gain a judicial inquiry into police corruption in Victoria as evidenced by Karl Konrad's whistleblowing on the window shutter scam and other revelations. Transport might be available by contacting Neville Ford on 03 9560 8276. Attendees are asked to bring along a plate of goodies for afternoon tea.

National Committee to meet in June

The WBA National Committee will be meeting on 14 June to discuss campaigns, plans and policies. All members are welcome to suggest issues to be discussed at the meeting. Contact any national committee member with your ideas. Like last year, on major policy matters the committee is likely to make recommendations for the annual general meeting, which will be held later in the year. A report of the committee meeting, and any recommendations, will be reported in The Whistle in advance of the AGM.