



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**Federation Chamber**

**BILLS**

**Public Interest Disclosure Bill  
2013, Public Interest Disclosure  
(Consequential Amendments) Bill 2013**

**Second Reading**

**SPEECH**

**Wednesday, 19 June 2013**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Wednesday, 19 June 2013  
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**Questioner**  
**Speaker** Keenan, Michael, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

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**Mr KEENAN** (Stirling) (10:28): The Public Interest Disclosure Bill 2013 seeks to establish a legislative scheme for the investigation of alleged wrongdoing in the Commonwealth public sector and to provide for protective mechanisms for current or former officials who make qualifying disclosures under the regime.

Clearly, a bill of this nature is fairly topical when issues about a right to know what your government is doing, and about the way legitimate whistleblowers might be protected within the Commonwealth Public Service, have been around for some time. It is important to note that the Labor Party, prior to the 2007 election, promised that they would bring legislation of this type forward. Here we are, with 5½ days left of the second parliament of which the Labor Party has been able to form government, and they introduce it. Clearly, they are introducing this legislation not because they felt that it should apply to them, regardless of the fact that they made an election commitment that it would be a case, but so that it will apply to the next government. This is an indication that they do not take these issues as seriously as they should. A commitment was made that legislation of this type would be brought forward in 2007. That we are now in 2013, literally at the end of this parliament, and the government has finally got around to bringing legislation of this type forward is, I think, a very good representation of the way this government governs, and of the fact that commitments made by the Labor Party prior to elections never seem to be a very high priority for them once they come to office.

The question of Commonwealth enactment of whistleblowers legislation has been around for a long time, as I said. In 2008, the House of Representatives Standing Committee on Legal and Constitutional Affairs—which, incidentally, was then chaired by the current Attorney-General—was tasked with examining whistleblower protection models and reporting its findings to the parliament. That committee reported in January 2009. The government did not respond until March 2010, agreeing substantially with the committee's recommendations and undertaking to introduce a bill in the course of that year. So, the committee was tasked to inquire into this issue in 2008. It reported at the beginning of 2009. The government responded a year or 14 months later, and they substantially agreed with the recommendations from that committee. They promised that a bill would be introduced in 2010. Yet here we are, in the middle of 2013, debating this legislation. The fact that we are only now debating this legislation, after all these commitments have been made to bring it forward, is a very good indication about where the Labor Party prioritises it and that this government was not necessarily prepared to have legislation brought forward that allowed for Commonwealth whistleblowing.

The scrutiny that this bill will apply comes in a number of different ways. Firstly, it will promote the integrity and accountability of the Commonwealth public sector. It will encourage and facilitate the making of public interest disclosure by public officials. It will ensure that public officials who make public interest disclosures are supported and protected from adverse consequences related to disclosures. It will ensure that disclosures by public officials are properly investigated and dealt with.

A public interest disclosure is a disclosure of information by a public official that is: a disclosure within the government to an authorised internal recipient, concerning suspected or probable illegal conduct or other wrongdoing; a disclosure to anybody, if an internal disclosure has not been adequately dealt with, and if wider disclosure satisfied public interest requirements; a disclosure to anybody of substantial imminent danger to health and safety; and a disclosure to an Australian legal practitioner for purposes connected with the above matters. It should be noted that conduct is not disclosable conduct if it relates to political or expenditure matters with which a person disagrees, the conduct of a judicial officer performing judicial functions, or the conduct of intelligence agencies in the proper exercise of their functions and powers.

The bill has been referred to the Senate Legal and Constitutional Affairs Legislation Committee, which is due to report on 25 June. A range of issues have been canvassed, including whether the bill properly maintains parliamentary privilege, whether it is appropriate to exclude members of parliament and their staff, and whether the exclusion in respect to intelligence agencies is too wide.

The introduction of whistleblower legislation is one of the principal aims of the Australia's Right to Know campaign, along with freedom of information reforms, journalist shield laws, and resistance to government regulation of the press—all of which is supported by the coalition.

I also want to briefly touch on the Public Interest Disclosure (Consequential Amendments) Bill 2013. This bill makes amendments to the Ombudsman Act 1976, Inspector-General of Intelligence and Security Act 1986 and Public Service Act 1999, to provide for the investigation and any other processes consequent on the making of a public interest disclosure. I also note that the government has introduced amendments at the last minute—a practice that is happening very widely—and these amendments are going to be supported by the opposition, although it does reflect on the chaotic manner in which these final two weeks of the parliament are being run. It is indicative of the way the Labor Party runs the country, when they introduce their own legislation and then subsequently seek to amend it before it has even had a chance to be debated in one house of the parliament.

We do not oppose the passage of these bills through the House, but obviously, considering that they are the subject of a Senate inquiry and that inquiry is not due to report for another week, if that inquiry does come up with something that we believe warrants further consideration we would reserve our right to make amendments within the Senate.

The story of these bills is not a great reflection of the way the Labor Party governs. An election commitment in 2007, it has been implemented at the final end, after two terms of governance, in 2013. A parliamentary committee reported to the House at the beginning of 2009. The government accepted those recommendations after quite a long period of time, 14 months, and said that they would legislate to implement them. Yet here we are, over 3 ½ years later, debating this legislation at a time when, clearly, it is hardly going to apply to this government at all. It will apply only to whoever gets to form the next government after the next election. I think that is a very poor reflection on the Labor Party. It is a very poor reflection on the way that they run the business of this House.

We do support this bill, as we support other measures to make sure that we have integrity within the Commonwealth Public Service, but we do reserve our right to have a look at the recommendations that will be made by that Senate committee and to deal with it appropriately within the Senate after that.