Speech by

Hon. M. FOLEY

MEMBER FOR YERONGA

Hansard 17 November 1998

COMMISSIONS OF INQUIRY (FORDE INQUIRY—EVIDENCE) REGULATION 1998
Disallowance of Statutory Instrument

Hon. M. J. FOLEY (Yeronga—ALP) (Attorney-General and Minister for Justice and Minister for The Arts) (3.07 p.m.): Today is the 454th day since the previous Parliament voted no confidence in former Attorney-General Beanland for his disgraceful disregard for the institution of the Parliament.

Today, we have seen a brazen attempt on the part of the former Attorney-General to have this Parliament strike down a very important regulation designed to assist the Forde inquiry to carry out its vital investigation of reported child abuse in welfare institutions. This Government opposes that disallowance motion, because its passage would prevent the Forde inquiry carrying out its important work.

The coalition's attempt through this motion to block access to Government child welfare files shows a stunning indifference to the great community concern over the need to get to the truth of child abuse in institutions promptly and effectively. It is argued on the part of the member for Indooroopilly that this should have been progressed by way of legislation. If that were so, why did he not bring in a private member's Bill at the same time as moving the motion for disallowance? The remedy lay in his own hands. Did he take it? Certainly not! Because this is not a serious attempt to show respect for the institution of the Parliament, much less is it a serious attempt to assist in the work of the Forde inquiry; it is something else altogether!

I turn to the conclusion of the all-party Scrutiny of Legislation Committee. Paragraph 7.9 of the report states——

> "Although the regulation appears to be contrary to s.4(5)(d) of the Legislative Standards Act 1992 the committee is satisfied that the regulation has sufficient regard to the institution of Parliament."

The learned Minister for Families, Youth and Community Care referred to Henry VIII with respect to the honourable member for Indooroopilly. I join with the Honourable Minister's observations and simply add that the honourable member for Indooroopilly shows as much respect for the institution of Parliament as Henry VIII showed for the institution of the papacy.

The regulation is lawful and proper. It is lawful because it is made pursuant to an Act of this Parliament. It was not some Crown prerogative that descended from the mists of medieval history. It came about as a result of the authority conferred upon the Executive Council by an Act of Parliament. In 1988 that Act of Parliament was introduced by the coalition Government to achieve this end.

The arguments advanced by the Opposition are that the regulation offends the institution of the Parliament by using a regulation-making power to amend an Act of Parliament and that this should have been done by legislation. Firstly, throughout the life of this matter there is and has been a need for urgency. Secondly, the regulation had proper objectives, namely, looking after the welfare of children and assisting an inquiry to gain access to relevant information. Significantly, the scope of the regulation is limited in time and application. This regulation will not amend holus-bolus an Act of Parliament once and forever. The regulation amends the secrecy provisions for a specific purpose, namely, allowing the Forde inquiry to gain access to information for a limited time, because the inquiry is required to report by March of next year. The Government is concerned to advance the interests of child welfare and it is concerned to ensure that the Forde inquiry is given the assistance that it requires.

On 25 September 1998, I received a letter from Mrs Forde, the chairperson of the inquiry, which stated——

> "In order to enable the Inquiry to carry out its terms of reference fully and faithfully, I consider it appropriate and necessary for the Inquiry to have access to all relevant information which is subject to the secrecy and confidentiality provisions.
>
> Any hindrance in the timely provision of information necessary to the performance of the Inquiry's task, will severely curtail the ability of the Inquiry to comply with its terms of reference."

In response to that letter, the Government gave consideration to the two alternatives: either introducing a regulation or introducing legislation. Following receipt of Commissioner Forde's letter of 25 September, if the Government had decided to do so, legislation could not have been initiated until the next parliamentary sitting day, 20 October. Such a Bill would not have been mature for debate until the next parliamentary sitting week commencing 10 November 1998. That would have resulted in a delay from 25 September until 10 November, causing an unacceptable delay in the vital work of the Forde inquiry.

I will deal with some of the other matters raised by contributors to the debate, and I start with the contribution of the member for Gladstone. I thank her for her contribution. I reassure the honourable member, as I assured the Scrutiny of Legislation Committee in writing, that the regulation is lawful. There is no risk of its lawfulness being challenged and there is no risk of an injunction. The files were lawfully obtained by the commission of inquiry from the 104 individuals concerned. The material, which I am informed covers some 150,000 folios, can quite appropriately be dealt with by the commission of inquiry.

I deal passingly with the contribution of the member for Cunningham, who saw fit to lecture this side of the Parliament on civil liberties. That was a novel experience. After all, the Labor Party introduced the Legislative Standards Act. A Labor Party Government made possible the machinery that has allowed this sort of scrutiny to take place. For a generation we have contested against the National Party—the National Party that presided over racist legislation in the area of Aboriginal and Islander affairs, the National Party that presided over the abuse of civil liberties with respect to the Special Branch, the National Party that presided over the ban on street marches, the National Party that refused to introduce freedom of information, the National Party that refused to introduce judicial review. When attacking this side of the House on civil libertarian grounds, the words of the honourable member should scald his tongue because the record of his own party in Government has been such an appalling one.

Ms Bligh: The MOU party.

Mr FOLEY: Yes, I thank the Honourable Minister. But for the discovery of that secret agreement, we would have seen yet another attack upon the apparatus of the rule of law in this State through the sleazy memorandum of understanding that attacked——

Mr Springborg interjected.

Mr FOLEY: For the sake of the current shadow Attorney-General, I hope that they treat him in Opposition better than they treated the member for Indooroopilly. When the Leader of the Opposition, Mr Borbidge, and the current shadow Minister for Primary Industries, Mr Cooper, entered into the sleazy deal to roll back the powers of the CJC, they did not even consult with the shadow Minister responsible, the member for Indooroopilly. They knew that they had the Liberal Party in the bag on the CJC, and they did not even consult him. Such was their contemptuous attitude towards the protection of the bulwark against corruption in this State. I thank the honourable member for Cunningham for drawing attention to that record on civil liberties. I invite him to provoke the debate on that topic any time that he likes.

The member for Indooroopilly suggested that this action was in some way taken by the Government by sleight of hand. Let the record show that far from this action being taken by sleight of hand, it was done publicly. It was done by way of regulation, it was done with a media release and it was done following my speaking personally with the member for Warwick and the member for Indooroopilly to draw their attention to this very matter. Indeed, I wrote to the Scrutiny of Legislation Committee to draw its attention to the matter before any motion was moved by the member for Indooroopilly in relation to it. For the honourable member to say that there was some sleight of hand involved is not only demonstrably untrue but is, in fact, absurd. The honourable member simply fails to make out a reasonable case.

Let me deal with some of the others aspects of the contribution of the member for Indooroopilly. In his attack upon this Government's record in the area of family services, he accused the Government of doing nothing. I think he suggested that the Government was too lazy to do anything in this area. Let the record show that this is the Government which set up the Forde inquiry. This is the Government which brought in the Child Protection Bill, which languished under the former Government. This is the

Government, through the Minister for Families, that brought in the Juvenile Justice Amendment Bill, which passed through this House. This is the Government that brought in The Hague Convention legislation. This is the Government which increased funding for child protection. This is the Government which has spectacularly increased funding for disability services. I thank the honourable member for Indooroopilly for his drawing attention to the record of the Minister for Families and this Government. It does not do anything for the dignity of the member for Indooroopilly to make patronising and personal remarks in respect of the Minister for Families. It is unfortunate that he descended to that level in the debate. We have seen more legislation and action in respect of this portfolio in four and a half months than in the two and a half years of the coalition Government.

The hypocrisy of the member for Indooroopilly is truly of Olympian proportions. After all, this member on behalf of the former Government was responsible for introducing the last commission of inquiry that we had, which was the Connolly/Ryan inquiry. Not only was that brought into existence for an improper purpose, that is, the improper purpose of getting Mr Borbidge and Mr Cooper off the hook before the Carruthers inquiry; it was done in such a ham-fisted and politically biased way that it made constitutional and legal history throughout the Western World in that it achieved for Queensland the ignominy of being the only jurisdiction in the history of the common law where a royal commission has been struck down for political bias. Yet this is the honourable member who comes to this House to lecture the Government on respect for the institution of Parliament and the proper way to set up and run a commission of inquiry. This is the member who was responsible for wasting millions and millions of taxpayers' dollars in order to allow that spending machine out of control—the Connolly/Ryan commission—to run its odd course.

This Government, in establishing the Forde inquiry, was not interested in a spending machine out of control. It was interested in setting up a commission of inquiry which would get to the truth promptly and effectively. It set a time line on it. It indicated in its terms of reference what was required, and has proceeded to assist the Forde inquiry where that has been necessary.

Let me turn to the observation of the Scrutiny of Legislation Committee about the need, as the committee sees it, for amendment of the Commissions of Inquiry Act. It observed that section 5(2A) of the Commissions of Inquiry Act should be removed from that Act. Consideration will be given to that report similar to that given to the report of any all-party parliamentary committee. However, may I drawn attention to the consequences of such an action.

If it were changed so that any commission of inquiry could override any secrecy provision, that would raise very serious problems for the liberty of the citizen, because the secrecy provisions are individual and particular to a range of Acts of Parliament. As a former Attorney-General, Mr Clauson, said in his speech to this House, there is a need for each secrecy provision to be examined specifically before it is set aside. On the other hand, if the committee contends that the power to override secrecy should simply be abolished, the consequence of that is that it would require an Act of the Parliament to set up a commission of inquiry or to give such an inquiry power to access confidential material in any event. That would give rise to real problems, for example, if the need for a commission of inquiry were to arise during the course of the Christmas break, when Parliament is not sitting for a couple of months. I note the observations. I respectfully compliment the all-party Scrutiny of Legislation Committee for a careful and thorough analysis of the issues and assure the committee that its observations will be given careful attention.

The Government strongly opposes this disallowance motion. This Government strongly supports the Forde inquiry. This Government wants to ensure that the Forde inquiry gains proper access to those files held by the Department of Families that would otherwise be inaccessible by virtue of the Children's Services Act or the Juvenile Justice Act. That is a lawful and proper purpose for the regulation. The scope of the regulation is limited in time and application for the very reason that this Government cares about the need for confidentiality and the need to protect the civil liberties of its citizens, just as this Government cares about respect for the institution of the Parliament. I urge all honourable members to oppose the disallowance motion moved by the member for Indooroopilly.
