

"All that is needed for evil to prosper is for people of good will to do nothing." Edmund Burke

The Whistle



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MEDIA WATCH

Academic fears uni reprisal

By Debra Aldred, Courier-Mail, 8 July 1998, p. 9

Free speech campaigner and reinstated academic William De Maria expects fresh charges of misconduct to be brought against him by the University of Queensland.

He believes the charges will come within three months of UQ being found in contempt of parliament over his suspension last year.

Dr De Maria has accused UQ, and universities in general, of being unaccountable, for using backdoor tactics to silence academic criticisms and concerns.

"We now have systemic censorship operating whereby academics are just too scared to speak out," he said.

"Academics can take free kicks against Pauline Hanson until the cows come home and not fear any retribution.

"But if they want to talk about corruption in the government, which the university has to have close relationships with, or indeed corruptions within universities themselves, then the whole ball game changes."

Last Tuesday, the Senate Privileges Committee found UQ in contempt for using documents tabled in the Senate to justify its suspension of Dr De Maria on July 8 last year. The university also began an investigation into misconduct by Dr De Maria.

The documents, tabled by Senator John Woodley on behalf of Dr De Maria, included accusations against UQ staff members and students, as part of the academic's ongoing commitment to whistle-blowing practices and the protection of whistle-blowers.

The parliamentary contempt charge is the first against a university and only the ninth since the Federation of Australia in 1901.

Dr De Maria received a letter of reinstatement from the university last Thursday and the misconduct investigation was dropped.

"At one level it's a victory but it's a victory at a terrible cost," Dr De Maria said. "I swear I will be up on new charges in three months and they will do it in such a way that I can't refer the matter back to the Senate."

UQ senior deputy vice-chancellor Professor Ted Brown said the university would not have instituted the course of action to suspend Dr De Maria had it believed it was in contempt of the Senate.

When asked if new charges would be laid, he said: "We are not going to attack him.

"We have nothing to gain by doing so."

Dr De Maria said the role of the academic as a dissenter and social critic was collapsing in favour of a new self-centred breed as universities became business sites instead of centres of learning.

He said the Senate Privileges Committee's decision to find the university in contempt reaffirmed every individual's right to come forward with information without fear of reprisal.

Professor Brown said the university categorically rejected the version of events described in Dr De Maria's documents tabled in the Senate. □

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Honesty means tough time

By Lin Fong, Melbourne Yarra Leader, 22 June 1998, p. 9

A sense of duty at work can result in persecution,
but support is at hand for those who inform.

The lot of a whistleblower is an unenviable one. According to Neville Ford, a national committee member of Whistleblowers Australia, the cultural aversion to "dobbers" means blowing the whistle is not rewarded with praise, but reprisals.

He says the consequences of informing can either make or break the person.

Whistleblowers are subjected to intimidation tactics ranging from death threats and stalking to surveillance and phone tapping.

If the person remains within the job culture they are informing on, they can be isolated from other staff, abused and referred for psychiatric assessment.

In the high-profile case of former South Australian cray fisherman Mick Skrijel, his house was burnt, his boat destroyed and his family threatened. He also spent six months in jail.

The message can be delivered in other ways: a dead animal left on the door step, a pile of cigarette butts outside the window. Ultimately, the aim is to pressure the whistleblower into giving up their campaign.

Mr Ford says Whistleblowers Australia was set up in 1991 to allow people to speak out about corruption, dangers to the public and the environment and other social issues without fear of reprisals or persecution.

Since its formation, it has lobbied for whistleblower protection legislation and offered support and friendship to its members.

In the Victorian branch, there is a core of about 10 whistleblowers who meet once a month in East Melbourne.

"At the first stage, many whistleblowers try and do their job honestly and don't realise how deep the corruption is," Mr Ford says.

"We'd like to think things are changing and we are ever confident that if we stick to it, we will get legislation."

Christina Schwerin, the national committee's junior vice-president, says people who make the decision to blow the whistle usually have no idea what they are getting into.

"It's like an avalanche falls on you — you don't realise how many people are involved," she said.

Whistleblowing is defined in the US Whistleblower Protection Act 1989 as occurring when an employee reveals information that proves a violation of law or "gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety." According to Dr Jean Lennane, a psychiatrist and member of Whistleblowers Australia, the effects are devastating.

There are economic costs for public inquiries, the disasters that could have been

averted and corruption and mismanagement in both the public and private sector.

Whistleblowers face job loss or demotion, lawsuits or loss of the family home and become stressed, depressed and even suicidal.

The Victorian Whistleblowers meet at 2pm on the first Sunday of every month at Melbourne Unitarian Peace Memorial Church at 110 Grey St, East Melbourne. For more information call Neville Ford on 9560 8276.

Making stand to uphold the law

As far as whistleblowing goes, Bill Toomer is an old hand. He became a whistleblower in the early 1970s at a time when the word wasn't even used in Australia.

Earlier this month, his 25-year battle against the Federal Government ended with a final hearing at the Federal Court. Mr Toomer was forced to withdraw his action because he did not file the original statement of claim within six years.

He has lost everything — his family, his house and his job. Justice has been elusive but like other whistleblowers, he has persisted because of his faith in the system.

"Nothing's been done to fix the past or the future," he says.

"When you get into a conflict like this, the first thing you lose is the capacity to make a living, to be a provider for the family, then your capacity as a husband and father."

"In some ways, it becomes easier if it gets to the stage where you lose everything — you become dangerous opposition."

Mr Toomer's story has been told publicly many times. Put simply, the former senior quarantine inspector for Western Australia tried to enforce accepted standards of ship inspection and fumigation.

He said other senior public servants sidestepped quarantine laws to protect foreign shipping interests.

Mr Toomer continued to uphold the laws. What followed was a series of disciplinary actions that ultimately led to his demotion and transfer to a remote area in Port Hedland.

He was forced to undergo psychiatric examination and was suspended from duty for nearly a year on the grounds of mental imbalance. His superiors were later found to have misused psychiatric examination as a method of solving a so-called administrative problem. Mr Toomer was then transferred to a specially created non-shipping position in Victoria.

After going public with his story, Mr Toomer and his family were subjected to continued harassment until he was pressured to retire in 1980.

There have been about 14 inquiries into the Toomer affair. The three held by bodies independent of the public service, including the Administrative Appeals Tribunal and the Senate Committee on Public Interest Whistleblowing, have exonerated him from wrongdoing.

In 1995, the senate committee found Mr Toomer had suffered greatly as a result of "incorrect decisions and poor administrative procedures and, despite the length of time that has passed, he should at least be exonerated from the findings against him with due consideration being given to compensation."

A founding member of Whistleblowers Australia, Mr Toomer, who lives in the bush near Wedderburn, says whistleblowing is like being in a "one-act play".

"It's very destructive," he says.

"I've become a very cynical but more realistic person. No government of any persuasion yet has done anything to genuinely assist whistleblowers to help this country." □

Courage in casualty

By Graeme Brazenor, Herald Sun, 9 July 1998

Doctors blowing the whistle on public hospital problems deserve our support.

The public patient in the state of Victoria does not have a friend in the world.

That's not quite true: conscientious and courageous surgeons such as Dr Peter Field continue to be advocates for their patients, in the face of hospital managements turned intransigent by tight budgets.

But doctors and nurses within the public health system are loath to speak out publicly for fear of reprisals. Raise your voice in public health in Victoria, even as a matter of conscience, and it will very likely cost you your job.

Perhaps most regrettable is the fact that

when disgraceful conditions are revealed, little is done.

I read Dr Field's memo, leaked yesterday to the press, with great interest. In it, he alleged waiting lists for vascular surgery at the Royal Melbourne Hospital were so long that patients were suffering complications while waiting.

But sadly, the phenomenon he describes is just the tip of the iceberg. At every level of care within our public hospital system, cutbacks in resources are being felt by the community to greater or lesser degrees.

To give one example:

I was sent a letter a few years ago by a local doctor, who in counselling a middle-aged woman found that her depression had been brought on by her experiences in visiting her chronically ill daughter — often a patient of the Royal Melbourne Hospital.

During these visits, the woman claimed that the elderly patients in the same ward as her daughter were no longer being fed.

She said a hospital worker would place the tray in front of these elderly people and take it away untouched.

Staffing levels were so insufficient that no one was able to help feed these disabled and debilitated patients.

The woman's doctor was so impressed

by the veracity of her account, and so horrified by its implications, that she wrote to the management of the hospital, but it was difficult to tell from the reply whether the claim had been taken seriously.

In the absence of a meaningful audit, we simply do not know the extent to which cutbacks are producing misery, morbidity and mortality within the system.

The famous audit of "Patient Satisfaction" volunteered by the Department of Human Services is ludicrous in this regard.

Change is impossible while a climate of fear continues to exist in Victoria's public hospitals.

Reprisals for speaking out are the rule.

When cardiac surgeon Mr George Stirling (who advanced open heart surgery in Victoria) wrote a letter of conscience to newspapers in the 1980s, protesting that patients on his waiting list were dying because of a cut-back in resources, he was carpeted by the board of a major hospital and informed that a further letter like that would be more than his job was worth.

Similarly, three top-class hospital executives at a public hospital in the inner suburbs were told to not even bother applying for new positions in another organisation after they spoke out.

The last time I went public while still an employee of the North Eastern Healthcare Network, a letter was hand-delivered to my home on the Friday night demanding my resignation by the close of trade on the Monday.

My guess is that a similar climate exists within Health and Family Services.

Men and women in that department, charged with the responsibility of maintaining services for public patients, have, to my knowledge, remained unremittently silent while observing falling standards and declining budgets during the period of the Kennett government.

People in authority no longer seem to care.

I congratulate Dr Field on even writing his memo.

In these troubled times, conscientious surgeons like Dr Field are about the only remaining advocates for the public patient.

And it seems unless our politicians finally wake up to the magnitude of the problem and ask someone other than administrators how to address it, the weak will ultimately have to fend for themselves.

Graeme Brazenor is a neurosurgeon and Victorian chairman of the Australian Association of Surgeons. □

Blowing the ethical whistle

By Amanda Tattam, Australian Doctor, 31 July 1998, pp. 31-32

Medical practice will never be the same again after Bristol, according to Dr Steve Bolsin, the Australian-based anaesthetist who exposed high mortality rates in children undergoing cardiac surgery at the Bristol Royal Infirmary in the UK. Could it ever happen here, and is it ever possible for doctors to expose malpractice without jeopardising their careers?

When Dr Steve Bolsin's two former surgical colleagues were found guilty last month of serious professional misconduct and struck off, he knew his eight-year crusade about poor surgical outcomes had been vindicated.

But despite his celebrated role in the world's largest medical disciplinary case, he feels no elation and is puzzled by the label "whistleblower".

His stance may have saved children's lives, but it effectively ended his career in the UK.

After years of raising concerns, Dr Bolsin felt his career was in deep trouble there, so in 1996 he immigrated to Australia.

He is now the director of anaesthesia and peri-operative medicine at Geelong Hospital in Victoria.

The case

On 18 June, the UK General Medical Council found senior cardiac surgeon Mr James Wisheart, a former medical director of the United Bristol Healthcare Trust, and chief executive Dr John Roylance were guilty of serious professional misconduct.

The two, now retired, were struck off the medical register for either operating or

allowing operations on children with heart conditions to go ahead between 1990 and 1995, when they knew the unit had a higher than average mortality rate.

A third cardiothoracic surgeon, Mr Janardan Dhasmana, was banned from performing cardiac surgery on children for three years, but is allowed to operate on adults.

Dr Bolsin was a key witness in the nine-month hearing.

"We are not talking about the length of a scar, we are talking about babies dying and I wanted to see the end of it as soon as possible," he told the council.

The council examined the cases of 53 babies, 29 of whom died when undergoing surgery for arterial switches or to correct atrioventricular septal defects in a five-year period.

But, according to Dr Bolsin, this was only the tip of the iceberg.

"This has been going on for 20 years and they [the GMC] only looked at two [types of] operation."

How it started

Soon after arriving at Bristol, Dr Bolsin began to suspect something was wrong.

The paediatric cardiac cases he was

involved with were taking a lot longer than usual.

He questioned this and discovered an annual report claiming the mortality rate with one procedure was 54%, compared with a national average of 14%.

He started asking questions and was at first reprimanded by Mr Wisheart.

His concerns were ignored and another colleague later told him that if he pursued his investigations, his career would be affected.

"Control was held by one person and no-one felt able to challenge him because of the system of patronage," Dr Bolsin says.

The subtle warnings became overt threats.

"I went through an appalling five years at Bristol, but I tried to work within the system to achieve change, so that is why I don't think I am a whistleblower.

"I went to the Royal College of Surgeons and the Royal College of Anaesthetists, the Trust, and the professor of cardiac surgery."

Dr Bolsin says it was only when the UK Department of Health was notified that the story got out to the media — he did not go to the press directly.

It was when the information was in the public domain that things started to get real-

ly nasty.

He felt he had no alternative but to get out — the fate of many people who expose serious misconduct.

Exposing misconduct

Whistleblowers Australia, an organisation set up to advise people who want to expose malpractice, often recommends going public via the media rather than labouring away within bureaucracies.

But Dr Bolsin believes this tactic is a double-edged sword.

"Going public does not solve all the problems, and it creates some," he says.

He is now hailed as a hero by the UK media, and an MP wants him to be honoured with a special award.

But Dr Bolsin is keen to pursue his vision of clinical audit throughout the medical profession, rather than remain in the spotlight.

As a result of the case, UK clinicians, particularly cardiac surgeons, will face more rigorous clinical audit.

Dr Bolsin believes this will be inevitable in Australia too.

However, while he believes that dealing with under performing doctors is a difficult issue globally, he says the professional misconduct uncovered in Bristol is less likely to happen in Australia.

"Firstly, there is more robust peer review here, and secondly, there is not the same system of patronage that there is in the UK."

He argues strongly for a system where all medical practitioners have their performance audited regularly via the colleges and training systems.

He says medical students and younger doctors should be educated so they appreciate the importance of mandatory data collection and open scrutiny of their performance.

They should not feel threatened by it, but see it as a constructive way to improve practice.

More than ever, he is mindful that the medical profession is unforgiving of its internal critics.

"I'm sure I am not seen as a hero by large sections of the British medical establishment.

"To be quite honest, I do not think I would be welcome back in Britain."

Despite the heavy price he has paid, he says he would do it all again.

The perils of whistleblowing

Psychiatrist Dr Jean Lennane, the vice-president of Whistleblowers Australia, says those who expose malpractice, fraud or wrongdoing rarely come out unscathed and their lives are altered irrevocably.

William De Maria, author of *Deadly Disclosures*, a guide to whistleblowing in Australia to be published in September, says doctors have a particularly difficult time when exposing wrongdoing in a colleague.

This is because of the "collegial defence mechanism" in medicine, commonly known as closing ranks, which is still alive and well.

Mr De Maria, a lecturer in the department of social work and social policy at the University of Queensland, admits it is hard to find a positive story about a whistleblower who has escaped unharmed.

Dr Lennane agrees.

"People survive, but they are unlikely to survive the same way they did before."

She says most whistleblowers are conscientious people with sound work records who don't have a history of bucking the system.

They may be newcomers or locums in a facility, who are more likely to notice if things are out of order — the Health Insurance Commission confirms that locums seem more likely to expose Medicare fraud.

"Your average whistleblower is not an activist," Dr Lennane says.

This is why the repercussions of whistleblowing are so devastating to these people: they don't court confrontation.

The consequences are particularly serious for people who stumble across a small fraction of corruption in an organisation that is riddled with it.

"If someone starts looking properly, then they [senior people] think, 'who knows

where it will stop'. Once you start to look into it, it is not confined to where you can see the problem, but goes right to the top."

This is why those who stand accused will go to extraordinary lengths to silence the whistleblower, she says.

Five Australian states and territories have legislation designed to protect whistleblowers, but it is dangerously unsophisticated in its response to the experiences and vilification that whistleblowers endure, Mr De Maria says [*Alternative Law Journal* 1995: 20:270-78].

He believes the legislation is an exercise in damage control because whistleblowers are feared — they refuse to "trade ethics for expediency and can do big damage to vested interests in politics and bureaucracy".

Impact of the Bristol case

Even though the case is over, Dr Bolsin predicts the doctors who have been found guilty are likely to face litigation by the children's parents and will be in court "for most of the rest of their lives".

In an attempt to address several issues, the UK Government has ordered a public inquiry into other medical practitioners in Bristol — including GPs and anaesthetists who cared for children with cardiac conditions.

An article in the *British Medical Journal* [1998:316:1757] describes the case as the most significant this century, and says there are still unanswered questions.

". . . Why weren't the surgeons . . . stopped from operating on young children once their poor results became widely known? Immediate colleagues, their employer, the Royal College of Surgeons and the Department of Health all knew — or had been told — how badly they were doing," it says.

The article says professional self-regulation is in great need of resuscitation, otherwise regulation will be imposed from without. "If future generations have cause to ask 'Who killed professional self regulation?' then the complicated explanation might be summarisable in the single word 'Bristol'." □

Biotech clampdown continues

By Stephanie Power, Capital City (Ottawa, Canada),
Issue 15, 30 July 30-5 August 1998

Biotechnology: Federal scientist files grievance against food safety gag order

In a struggle that will affect what food will hit your plate in the next millennium, the battle between scientists and administrators at Health Canada over biotechnology testing secrecy is growing more heated.

Dr. Shiv Chopra, a drug inspector with the department who was ordered this month not to speak at a community meeting on genetically engineered foods, has filed an

official grievance with Health Canada seeking to repeal the gag order and assert his freedom of speech.

Chopra, who has worked with the department for 28 years, is also appealing an official reprimand he received for appearing on Canada AM in June with Dr. Margaret Haydon, who works with him in the Human Safety Division of the Bureau of Veterinary

Drugs. The scientists told CTV reporters that Health Canada was succumbing to pressure from industry to approve drugs that were not passing the safety tests of the department.

Neither scientist will speak on the record now, for fear of consequences from the department, which has 10 days to respond to the grievance.

Franca Gatto, a representative of Health Canada, says the private nature of a grievance prohibits her from speaking about it and that none of Chopra's supervisors were available to comment.

But in an earlier interview with *Capital City* Robert Joubert, Health Canada's Director General of Human Resources, said if the department had been approached for a speaker, they would have found someone more suitable to present information on genetic engineering. Joubert said that the department was "of the opinion that Dr. Chopra was not the best person to do that."

Bureaucratic coercion

Chopra and Haydon were among five scientists in their division who filed grievances last year stating that they were being coerced into approving drugs without adequate safety information, including the highly controversial milk production stimulant bovine growth hormone.

Michele Demers, vice president of Chopra's union, the Professional Institute of the Public Service of Canada (PIPS), says Chopra's grievance is evidence of the need for protection for dissenting public servants, and is being taken very seriously by union officials.

"PIPS has been advocating for a number of years some form of whistleblowing legislation in order to allow public service employees to denounce unacceptable doings on the part of the department that have an impact on the public," says Demers, adding that the Liberals have failed to act on a 1993 promise to enact protections for whistle

blowers.

A spokesperson for blood groups in the blood scandal, Michelle Brill-Edwards worked for Health Canada for 15 years, during which she served as the senior physician responsible for prescription drug approvals. Brill-Edwards resigned in 1996, alleging that, faced with corporate pressure, the ministry was passing drugs that weren't safe.

"Dr. Chopra's experience is absolutely in character with the past history of the department. This is a department that is very vigilant in precluding any expression of professional opinion," says Brill-Edwards.

In Chopra's case, the public health issue that dare not speak its name – or that Health Canada employees dare not speak of, at least, for fear of official reprimand – is whether the Canadian government is testing genetically engineered foods thoroughly before allowing them on the market.

Spliced sequences

Genetically engineered or genetically altered crops are plants that have had sequences of DNA from other species spliced into them that would not naturally have been able to cross species – such as fish genes into agricultural plants for example – to make the recipient more resistant to pesticides, cold weather or other perils.

Critics of genetic engineering claim that its effects on human and environmental health have not yet been sufficiently tested and that, at the very least, products that have been genetically engineered should be labelled so that consumers can choose

whether they want to eat them.

Bruce Bilmer from the Office of Biotechnology at the Canadian Food Inspection Agency says Health Canada tests all genetically engineered food for safety and then decides which of those foods should be labelled.

"There is mandatory labelling in Canada for foods that may have a safety difference or that have undergone significant compositional or nutritional change," says Bilmer.

Health Canada information indicates that the department has thus far approved for the market the Flavr Savr Tomato, genetically modified corn, genetically altered Roundup Ready Soybeans and genetically altered New Leaf potatoes, among other genetically modified crops.

Richard Wolfson of the Consumers Right to Know Campaign, the group that invited Chopra to speak, says not testing such radical gene alterations over a longer term before allowing products on the market is a dangerously nonchalant attitude.

"The scientists are dealing with a very limited paradigm when they say that they insert one little gene and doesn't affect anything else because we just don't know enough about gene interactions to say that. We don't know what the long term effects are, particularly in terms of allergies and long term toxicities," says Wolfson.

Wolfson and Public Working Group on Food Concerns have been meeting at the YMCA on Argyle for the past three weeks and are planning events at local grocery stores and farmers' markets to lobby for the labelling of all genetically altered foods. □

An Obligation to Blow the Whistle?

By Sharon Beder (First published under the title "Your ethical obligations go further than you might think," *Civil Engineers Australia*, July 1998, p. 56.)

Are an engineer's ethical obligations discharged once they report their concerns to their superiors? Should an engineer feel that their ethical duties have been fulfilled when they have warned their employers of dangers to public welfare, health and safety, even though those employers have not acted on that warning? Can ethical obligations be transferred to others so easily?

Not according to the US National Society for Professional Engineering (NSPE) in a case involving a city engineer. * The engineer was the most senior engineer working for the city council, reporting directly to the City Administrator. The engineer was responsible for waste disposal and had informed the City Administrator and some councillors that the city's waste disposal plant could not adequately handle the waste flow during rainy periods. In such circumstances there was a legal obligation to inform the state water pollution control authority of the situation.

Upon being informed of the situation the City Administrator transferred responsibility for the plant from the engineer to a technician and the engineer was instructed not to discuss the matter further or she would lose

her job. The pollution control authority was not informed. During the following months storms occurred which caused the plant to overflow into the river which was a water supply to others downstream.

The NSPE Board of Ethical Review found that the engineer had not fulfilled her ethical obligations: "where an engineer determines that a case may involve a danger to the public safety, the engineer has not merely an 'ethical right' but has an 'ethical obligation' to report the matter to the proper authorities." In this case the Board determined that reporting the situation to the City Administrator and members of the council was not sufficient.

"It is clear under the facts of this case that Engineer A was aware of a pattern of ongoing disregard for the law by her immediate superior as well as members of the city council. After several attempts to modify the views of her superiors, it is our view that Engineer A knew or should have known that the 'proper authorities' were not the city officials, but more probably state officials (i.e., state water pollution control authority)."

The Board was also concerned that the engineer had allowed her "engineering

authority to be circumvented and overruled by a non-engineer" in such circumstances. It was aware that had she acted ethically the engineer would have risked losing her job but stated that to not act in that way was to ignore the code of ethics and jeopardise the standing and interests of the profession.

The Institution of Engineers, Australia guidelines on whistleblowing also state that when public safety is threatened or unethical policies are involved, engineers have "a responsibility under the Code of Ethics to ensure that such practices are brought to the attention of those with direct authority to rectify the problem or, if the warnings are not acted upon, to raise the matter elsewhere".

Clearly the new engineer, the ethical engineer, takes full responsibility not only for their own actions but also for what they know. They are prepared to act on their own judgement of what is best for the community, whether or not they are supported by their employers in this. This is where ethics go beyond legal obligations and why they are necessary despite the existence of a legal framework of protections. Engineers are not only entitled but also obliged to

report their concerns to the appropriate authorities.

* The details of this case are available on the internet at <http://web.mit.edu/ethics/www/nspe/nspe88-6.html>. The opinion cited here is based on data of a particular

case submitted to the Board of Ethical Review and should not be construed as expressing any opinion on the ethics of specific individuals in other cases. □

Dr Sharon Beder is associate professor

in science and technology studies at Wollongong University. Her books The New Engineer: Management and Professional Responsibility in a Changing World and Global Spin: The Corporate Assault on Environmentalism are available from EA Books.

Dobber's dilemma a double-edged sword

By Joe Catanzariti, Weekend Australian, 30-31 May 1998, p. 33

Honest employees who discover theft or corruption at work often face a difficult choice.

If they inform the employer or outside authorities, they risk being harassed and victimised by their workmates or even from management. If they do nothing, they feel morally uncomfortable.

Too many take the soft option and ignore what is going on, conscious that Australians traditionally take a dim view of those who "dob".

Employees who make the difficult decision to disclose such conduct have become known as whistleblowers. Until relatively recently, the law offered these conscientious employees little help. For employers, the legal implications of whistleblowing are significant. Most jurisdictions in Australia have laws which offer whistleblowers some degree of protection — and some even provide for fines and imprisonment for people who victimise whistleblowers. Depending upon the particular jurisdiction, employees in both the public and private sectors can be protected, and there is a push to extend application of these laws to cover a greater

number of employees.

For employers, the disclosure of corrupt conduct can be a double-edged sword. Whistleblowers can be a valuable source of intelligence for senior management and can save the organisation thousands of dollars. Whistleblowing can also allow management to remedy corruption internally before it causes adverse publicity which might damage the organisation's reputation or even render the employer criminally liable.

The downside of whistleblowing for the employer occurs where the whistleblowers bypass internal systems of investigation and take their concerns directly to the media or outside authorities. To prevent such action, employers must establish systems whereby whistleblowers can put concerns to senior management confidently and without fear of retribution.

A good employment policy may include:

- A statement by the employer that corruption or theft will not be tolerated.
- A mechanism whereby employees can meet with management, in confidence, to

address their concerns.

□ Swift, reasonable and effective employer action to stop the corruption.

Several corporations actually require employees who know of corruption or theft to come forward and disclose it to management, or face disciplinary action.

While such policies are recommended, employers must be careful not to create a culture of fear or mistrust in the workplace. Managers must assure all employees that such policies do not reflect the belief that all employees are dishonest — but that they are designed to catch those few employees who stray.

Difficulties for employers can arise if whistleblowing is abused by employees to target their enemies or to address grievances they have with their employer. This is why the legislation in most jurisdictions provides penalties for whistleblowers who make knowingly false or misleading statements. □

Joe Catanzariti, a partner in the Sydney office of national law firm Clayton Utz, is an expert in workplace relations and employment law.

One small brave act, a big leap for police honesty

By Greg Bearup, Sydney Morning Herald, 14 July 1998, p. 3

A young probationary constable who gave evidence against a fellow officer yesterday is part of a "fundamental change" in police culture hailed by corruption fighters, from the NSW Ombudsman to Whistleblowers Australia.

The evidence delivered by the probationary constable, code-named G1, to the Police Integrity Commission was not earth-shattering. But his willingness to take the stand was significant.

G1 and his partner, a senior constable, had witnessed a bag snatch in their Kogarah patrol. He didn't think much of it until a few months later when he was about to give evidence about the robbery in court, only to find his signature had been forged on a police facts sheet — albeit with the wrong spelling.

"I was concerned that the matter was due for hearing in a couple of days and I was not prepared to enter the witness box and say that the statement was mine," G1 told the hearing.

He went immediately to his superiors and reported his colleague. The Ombudsman, Ms Irene Moss, praised a change in

culture since the royal commission into police corruption.

Previously, she said, police had failed to report colleagues for fear they would be ostracised and that nothing would be done.

"I think that while there is a long way to go, we are seeing the beginnings of a fundamental change in police culture," Ms Moss said. Her office was seeing a shift due to the

"... whistleblowers
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their careers than
those they exposed."

success of the internal witness program, positive changes in training and the effect of the royal commission.

Dr Jean Lennane, from Whistleblowers Australia, said she had seen a "huge change" in younger officers willing to report colleagues and senior police ready to

take the complaints seriously. Also a member of the NSW Police Internal Witness Advisory Council, Dr Lennane said a study conducted for the council showed for the first time that whistleblowers were doing better in their careers than those they exposed.

The study, yet to be released, measured work performances such as sick leave, workers' compensation, career advancement and exit from the service of about 80 whistleblowers — and compared them with those they informed on.

"There has been an amazing shift," Dr Lennane said. "A couple of years ago, whistleblowers in the service were treated very badly but what we are finding now is that the scale is slowly tipping the other way."

Even the veteran corruption fighter and police critic Mr Gary Sturges — who believes corruption is "certainly as bad as it was before the royal commission" — acknowledged yesterday: "I think that for the first time a young officer can walk into his boss's office with a complaint and be reasonably sure that he will be heard." □

Getting ethics back in business

By Crispin Wood, Business Review Weekly, 9 February 1998, p. 74

Paul Carter knows a lot about fraud and corruption. When working for Price Waterhouse in Indonesia, he was involved in the investigation of the massive Bre-X gold swindle. Early in 1997 he was seconded to the United States, where he spent time on the trail of money-launderers.

Carter is partner-in-charge of Price Waterhouse's Dispute Analysis Practice in Australasia. The name might sound innocuous but the practice is actually Price Waterhouse's forensic accounting division. Carter says that although company boards pay lip service to the idea of ethical conduct — especially since the 1980s — they have not made the cultural transformations required to reduce fraud and misconduct. "I've seen what can happen when the culture is not what it should be," he says.

"The organisation may feel good and have a very nice code of conduct but that doesn't work by itself. In Australia over the past 10 years, companies have become more ethical." However, he says, there has been no obvious effect on improper practices.

Carter says fraud prevention and detection are the easiest, and most reactive, measures taken by businesses. They are also the most common. But the more effective — and much more difficult — measure of changing the culture is rarer. Although it is often thought that most fraud or other improper conduct such as kick-backs are

opportunistic crimes committed by people under financial pressures, Carter says the ethical environment of a business also plays a role. The problem is not solved by simply pinning a code of conduct on a noticeboard.

He says: "It is difficult. What we have seen in Australia is people moving away from traditional religious-based ethical codes. So there is a lot of training involved. People need to understand their responsibilities. The training has to be compulsory. And compliance should be made a part of performance reviews for salaries and bonuses. Managers should demonstrate they have been ethical in their behaviour and have ensured that the people under their control also comply."

Carter says the public sector has led the way in instilling ethical conduct. The NSW Government's Independent Commission Against Corruption and codes of conduct in other government departments are good examples, he says. He believes companies need to encourage "whistle-blowing", even though it seems to go against traditional Australian values. "We need to foster alternative ethical systems where whistle-blowing is seen as entirely appropriate behaviour," he says.

Carter says some companies are more at risk of improper practices than others. These include companies in industries with a history of poor practice (such as construction)

and companies dealing in South-East Asia, where executives could be tempted to adopt some less-ethical practices. He says: "There is definitely a concern that you can eat away at the ethics system of a company very gradually. Companies I dealt with in Indonesia were very upright and proper but very concerned about what individuals may be doing or what may have been done on their behalf. But I never generalise and do not distinguish inappropriate practices by country. I do not think the Western world is necessarily any better."

Carter will not discuss the Bre-X investigation (Canadian courts appointed Price Waterhouse to monitor the assets and accounts of the company) or any of his Australian clients. He says companies are increasingly aware of the international pressures for corporations to behave more ethically. A recent tax ruling established that bribes and kickbacks could not be claimed as business expenses. The ruling followed pressure from the United States, which specifically named Australia as one of the countries with an unfair advantage over US businesses because it did not prohibit local companies from paying bribes overseas. Carter says that although he agrees with the spirit of the ruling, it will probably have little effect. "I have never yet been asked by a company whether to declare these payments and claim a tax deduction." □

Studying whistleblowing

By Brian Martin, Published under the title "Whistleblowers fan winds of change in society", Campus Review, Vol. 8, No. 28, 22-28 July 1998, p. 10. The text as submitted is given here; the published version differs in some places.

Over the past 20 years, I have studied hundreds of cases in which individuals have spoken out about a social issue or alleged wrongdoing and, as a consequence, come under attack. For many years my special interest was scientists who spoke out, for example about the hazards of pesticides, nuclear power or fluoridation. Many of them were penalised, for example by being ostracised, harassed, having research grants withdrawn, reprimanded, demoted, transferred, dismissed and blacklisted.

Investigating such cases soon opens the door to similar cases of suppression of dissent in other fields. In the past several years, as president of Whistleblowers Australia, I've talked to whistleblowers in the public service, police, health system, education, private enterprise, media and churches, among others. Typically they blow the whistle on corruption or dangers to the public or environment and suffer a similar array of reprisals.

After studying a number of whistleblower cases, some common patterns become obvious. There are some insights that I think all potential whistleblowers

ought to know, such as the importance of collecting lots of documentation, the likelihood of coming under attack and the failure of official channels.

These insights are shared by others with lots of experience advising whistleblowers. I've learned an enormous amount from others in Whistleblowers Australia, such as Cynthia Kardell, Jean Lennane, Isla MacGregor and Lesley Pinson. However, as an academic, I sometimes think it would be nice if our shared insights could be tested in scholarly fashion.

Let me give one example. Talking to whistleblowers, it becomes clear that they frequently feel let down by official channels, whether it is internal grievance procedures, ombudsmen, professional associations, anticorruption bodies, courts or parliament.

Whistleblowers typically are conscientious employees who believe in the system. That's why they speak out, after all: they expect the problem to be dealt with. Therefore, they are deeply shocked when the response of managers is to attack them rather than investigate their complaints. Still

believing in the system, they turn to other official channels, only to find, in most cases, that they are not helped and sometimes are made worse off.

Jean Lennane sums it up by saying that the only thing you can rely on about official channels is that they almost never work.

If true, this is a vital insight. Many whistleblowers spend years of effort and tens of thousands of dollars pursuing their cases through official channels. Might they be wiser to try something else?

But is there social science backing for this point? Not much. The best work in Australia, and perhaps anywhere else, dealing with the effectiveness of official channels is by Dr William De Maria of the University of Queensland. In his careful survey, whistleblowers reported on the consequences of trying various official channels. The result: whistleblowers reported being helped less than one out of ten times, and in many cases they said they were worse off.

This is an important finding that deserves further testing. Furthermore, there is much more to learn. Which types of agencies are most helpful? Which kinds of cases

are most likely to gain official support? What sorts of approaches to official bodies are best? Does whistleblower legislation ever help?

There are also many other insights that remain to be tested. For example, it is a common experience that publicity is advantageous to whistleblowers. To my knowledge, no one has tested this in a rigorous way.

Research on whistleblowing is fraught with difficulties. First, methodological problems abound. Defining whistleblowing is a major task in itself. How, for example, is it to be distinguished from routine reporting on the job or from social activism?

Then there's the problem of finding whistleblowers and documenting their cases. Is it enough to rely on self-reports, as in De Maria's study, or is it necessary to hear both sides and obtain evidence?

Second, there are ethical issues to confront. Cases often involve allegations of poor performance, corruption and discrimination. Gaining access to information and reporting it can raise ethical challenges due to issues of privacy, confidentiality and potential obligations on the researcher to report or keep quiet about wrongdoing.

Third, many whistleblowing cases are incredibly complicated, with mounds of material and all sorts of side issues. A comprehensive treatment of a single case may require a book-length treatment, and indeed there are quite a few such books! The com-

plexities can be daunting to investigators.

Fourth, there are legal obstacles. Defamation threats abound in many whistleblowing cases. Researchers and publishers can easily be inhibited.

Fifth are epistemological problems. To even label a case as "whistleblowing" is to impose a theoretical framework with an associated value judgement, and can be seen as a form of advocacy. Similarly, to interpret behaviour as ostracism, harassment or dismissal may appear to endorse a particular framework, something that is contrary to the postmodernist sensibility. Certainly I have found that many referees of a constructivist orientation are quite critical of my framework dealing with "suppression of dissent", demanding a "thick" description and a symmetrical approach. High standards are expected – so high that constructivists themselves seem never to deal with these sorts of cases.

Sixth is the problem that whistleblowers often challenge powerful individuals and institutions. They may be exposing corruption, or toleration of corruption, among top managers, politicians or leading professionals. Academics who don't want to offend potential research patrons may decide that certain cases are too risky to study.

The upshot is that relatively few academics study whistleblowing. One way to redress this research gap is for legislators to mandate independent research on the effectiveness of official bodies, such as police,

ombudsmen or anticorruption commissions, whenever they are established or reviewed.

How should those interested in researching whistleblowing proceed? One way to start is to read about whistleblowing cases and talk to whistleblowers (and their employers), and then analyse this information using one's own theoretical framework – taken from history, linguistics, education, professional ethics or whatever – to see what insights result. This may suggest strategies for further investigation.

Until there is more research, though, I need to give advice to whistleblowers. For the time being, I will continue to rely on the judgement of those with experience.

Perhaps the research doesn't matter anyway. Many academic studies have little to say to whistleblowers themselves. Furthermore, many whistleblowers are intent on using official channels whatever anyone may say, and De Maria's findings are unlikely to sway them. In Whistleblowers Australia, we've found that the most helpful thing for whistleblowers, along with publicity, is talking to other whistleblowers. Research findings may provide at best a weak substitute for talking to those who've been there. □

Brian Martin is associate professor in Science and Technology Studies at the University of Wollongong. His web site on suppression of dissent is at <http://www.uow.edu.au/arts/sts/bmartin/dissent/>.

ARTICLES AND REPORTS

Ethics, Honesty and Doctors

By Don Eldridge

Recently there was a poll asking people which occupational types they trusted most or least. Car salesmen and politicians were at the bottom, while pharmacists, nurses, school teachers and doctors were the most highly regarded, with respect for doctors being higher than in previous polls.

Since I regularly scan medical and scientific journals, I feel that trust in doctors is based more on tradition than today's reality. Take, for example, this quote from Michael Bywater (*New Statesman*, 5 June, p. 15): "Medicine is a queer business. Doctors, as a trade, stand high in the ranks of those who go mad, top themselves, filch pills, sniff gas, run from their spouses, weep in the night, live chronically disjuncted [sic] lives."

That doctors on average are no more ethical or trustworthy than the rest of us has been chronicled by critics from both inside and outside. Perhaps the most famous whistleblower of modern times is Robert Mendelsohn, MD, who once held high medical positions in Illinois. His books *Confessions of a medical heretic* and *Male practice* alerted us to the fact that many doctors don't always act in the best interest of their

patients. Although his first book was published nearly 20 years ago, the situation doesn't seem to have changed a great deal, as the following examples will illustrate.

Ethics, Conflict of Interest and Fraud

An article in *Medical Observer* (3 April) reports how doctors in Ontario, Canada, have been performing a higher than average number of hysterectomies, for this procedure is more financially rewarding than alternative treatments. No doubt each doctor can justify his or her reasons for the operations they perform, but it all adds up to unethical medicine driven by the profit motive.

Another dubious area, involving both the medical and drug industries, is the standard procedure of testing drugs on animals. These tests are not done to ensure drug safety, but to comply with regulations. Many drugs harmless to mice or guinea pigs can be fatal for humans, and vice versa. The sham continues because governments and the drug industry want to appear to be doing all they can to protect the public, when in

reality many serious side effects come to light only after drugs are in wide use.

In the 1950s and 1960s attempts were made to improve fertility in Australian women by giving them pituitary hormones from human cadavers. This resulted in some women developing Creutzfeldt-Jakob Disease. As well, according to an item in *The Sun-Herald* (19 July, p. 13): "Ethical concerns were also raised by the use of orphans and State wards after World War II, and experimental use of oestrogen on girls in the 1950s." (These sorts of practices will not happen in future, due to new research guidelines.)

As for conflict of interest, researchers investigated the background of authors of articles about calcium-channel blockers, used by millions for angina and hypertension. The study (*New England Journal of Medicine*, January, p. 101) found that 96% of authors supporting their use had financial relationships with the manufacturers of the drugs (a large majority had not revealed their financial links). On the other hand, only 37% of authors critical of these drugs had such relationships.

One of the authors of the study, Allan

Detsky, feels that since drug companies fund so much medical research, conflicts of interest are inevitable. Since this can't be stopped, it is imperative the medical profession adopts a code compelling doctors and researchers to disclose any relationships they have with companies.

In the UK, the *British Medical Journal* in April carried an article saying that antidepressants, such as Prozac, are not addictive. It was later revealed that the three European doctors who wrote the article had been flown to Arizona as guests of Eli Lilly, the company that manufactures the drug. Also in Britain, there is a growing problem associated with organophosphate pesticides, which can cause serious physical and mental problems. Use of these poisons is being examined by the Veterinary Products Committee (VPC), which licences their use for veterinary use. Critics say that VPC scientists will find it hard to be objective, for most of them are dependent on industry funding. A lack of objectivity seems to be endemic. Richard North, a food safety adviser, is quoted as saying (*Times Higher Education Supplement*, 1998, p. 16) that:

You cannot find independent scientists, even in supposedly independent university departments. They are so reliant on industry funding, past, present and future, that they cannot afford to take too independent a line. Their colleagues will tap them on the shoulder and tell them to tone it down. Science is bought and paid for.

As for outright fraud, a blatant example was of a doctor at St George's Hospital in London who claimed, falsely, that he had taken an ectopic (outside the womb) foetus and successfully transplanted it into the uterus. In an article titled "Crackdown on clinical cheats" (*Times Higher Education Supplement*, 19 June), Julia Hinde estimates that 1% of clinical medical findings may be faked. While 1% doesn't sound like much, who wants being on the receiving end of a drug or procedure erroneously said to be safe?

Incompetence

Over the years I've read that during strikes by doctors – in Los Angeles and New York, in Chile and Israel – death rates declined, but returned to normal once the doctors were back at work. While you may think this is morbid, in a foreword to Marilyn Rosenthal's 1995 book, *The incompetent doctor*, Sir Raymond Hoffenberg writes that, in the UK, "There are doctors who are rude, inconsiderate, unsympathetic, even negligent. . . who are ill-informed or ignorant of modern medicine, whose judgement is inadequate, who make too many errors. . . who are simply incompetent." The reason these doctors continue to practise is because there is no routine system to detect them, and anyone 'blowing the whistle' faces ostracism, as the following shows.

At Bristol's Royal Infirmary, there was such an appalling deathrate in operations on children that the paediatric cardiac surgery unit was known, as long ago as 1988, as 'the killing fields' and 'the departure lounge'. This year two surgeons and a director were found responsible for the deaths of 29 babies due to 'insufficient regard' for their

safety. The director and one surgeon were banned from practising medicine, but since they already had retired, the 'punishment' was hardly harsh. The other surgeon has been banned for three years from performing heart surgery on children.

In June of this year, it was charged in *Lancet* (vol 351, p. 1669) that while a large number of health workers knew there was a problem, "... there was no clear chain of command and communication to ensure that the difficulties were remedied at the earliest possible point." Here is how Michael Day (*New Scientist*, 19 July, p. 51) reacted to the guilty verdict handed down by Britain's General Medical Council:

Some members of the medical profession act as if they were above censure. But that verdict could just as easily have applied to cheats and incompetents in the medical research community. And sure enough, within a week medical journals in Britain, including The Lancet, were calling for more attention to be paid to whistleblowers in clinical research.

The outcome of all this is a win and some losses. The three men responsible for the unnecessary deaths have got off lightly, which sends the wrong sort of signal to other incompetents. For years many people knew that children were dying at a rate far above average, but they were mute or refused to act. The anaesthetist who blew the whistle loudly enough to stop the murderous operations has been ostracised by medical colleagues and has no future in the UK. After seeing what happened to him, why should anyone else buck the system?

While incompetence is worrying (see, for Australian examples, Stephen Rice's book, *Some doctors make you sick: the scandal of medical incompetence*), iatrogenic (medically-induced) illness and death are far larger problems. This year the extent of the problem came as a shock, as an analysis of US hospital statistics, published in *Journal of the American Medical Association* (April 14), showed that adverse drug reactions cause over two million serious illnesses each year, plus between 76,000 and 137,000 deaths. This means that, in America, adverse drug reactions are the fourth leading cause of death. However, America's Food and Drug Administration in 1994 was told of a mere 3,500 drug-reaction deaths, which means the systems monitoring doctors are not working.

The above horrifying statistics relate only to drugs taken as prescribed; they do not include incorrectly prescribed drugs, incorrect dosages, etc. And they don't include deaths and illnesses outside hospitals, which probably are far higher as was reported in *US News and World Report* (27 April, p. 71):

The notion of pills that kill is especially scary because drugs are so essential to modern medicine. Physicians, who are wooed by pharmaceutical companies from the moment they enter medical school, trust drugs as their primary treatment tool. They aren't above writing prescriptions just to hurry patients out of the examining room.

The *JAMA* article noted that the high rate of drug-induced problems is equally distributed over all types of hospitals, and

over all countries using modern medicine. Referring to the Australian situation, Dr Giselle Cooke is reported (*Weekend Australian Magazine*, 4-5 April, p. 31) saying that "The extent of iatrogenesis (doctor-made illness) in drug therapy and out in the community is horrifying."

A recent survey showed that, at any given time, Australians over age 60 are taking an average of 4.8 different prescribed drugs, all of which have side effects. At the Royal Brisbane Hospital, about 20% of patients admitted to the emergency department have problems related to prescription drugs. The long hours forced upon junior doctors – a scandal that is now being addressed – no doubt induces errors, as do improperly-filled prescriptions, caused by illegible handwriting. An article in *Lancet* this year (vol. 351, p. 643) reported a significant increase in medication errors in the last decade.

While the official figures are terrible to contemplate, they in fact understate the problem, for a study at Johns Hopkins School of Public Health found that when doctors in teaching hospitals made mistakes, only half discussed them with senior doctors, and only 25% told patients or their relatives. Then there is the problem of categorising an illness or death. One study (*Medical Observer*, 17 April) found that a quarter of death certificates were wrong. If a patient's kidneys collapse because of an inappropriate drug, will the death certificate show the cause of death as kidney failure or an adverse drug reaction?

Remedies and Self-Reform

In the preface to his 1906 play, *The doctor's dilemma*, George Bernard Shaw criticised the profession for conspiring to cover up mistakes being made, and we still read on occasion of how doctors refuse to testify against colleagues. Thankfully, this attitude seems to be changing, possibly because so many people are abandoning orthodox medicine and turning to alternatives. In order to keep their patients, and their exalted status in the community, the medical profession is now taking steps to regulate itself.

It's about time! In July the editor of *British Medical Journal* asserted that only 5% of medical research papers were of an acceptable standard. According to the UK Committee on Publication Ethics (COPE), medical research fraud is more prevalent than previously recognised (*Chemistry and Industry*, 15 June). COPE, founded last year by the editors of UK medical journals, wants a government policing body with powers to visit labs and demand instant access to data.

This year the General Medical Council in the UK set up a panel to investigate fraud. Its head, Professor George Alberti, who is unsure if dishonesty is more prevalent now than in the past, conceded that pressure to publish, plus financial incentives to do research, plus poor supervision of young researchers by overworked seniors, may all contribute to the problem (*Times Higher Education Supplement*, 19 June). Alberti has suggested 'flying squads' of two or three investigators who could quickly and quietly go anywhere that an allegation of

fraud has been made.

Such self-policing, while an improvement, doesn't seem to overcome the reluctance of peer groups to protect the public. For example, a doctor was found guilty of defrauding social security of \$25,000 and 59 charges of Medicare fraud. The Queensland Medical Board suspended the doctor for one year, then readmitted him. Why trust an institution with such low professional standards?

There is brighter news, however: our National Health and Medical Research Council has released draft guidelines dealing with experiments on humans. Before researchers can proceed, they must disclose any conflicting financial interests they may have. All subjects must understand exactly what the researchers propose to do and any possible side effects, and must give their informed consent to take part. No children may be used as subjects unless the research

can't use adults, and parents or guardians then must give consent. This consent can't be against the best interest of the children, and if a child or mentally ill person does not want to participate, their wishes must be respected.

In 1996 the Expert Advisory Group on Quality and Safety in Healthcare was set up to consider ways in which medical care could be improved. The formation of the Group was necessary because:

The performance of the health system was brought into question by the Quality in Australian Healthcare Study, completed in 1995, which suggested up to 18,000 patients died and 50,000 suffered disability each year – a rate three times that of the US – as a result of mistakes and shortcomings in the health system. (The Australian, 28 July, p. 6)

The Group recently recommended that doctors be given regular tests to ensure they

meet standards, and that their patient-care decisions undergo peer review. While these seem to be improvements, we are still faced with the problem of self-policing, with the reluctance of people to speak up when it may ruin their careers.

Conclusion

I have no solution to the problems facing medical whistleblowers, but I do have, due to my study of health and nutrition, sensible advice for consumers: (1) in an emergency, always trust your doctor; (2) in a non-emergency, and if long term use of drugs is involved, always get the opinion of another doctor; and (3) if the second opinion agrees with the first, get an opinion from someone qualified in alternative medicine, or study the matter yourself in order to have more say in what happens to you in life. □

WBA DIALOGUE AND DEBATE

Verbalizing and psychiatric assessments

By Stewart Dean

For many years police verbalizing was openly discussed and condemned in the public arena.

For those who are still not familiar with what is meant by verbalizing, a short explanation.

A person in custody would be interviewed by police investigating a crime. An officer would sit down at a typewriter, then a question and answer statement between himself and the prisoner would be recorded on the typewriter. The whole statement, or part thereof, would be a work of fiction and, of course, amounted to an admission of guilt by the prisoner.

This practice has been largely overcome by the use at police stations of video cameras. It is commonplace at courts to see these interviews replayed to the court. If these interviews are not so recorded and made available to the court then the court would no doubt rule any such statements of admission as inadmissible.

Now compare this to the case of an injured worker who is required to attend a psychiatric assessment at the behest of an insurer.

Whereas a person in custody can decline to be interviewed, no such privilege extends to the injured worker. If the worker declines to attend such an interview, the worker can prejudice their claim for compensation. No such prejudice is attached to a prisoner declining a police interview; they are perfectly entitled so to decline.

One only has to talk to persons who have been interviewed by psychiatrists on behalf of insurers to realise that verbalizing is being performed by certain psychiatrists on behalf of insurers.

Not only verbalizing but bullying is common in many such interviews. Such bullying

behaviour can have a very detrimental effect on a person who has had some sort of psychological breakdown. It can severely worsen their condition.

When, prior to a court hearing, the worker then sees a copy of the psychiatrist's report, they are liable to suffer another setback to their condition when they find statements attributed to them that they never made.

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the pits."

The psychiatrists are in an even more powerful position than the corrupt police inasmuch as they can load their report with dubious so-called expert opinion, an avenue normally closed to police.

Lawyers are aware of such goings on and some lawyers warn their clients about such doctors. They sometimes seek to reassure their clients by telling them not to worry since the courts know the bad ones and give them little credence. That may well be so but it does little to help the state of mind of the worker regarding the healing process.

I made enquiries regarding one notorious psychiatrist who operates in the Sydney area. These are comments by fellow professionals.

1. A clinical psychologist replied, "He's criminal, he's evil."

2. A psychiatrist replied, "Don't go, don't go to him."

3. Another psychiatrist was more forthcoming and when asked about this dodgy doctor he pretended to fall off his chair and said "He is the worst. He is the pits." He then went on to describe some of this evil man's antics. He calls the injured worker a liar to his face. He puts his feet up on the desk and eats whilst the worker is talking to him. He walks around the worker and drops telephone directories on the floor and startles the worker. He asks for a urine sample from the worker; some workers have complained that they got stressed because they couldn't urinate. Bear in mind that the assessment was a psychiatric one, not a kidney or bladder assessment.

It is important to bear in mind that we are talking about workers who are ill and that doctors are supposed to be a caring profession whose oath I understand commences with the words "First do no harm."

Therefore I submit that any doctor carrying out psychiatric assessment on behalf of insurers should be obliged to install video-recording equipment similar to that used by police. This kind of equipment is now commonplace and even the police seem to be capable of operating it.

The worker should be given the choice as to whether he wishes the assessment recorded. This would go some way to kerbing the behaviour of some of the more unscrupulous people who do psychological assessments on behalf of insurers. □

Comment on the Australian Democrats

By Graeme MacLennan

Media reports of One Nation's use of "cells" to structure its party is not new in Australian politics. The cell structure, where no member of one cell must communicate with any member of another cell, is a method which ensures that the party line is followed without dissent, as the source of all information is from above. A Western Australian One Nation member faces expulsion after inviting members of another branch/cell to a barbecue. In late 1991 the National Deputy President of the Australian Democrats, Fiona Richardson, and I, the Senior Vice-President of the NSW Division, were expelled from the Party. Almost by accident, we had found that several hundreds of thousands of dollars returned to the party in electoral funding had disappeared.

At the "kangaroo court" that passed for the formal device of our expulsion, I constantly asked where the money had gone, but like my questions of why we were being expelled, I received no reply.

Fiona and I had received reports of a cell operating clandestinely within the NSW Division of the Australian Democrats. This cell met regularly at the Connaught Building on Hyde Park. Reported members of this cell were instrumental in distributing electoral funding. We could trace the electoral funding cheque to the party agent where it disappeared. The party's receipts were taken by a member of the state executive to the office of a senator where the trail ends.

During the Federal Police investigation, which we initiated, the police asked us how these office bearers supported themselves, because many appeared to have no employment. It is my belief that one of the functions of the cell was to provide a modest living allowance to its leaders, so that they could devote themselves full-time to politics, and this is where the missing money went. They also saw that Fiona and I were getting too close to the truth, and had us expelled.

Despite party spokesman Stephen Swift's protestations that nobody has ever been charged over the disappearance of the money, he has never denied that a crime had been committed. Certainly, the Federal Police recommended that the Federal Director of Public Prosecutions commence proceedings, but the Federal DPP declined, because the Federal Parliament changed the law regarding electoral funding from a "refund" of expenses incurred, to a simple

"entitlement" based upon the vote received. Although a crime had been committed, it is no longer a crime, therefore prosecution was not seen as worthwhile. In an "off the record conversation" with an officer with the Australian Electoral Commission, the opinion was expressed that the law was changed with Australian Democrat support to prevent disclosures that public funds were being diverted for the use of individuals.

At my expulsion, I was asked where I thought the money went, and, full well knowing the derision that I would receive, I attributed it to the cell. We think that the cell was simply a device whereby the party's manipulators could cut through the loose structure of the Australian Democrats. Fortunately for the Democrats, while the leadership may be stolen by a well organised group, rank and file members will not necessarily follow, sensing that something is amiss. Unfortunately for the Democrats, their postal electoral system leaves them open to manipulation by small self-interest groups, which explains their failure to grow.

This is a second draft of this letter, because I have agreed that it should be forwarded to all the members of the State Executive of the Australian Democrats, not just the secretary, before publication. Anticipating the usual response from the Democrats, I am going to depart from my theme of "cells" for a moment. I have kept

Police without charges being laid, and that a former Senator, after calling Fiona and me "hotheads" on Alan Jones' radio program, went to the Australian Federal Police's state headquarters in Sydney to participate in a one-man protest-cum-media event, protesting his innocence. Invited inside by the police he agreed to a videotaped interview, however after only a few questions, he refused to answer further questions and hastily left the building.

Fiona and I have been called every imaginable name by the Australian Democrats; new members have even been told that we stole the money. As far as the AEC, AFP and the federal DPP is concerned, the matter is closed. However, the police were unable to trace the money, a special meeting called by party members could not trace the money, the money went somewhere, and since the Commonwealth has written off the money, the next claimant would be the NSW Division of the Australian Democrats, administered by the NSW executive. As I have said, I expect that this letter will result in further name-calling, false trails and red herrings, but unless the Democrats can provide hard proof of where the money went, they cannot occupy the moral high ground which they seek. A reply to this letter may be that it is all "ancient history", but some people interviewed by the police still hold important positions within the Australian Democrats, and I was contacted by a person, who is both a member of the Democrats and

Whistleblowers, who reported similar events still taking place.

I would advise members of the Whistleblowers to discount any reply to this letter from the Australian Democrats, if it does not begin with hard proof of where the money went, but with limp excuses and name-calling. Upon reflection, Fiona and I should not have attempted to confine our whistleblowing within the party; we should have gone public

immediately. Our efforts to avoid damage to the party only resulted in an almost secret expulsion, away from the eyes of the press and the rank and file members, who at the state conference had voted that we not be expelled (not surprisingly since they also had elected us to our positions shortly before). For many reasons, Australians must be alerted to the existence of cells, as their existence at the best of times is difficult to detect, and their presence subverts our democratic institutions. □

Response from the Australian Democrats NSW Division

Mr MacLennan makes a number of claims and allegations which have been proven to be totally unfounded. Members of Whistleblowers Australia should be aware that the Australian Federal Police, in conjunction with officers of the Australian Electoral Commission, made a thorough investigation over a five year period of the Australian Democrats NSW Division electoral funding claims in relation to the Federal Elections of 1990 and 1993 as well as the NSW State Elections of 1991 and 1995.

Those investigations concluded two years ago and resulted in the Australian Democrats NSW Division being cleared of all those claims and allegations. The investigators acknowledged that the Australian Democrats NSW Division had legally complied with all electoral funding laws and requirements. This is a matter of fact and your members are welcome to seek confirmation of this with the Australian Electoral Commission.

David Mendelssohn, President NSW Division. □

all the press cuttings from the events; all of the above has been reported in the print media. This includes the "police raids" on the AD state office, the confiscation of the party's books, the police's inability to find where the money went, and the resignation of senior party members from either the state executive or the party, through fear of prosecution. From other sources, there are the facts that a sitting Senator went to the media saying she had nothing to hide, but privately refused to speak to the Federal

Towards 2000

By Feliks Perera

As we are getting closer to another era, we need to investigate within ourselves what sort of a society we want to create for our next generations. From the way we are progressing at present, it appears we will leave behind a dysfunctional society that knows very little of honesty, decency and caring for others. Into this midst will come more whistleblowers, constantly reminding us that we have fallen by the way, on to a wrong path. How will the generations of the 2000s treat these whistleblowers? They will treat them the same way we in the present generation have treated them, because we have laid down a procedure by our own example. Therefore, let us make a committed effort to listen to those who speak out against corruption, and treat them with understanding and respect. This calls for a dramatic change in our culture and thinking, a change that will constantly remind us that honesty and decency is the correct path to societal progress.

The culture that tells us that those who speak out from within are squealers, doblers, troublemakers, malingerers, a bad influence, etc., has to go. Where does it start? It starts with every one of us. It starts with our own thinking and behaviour. It starts with our own commitment to change the culture of our society. It starts with speaking out in favour of those who have taken a stand. By harbouring fear of reprisals, we achieve nothing. We throw away the very opportunity to take a stand

and change the culture of our present society. We should challenge those who practise reprisals. Is inflicting pain and suffering the reward for reminding a cruel society to get back to the fundamentals? Reprisals against whistleblowers should not go unchallenged. It sends the wrong message that all of society agrees with the malicious conduct of a few who cannot face truths. By our silence and inactivity, we too condemn innocent people to untold suffering. By our positive actions, we call upon those who scheme reprisals against whistleblowers to account for their wicked ways. We should be unashamed to support honesty, and continue constantly to speak in support of those who have taken a stand.

We often read in the media about those very brave people who have spoken out from within. In our own callousness, we have treated the news item with no more than a glance, having no time for a squealer or a doober. The very thing that the whistleblower spoke out may have been to our own personal advantage. We should pause and investigate the issues. If the issue is about truth and honesty, we should wade into the battle, showing our unqualified support for speaking out. Little fraudulent schemes, dishonest thinking, has no place right now, particularly when we are laying down a foundation for the generations of the year 2000.

Whistleblowers have been treated very shabbily in this country, a country that is

supposed to be blessed with an intelligent and educated society. We have used both our intelligence and our education to deliberately choose a wrong path and set an example of destruction for generations to come. Many prominent figures in our society have come out defending their wicked actions, and the rest of us have not even bothered to challenge this dishonesty. Every time we decide not to speak out against corruption, we form the major part of society who has to take the blame for this decadence. Every time we feel it is so inconvenient to speak out in support of matters raised by whistleblowers, we are further enforcing the patterns of abuse and destruction. It is time to stop the charade and get involved. Find out how much suffering is caused to innocent people needlessly by corrupt practices. Find out how minute corrupt practices influence others to join in the corruption game and create larger conspiracies. Find out why speaking out is so essential to weed out the corrupt influences in our society. Find out what part you can play in this great change that we so desperately need in our society.

I want to speak out against a corrupt society today. I want to be part of this great change we so desperately need, to rewrite the culture of our present society. I want to be a catalyst for change. When will you take on this commitment? Our commitment to support whistleblowers and the challenge they bring to society must start right now. □

A Silly Obsessed Old Man?

A Reply to Bruce Ilett's letter in the May Whistle,
by Lionel Stirling, Victorian Branch WBA

Unfortunately, Mr Ilett has avoided detailed debate on the central issues of the Jan ter Horst case, preferring instead to describe parts of the story as meaningless waffle, and to attack the intelligence of Mr ter Horst and his many supporters. I respond to the few vague statements of any significance.

The title was "never approved and never registered" and had "no legal import". Mr ter Horst's strata title application was complete and correct in every detail, and he was entitled to see it achieve the status of a fully registered title. It was not Mr ter Horst's fault that the Fremantle Council would not give assent to the title till there was a building at plate height. According to the Ilett proposition your success or failure under the Strata Titles Act can depend on the current policies of the council you are in. I suggest that such a fiasco was never the intent of the legislators. The judiciary have the power to make restitution orders of money and goods to redress criminal acts of fraud and theft. There was no criminal act on Mr ter Horst's part, just a perfectly valid Strata Title Application submitted by professionals almost two years

before the land was sold. On the one hand Mr Ilett agrees that registered titles must have the highest legal status. On the other hand, he condones Judge Charters destroying such an important document which merely awaited some public servant's rubber stamp for it to be fully registered.

"Whether or not the ground was filled is irrelevant" Really? Special condition 4 of the contract specified a 4.5 meter height restriction measured from the existing level of the eastern end of Lot 2. Height restrictions in contracts protect amenities such as views and sunlight. Such conditions are obviously not meant to be eroded by significant amounts of filling. If 0.5 meters of filling was OK would 3 meters be similarly OK? Could Judge Charters tell us what the cut-off limit is?

The "libellous" claim that Mr Ilett used Mr ter Horst's electricity. This statement was made after viewing official correspondence from the WA Police who not only accept that electricity was used, but have obtained an estimate of the amount involved. Further detailed evidence came from Mrs. ter Horst who was almost electrocuted when she watered a garden bed containing a buried

cable covertly connected to Mr ter Horst's meter box.

The "malicious vandalism". Mr ter Horst was aware that the caravan had caught fire but not of the other events alleged by Mr Ilett. Mr ter Horst has no respect for Mr Ilett's ability to tell the truth. He points out that on 8 June 1998 Mr Ilett was convicted of the serious criminal offence of conspiring to pervert the course of justice. Mr Ilett admitted that on 30 November 1996 he conspired with a painter who subsequently told police that Mr ter Horst had broken a window of Ilett's home and threatened to blow the house up. District Court Judge Wisbey fined Mr Ilett \$2500. According to Mr ter Horst, Mr Ilett received a reduced sentence because he had removed himself to Adelaide and Judge Wisbey considered he was "unlikely to reoffend".

In the absence of proper debate from Mr Ilett I can only suggest that those who are interested might carefully reread both the "meaningless waffle" and Mr Ilett's reply. Mr ter Horst can provide ample evidence of his claims. I thank the Victorian Executive for their assistance with this response. □

Editing The Whistle

By Brian Martin

Editing *The Whistle* this year has been a stimulating experience. However, I always saw my role as editor as a stop-gap measure. Come 1999, it will be time for someone else to have a go. So that you can understand what's involved, here is an outline of what I've been doing this year as editor. Of course, others might proceed in a different fashion.

I decided it would be helpful to divide items in *The Whistle* into three main categories: Media Watch; Articles and Reports; Dialogue and Debate. Media Watch is made up of material published somewhere else and reused in *The Whistle*. The other two sections are for material written specifically for *The Whistle*.

Media Watch is mostly made up of stories and extracts from newspapers, magazines, books and web sites. I read the *Sydney Morning Herald* regularly, the *Australian* occasionally and quite a few books and magazines. When I come across a suitable story, I put a copy in a manila folder for the next issue.

Relying on my own reading would result in a fairly restricted selection of media materials, so I depend on others to send material. Several people send me clippings from newspapers, notably Don Eldridge and Christina Schwerin. One clipping was sent from an anonymous person in Perth. Sometimes people contact me by email and tell me about a published article, send an electronic copy or refer me to a web site.

Collecting articles and extracts from books is one thing. Deciding whether they should go in *The Whistle* is another. If the article is about a specific whistleblower or about whistleblowing, then it normally goes in. If there are several articles about the same case, with an overlap of material, then I pick the most informative or well written one. A more difficult decision arises with articles that deal with a topic about which people blow the whistle, such as corruption. If the connection to whistleblowing is obvious, then it can be used. If the connection is likely to be understood only by a few readers, it stays out.

In using an extract from a book, I have to select appropriate pages or paragraphs, and sometimes pick bits from different pages. Often I write a few sentences to introduce the extract. In the case of newspaper articles, sometimes I leave out parts that are not so relevant to whistleblowing. To indicate omissions, I use the standard convention of dots [...].

The Whistle violates copyright law every issue. Strictly speaking, we should seek permission to reprint articles and extracts. In practice, this would be a lot of pointless work. Given our small circulation, non-profit status and inability to pay fees, it is just a drain on everyone's time and resources to bother about seeking permissions. By reprinting articles, we give publicity to authors and publishers, so everyone gains. This sort of violation of copyright law is stan-

dard procedure in an age when copies of newspaper articles are circulated widely on the internet. When you tape a television or radio program at home, that's also a violation of copyright law.

The second section is Articles and Reports. Recent examples are Don Eldridge's article on ethics and doctors (this issue), Jean Lennane's article on the Independent Commission Against Corruption and Karl Wolf's survey of writings on dishonesty (July 1998), Kate Schroder's article on the UK Whistleblowers' Bill (May 1998), Richard Blake's article on the public sector (March 1998) and Rachael Westwood's report on news from NSW (December 1997). I depend on people sending me these items. If I had more time, I could take a more active role in soliciting articles. It would be nice to have a report from each state every issue or two.

The third and final section, Dialogue and Debate, contains letters to the editor, articles that comment about Whistleblowers Australia and business such as this issue's notice of the annual general meeting. There's no rigid division between what goes in Dialogue and Debate and what goes in Articles and Reports.

The challenging part of editing is making decisions about what goes in. If an article or letter deals with whistleblowing, is sufficiently well written and not too long, I normally will accept it. If there are some problems with it, I might ask the author to make changes. If it is off the topic or doesn't communicate at all well, I may say no or suggest major changes.

Another factor is defamation. Since whistleblowers deal with contentious issues such as corruption, the possibility of being sued for defamation can easily arise. Having written WBA's defamation leaflet, I'm reasonably familiar with what's involved. If a contribution makes obviously defamatory statements, I may ask the author to omit them, change them or provide documents to back them up. While we should not be intimidated by the risk of defamation suits, on the other hand there is no point in making unsubstantiated defamatory statements if the same information can be conveyed another way.

My preference is to publish controversial material when possible but to allow both sides to be heard. Accordingly, "Dialogue and Debate" is open to those who would like to respond to previously published articles or letters, as in the case of Bruce Ilett's response (May 1998) to the article by Lionel Stirling (December 1997) about the Jan ter Horst case. (Lionel Stirling responds to Bruce Ilett in this issue.) Allowing responses is especially important when defamation is a possibility.

I've come to the view that when writing something that is highly contentious, it is wise for the author to seek comments from those who are directly criticised or who are on the "other side." If the author has not done this, then as editor I might seek a response to

appear along with the item, as in the case of the response to Graeme MacLennan's letter in this issue. An opportunity for prompt response is far more satisfactory than a response months later or an interminable defamation case, and more interesting for readers too!

The next stage in the editing process is subediting, which is making sure that details are right. Most of the Media Watch articles I type myself and then proofread. (Proofreading is checking the article to ensure correct spelling, grammar, capitalisation, punctuation, paragraphing, italics, factual details, etc. In the case of Media Watch, the text should be exactly as published, with any changes indicated by square brackets.) I could get someone else to do the typing (Rachael Westwood has helped) but then I still need to do proofreading. It is possible to scan text into a computer; again, proofreading is still required. I could ask someone else to do proofreading, but that requires posting or emailing and following up to make sure the work is done. I've found it easier to do most of this work myself, but others might well find it easier to farm out some or all of the typing and proofreading.

When people send in articles, I ask for copies via email or computer disc. That saves me the effort of typing the article and reduces the chance of error.

On my computer, I have a folder for each issue of *The Whistle*. Within the issue folder, there are three folders, one each for Media Watch, Articles and Reports, and Dialogue and Debate. Within each of these three folders are files, one for each article, report or letter. After typing or receiving a file, I print it out, proofread it, make corrections, print it out again and check that all the corrections were made correctly. (There is a high error rate when making corrections, so extra scrutiny at this stage is valuable.) Being organised helps!

The deadline for each issue is the 15th of the preceding month. So for this issue, 15 August was the official deadline. It takes me a week or so after this to get everything ready. Then it's over to Patrick Macalister, managing editor, who prepares the layout for *The Whistle*. Patrick's contribution is vital. By email, I send Patrick all the computer files and a plan for the sequence of material; by post, I send a printout of all the text. Patrick then puts it all together, using a standard front page title package and standard back page. He also adds "In this issue" (contents).

There are a few things to know about layout. You'll notice that *The Whistle* is made up of several A3 sheets of paper folded and stapled. That means that its length has to be a multiple of four pages. A lot of information is packed into a typical issue. If the total amount goes a bit over a multiple of four pages, then we need to delete something, so I usually indicate several items that are the first to be bumped. If you see some old items in Media Watch, odds are they were bumped from one or two previous issues.

On the other hand, if the text is somewhat short of a multiple of four pages, Patrick can space things out and add some quotes in the middle of the text. There's also the problem of making the layout look nice. It's better if articles start at the top of a page or at least not right at the bottom. So articles might be moved around and text shrunk or expanded to make the layout more appealing. There can be a fair bit of thought and work behind things we take for granted.

Patrick sends me a copy of the layout by fax or email so that I can look at the way he's done it. I look through it for any obvious problems but don't proofread everything at that stage. We could introduce proofreading at the layout stage if desired.

Patrick takes a week or so to do the layout, depending on his other commitments. Patrick then takes the final copy to the printer, which takes another week or more. The printed copies are picked up by someone from the NSW branch. Rachael Westwood,

national secretary, has a membership list which is used to produce labels. Members of the NSW branch fold the copies, put on address labels and post them. It might take the branch one or more weeks to do all this after receiving copies from the printer. You can see that the four stages – editing, layout, printing and distribution – can lead to a delay of a month or more from the deadline of the 15th to receipt of *The Whistle* by members and subscribers. If we were all in a great hurry and were willing to pay more for printing, we could do all these stages in one day! That's what happens with daily newspapers, after all.

This operation has run quite smoothly this year. Patrick and the NSW branch are doing an excellent job, making things much easier for me. Being editor does take time and effort, but it's quite stimulating and not an enormous burden. I've tried to spell out what's involved in some detail so that potential editors can see that it's an achievable task

and not mysterious.

The editor of *The Whistle* is one of the most important roles in Whistleblowers Australia, since the newsletter is an important means of connecting people from around the country, putting them in touch with what's happening. Newsletters and journals are similarly important in lots of organisations, so this isn't peculiar to WBA.

I think it is useful for a number of people to gain experience in editing *The Whistle* so that we are not reliant on any single individual. If you are potentially interested in becoming editor, please feel free to contact me for more information, and if you'd like to put yourself forward then contact any national committee member. The national committee selects the editor on a year-by-year basis. If you don't want to be editor but would like to take a more active role with *The Whistle*, let us know, as it is possible for the editor to give you responsibility for specific articles or one section. □

Whistleblowers Australia Incorporated

Annual accounts for year ending 30 June 1998, all figures are in dollars [these accounts will be tabled for approval at the annual general meeting]

Income

Subscriptions	1,967.45	
Subscriptions	5,271.00	
Donations	276.00	
Bank interest	10.09	7,524.54

Expenditure

Whistle production costs	2,890.71	
Networking costs	1,169.49	
Refunds to branches	788.99	
Association annual returns	180.00	
Books and stationery	163.49	
Bank account charges	85.98	
Equipment maintenance	465.65	
Depreciation equipment	342.25	6,086.56

Surplus

(income over expenditure)	\$1,437.98
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Balance sheet at 30 June 1998

Assets			
Equipment	855.65		
less depreciation	342.25	513.40	
Balance at bank		2,871.78	
Petty cash balance		34.75	3,419.93
Liabilities			
Accumulated funds b/fwd		1,981.95	
add surplus for 1998		1,437.98	3,419.93

Treasurer: Feliks Perera

Whistleblowers Australia Annual General Meeting

2.00pm Sunday 29 November 1998 Presbyterian Church Hall, Campbell Street, Balmain (Sydney) Hosted by NSW branch of WBA

Agenda

2.00 Reports of activities during the year, including campaigns, cases of significance,

submissions, publications, etc. Reports must be brief. If you'd like to give a report, let me know in advance.

3.00 Strategy discussions. As in previous

years, we will break into small groups to assess 1998 activities and plan future ones. Tentatively, groups will include:

- (1) whistleblower cases of national significance
- (2) how to go about changing organisations
- (3) media and publicity
- (4) whistleblower legislation, ICAC and other formal channels

If you have a strong preference for a group on a topic other than these, let me know in advance.

4.00 Policy issues.

- (1) Whistleblower cases of national significance
- (2) Amendments to the constitution (see below).

4.40 Election of the office bearers and ordinary members of the national committee.

5.00 Close of meeting

Nominations in writing should be sent to the secretary at PO Box U129, Wollongong Uni NSW 2500 and received 7 days in advance, namely by 22 November. Nominations should be signed by 2 members and be accompanied by the written consent of the candidate. There is no official nomination form.

In the past, we have consulted beforehand to find suitable volunteers. If you are interested in joining the national committee, it would be helpful to talk with one or more of the current members.

President: Brian Martin

Senior vice-president: Jean Lennane

Junior vice-president: Christina Schwerin

Treasurer: Feliks Perera

Secretary: Rachael Westwood

National director: Greg McMahon

Ordinary members of the committee (4 of 6 positions currently filled): Rodney Belchamber, Neville Ford, Lesley Pinson, Grahame Wilson

As well, the chairs of the state/territory branches are members of the national committee. They should be elected at annual general meetings of the branches.

Proxies: A member can appoint another member as proxy by giving notice to the secretary at least 24 hours before the meeting (i.e. by 2.00pm 28 November). Proxy forms can be obtained from the secretary. No mem-

ber can hold more than 5 proxies.

Brian Martin, phone: 02-4228 7860 (home), 02-4221 3763 (work); fax: 02-4221 3452; email: brian_martin@uow.edu.au

Proposed constitutional changes (special resolutions)

The national committee has endorsed the following changes to the constitution, which will be put to the 1998 annual general meeting as special resolutions (requiring 3/4 majority to pass).

Some comments are provided before each proposed change. Extracts from the constitution are in *italics*. Words to be removed are ~~struck through~~ and words to be added are in **bold face**.

Membership form

The committee has introduced a new membership form. To approve this formally, the constitution needs to be changed as follows.

5. Nomination for Membership

(1) *A nomination of a person for membership of the association*

(a) shall be made by a member of the association in writing in the form set out in Appendix 1 to these rules in a form approved by the committee; and

(b) shall be lodged with the secretary of the association.

Register of members

WBA must provide in its constitution for a register of members. In last year's constitutional change (see *The Whistle*, December 1997, p. 19), we changed the constitution to refer to a register of committee members, so that details of members would not automatically be available to every other member. This proposed addition to section 9 of the constitution should fix things.

9. Register of Committee Members; Register of Association Members

(1) *The public officer of the association shall establish and maintain a register of committee members of the association specifying the name and address of each person who is a committee member of the association together with the date on which the person became a committee member.*

(2) *The register of committee members shall be available from the public officer on request and free of charge to any member of the association.*

(3) *A register of members of the associa-*

tion shall be maintained by the secretary.

In order to protect confidentiality, each member shall have the opportunity, on joining and subsequently, to specify (according to options approved by the committee) what other members or others are entitled to have access to their name and contact details.

WBA elections

Due to geography, many members will be unable to physically attend WBA's annual general meeting wherever it is held. The possibility of proxies may appear to overcome this problem to some extent, but it can tend to lead to a process of getting the numbers rather than addressing the issues.

One way to overcome some of these problems is to replace elections of national committee members at the AGM by a postal ballot. Candidates would put in their nominations by a certain date, along with a statement about themselves. The returning officer — someone who is not running for office — would send ballots and information sheets to all members, and count the marked ballots. There can be additional scrutineers as well. A postal ballot is only required if positions are contested.

16. Constitution and Membership

(1) ~~Subject in the case of the first members of the committee to section 21 of the Act, the~~ **The committee shall consist of-**

(a) ~~the office bearers of the association, each of whom shall be elected at the annual general meeting of the association pursuant to following the procedure in rule 17; and~~ **(a) the office bearers of the association, each of whom shall be elected at the annual general meeting of the association pursuant to following the procedure in rule 17; and**

(b) ~~the chairmen chairs of each state/territory branch (or his/her their nominees), each of whom shall be elected at the annual general meeting of the branch, held in accordance with the procedure adopted by that branch to hold such meetings; and~~ **(b) the chairmen chairs of each state/territory branch (or his/her their nominees), each of whom shall be elected at the annual general meeting of the branch, held in accordance with the procedure adopted by that branch to hold such meetings; and**

(c) ~~from 0 to 6 ordinary members, each elected at the discretion of and by the majority vote of the committee elected following the procedure in rule 17.~~ **(c) from 0 to 6 ordinary members, each elected at the discretion of and by the majority vote of the committee elected following the procedure in rule 17.**

...

17. Election of members

(1) *Nomination of candidates for election as office bearers of the association or as ordinary members of the committee-*

(a) shall be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and

(b) shall be delivered to the secretary of the association not less than 7 days before the date fixed for the holding of the annual gen-

~~eral meeting at which the election is to take place later than a date fixed as a deadline for nominations; and~~

(c) each nomination shall be accompanied by a statement, no longer than one page, from the candidate providing information about relevant experience and skills.

(2) *If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the annual general meeting.*

(3) ~~If insufficient further nominations are received, any vacant positions remaining on the committee shall be deemed to be casual vacancies.~~

(4) *If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.*

(5) *If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.*

(6) *The ballot for the election of office-bearers and ordinary members on the committee shall be conducted at the annual general meeting by postal ballot in such usual and proper manner as the committee may direct.*

(7) *A nomination of a candidate for election under this clause is not valid if that candidate has been nominated for election to another office at the same election.*

26. Annual General Meeting-Calling of and Business at

(1) *The annual general meeting of the association shall, subject to the Act and to rule 25, be convened on such a date and at such place and time as the committee thinks fit.*

(2) *In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting shall be-*

(a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;

(b) to receive from the committee reports upon the activities of the association during the last preceding financial year; and

(c) to elect office bearers of the association and ordinary members of the committee; and

~~(d) to receive and consider the statement which is required to be submitted to members pursuant to section 26(6) of the Act.~~

(3) *An annual general meeting shall be specified as such in the notice convening it.*

44. Postal ballots

As an alternative to voting at a general meeting, a resolution of the association may be decided by postal ballot, at the initiative of the committee. □

Invitation

The Whistle welcomes contributions. They should deal with whistleblowing or related topics. This gives considerable scope, since it covers corruption, bureaucratic struggles, strategies of changing behaviour, law reform and specific areas where whistleblowing is relevant, among other topics. Some possibilities are:

- personal reports from or about whistleblowers;
- reports about group activities;
- updates on political or legal issues;
- reviews or summaries of books, articles or meetings;
- notes on useful skills;
- commentary on previously published articles;
- letters commenting on virtually any topic.

We are also on the lookout for items from the media (including newspapers,

magazines, books and the Internet). Thanks to Don Eldridge, Feliks Perera, Anna Salleh and Christina Schwerin for sending items used in this issue's Media Watch.

If you can send your contribution by email or computer disc, that makes things easier for us. We also welcome volunteers willing to type up articles (on computer).

The Whistle is printed and sent to members and subscribers and also published electronically on the World Wide Web (see http://www.uow.edu.au/arts/sts/bmartin/dissent/contacts/au_wba/).

The tentative deadline for the next issue is 15 October.

Send all contributions to: Brian Martin, editor

PO Box U129, Wollongong University
NSW 2500; email brian_martin@uow.edu.au; fax 02-4221 3452.

If you have queries, feel free to ring at 02-4221 3763 (work) or 02-4228 7860 (home). □

Whistleblowers Australia: regional contacts

New South Wales

"Sharing and caring" meetings are held every Tuesday commencing at 7.30pm at the Presbyterian Church Hall, Campbell Street, Balmain.

Contact: Cynthia Kardell, ph/fax 02-9484 6895

Goulburn contact: Rob Cumming, 018-483155

Wollongong contact: Brian Martin, 02-4221 3763

Queensland

Feliks Perera, ph/fax 07 5474 4873

Whistleblowers Action Group contact:

Greg McMahon, 07-3378 7232 (a/h)

South Australia

Jack King, 08-8278 7853

Tasmania

Public Interest Network contact:

Isla MacGregor, 03-6239 1652 (b/h)

Victoria

Neville Ford, 03-9560 8276

Christina Schwerin, 03-5144 3007

Western Australia

Avon Lovell, 08-9242 3999 (b/h)

Relevant web site: <http://www.uow.edu.au/arts/sts/bmartin/dissent/>

Whistleblowers Australia

PO Box U129, Wollongong Uni NSW 2500

Support Whistleblowers Australia

- ☐ Become a member: annual membership fee \$25.
(The membership fee includes a subscription to *The Whistle*.)
- ☐ Subscribe to *The Whistle*: \$25 or \$12 (low income) per year.
- ☐ Give a donation: money or your time and expertise.

WBA income is almost entirely from memberships and individual donations.

Its activities depend entirely on voluntary work by members and supporters.

If this box ☐ is ticked, your annual membership fee or subscription is due.