



Speech by

# Rosemary Menkens

MEMBER FOR BURDEKIN

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## WHISTLEBLOWERS (DISCLOSURE TO MEMBER OF PARLIAMENT) AMENDMENT BILL

**Mrs MENKENS** (Burdekin—NPA) (4.01 pm): I rise to speak and give a short contribution to the Whistleblowers (Disclosure to Member of Parliament) Amendment Bill. The claimed objectives of this bill are to enable public interest disclosures to be made to members of the Legislative Assembly and to extend the protections of the act to include individuals engaged by a public sector entity on a contract of service agreement.

The original act, the Whistleblowers Protection Act 1994, was introduced as a way to protect whistleblowers working in public administration jobs from any type of harm and to allow them to continue their career working in public administration. The government has claimed that this bill is being put forth due to recommendations of the PCMC three-year review of the CMC in 2004 and also recommendations that have arisen from the Davies commission.

Whistleblower legislation must be effective or the legislation may end up self-defeating. This bill has quite a few problems which other members of the coalition have certainly outlined. I support the opposition in the position it has taken.

Clause 5 of the bill amends the act to make a member of the Legislative Assembly not an appropriate entity to receive public interest disclosures about courts, tribunals, GOCs or corporatised corporations unless under proposed sections of the act. It is claimed that the act's administration does not detrimentally affect judicial work or independence or the commercial operation of GOCs and corporatised corporations. However, the reality is that this clause will impact on the capacity of an MP to receive complaints about judges and judicial matters and the ability to raise such complaints in parliament or publicly. This is an unnecessary restriction which only serves to protect the judicial area from parliamentary scrutiny.

Clause 8 also possesses inherent problems. It includes a proposed section 28A subsection (2) which provides that a member of the Legislative Assembly who receives a public interest disclosure or purported public interest disclosure has no role in the investigation of the matters disclosed. Proposed section 28B proposes that the operation of the act is not to limit the manner in which the members of the Legislative Assembly deal with matters in parliament.

The CMC's role, under section 57 of the act, will be limited to breaches committed outside the scope of parliamentary privilege, leaving parliament to address breaches committed within the confines of parliamentary privilege. This is an obvious restraint on the capacity of an MP to further investigate a complaint from a whistleblower before deciding whether the matter will be raised in the House or referred to the appropriate public sector entity.

The explanatory memorandum even acknowledges that the bill infringes fundamental legislative principles. Without amendments to the parliamentary standing orders, a member of parliament would be able to freely discuss most public disclosures in the Legislative Assembly within the rules of parliamentary

privilege. The bill alleges that this would cause problems to the protection of the whistleblower, unfounded allegations being made public and to the integrity of the investigatory process.

The government wants to amend the standing orders along with the act. Simply put, the effect of these amendments will be to limit the effectiveness of both whistleblowers and members of parliament and the capacity of a member to actually follow up a legitimate complaint. The Premier is trying to build a sanctuary where the criminal responsibility of ministers for dishonest statements to the parliament is greatly diminished.

Clause 15 is also of concern to me. It provides that the CMC's role in relation to section 57 of the act is intended to be limited to breaches committed outside the scope of parliamentary privilege, leaving parliament to address breaches committed within the confines of parliamentary privilege. This clause is just a continuation of the approach that this current sleazy government adopted in its handling of a former minister lying to a parliamentary estimates committee. This legislation would mean that a member of parliament who discloses a matter by a whistleblower to the parliament runs the risk that the government, through sheer numbers, can punish that member for contempt of parliament. This bill has the direct effect of creating more executive power at the expense of members of parliament.

The bill does not address any of the recommendations of the PCMC review of the CMC in 2006, which is the more recent three-year CMC review. The bill does not take into account the recommendations of the PCMC from this 2006 review, such as recommendation 23 which would widen the categories of persons who may make a public interest disclosure protected by the Whistleblowers Act to anyone in cases involving danger to public health and safety and negligent or improper management of public funds. Recommendations 22 to 26 from the 2006 PCMC report have been left out of the legislation. These recommendations were made to overcome deficiencies found by the Bundaberg Hospital Commission of Inquiry. This leaves one wondering why the recommendations from the 2004 report have been placed into the bill but the 2006 recommendations from the same agency have been left out.

This bill also ignores provisions contained in the private member's bill—Whistleblowers Protection Amendment Bill 2006—which was previously before the House. That bill incorporated the more recent recommendations from the PCMC, along with recommendations from the Davies commission. The private member's bill contained provisions that were aimed at the actual protection of whistleblowers, not this bill at hand which is more concerned with the Beattie government being able to cover its own tracks. I will oppose this bill because it will limit the capacity of a member to properly investigate matters brought to their attention by whistleblowers.

This bill also supports the amendment of the standing orders of parliament, which will bolster executive power at the expense of the Legislative Assembly. Finally, this bill seems ignorant of the 2006 recommendations of the PCMC report which were identified as serious problems that required fixing that had been highlighted in the Bundaberg Hospital Commission of Inquiry. I will not be supporting the bill.