



Speech by

Hon. V. LESTER

MEMBER FOR KEPPEL

Hansard 19 July 2000

FREEDOM OF INFORMATION AMENDMENT BILL

Hon. V. P. LESTER (Keppel—NPA) (9.13 p.m.): I have to confess that I am amazed that some of my colleagues have suggested that there will be a vote on this legislation tonight. After all, I am led to believe that this is the Bill that Mr Beattie, as Opposition Leader, had hoped to bring before the House and have enacted as law. Now the boot is on the other foot, and all of a sudden it is, "Hush-hush. Back off. Not suitable. What could it expose?" From what my colleagues are saying, there obviously will be a vote tonight. I cannot believe that the Government would vote against legislation that was proposed by the then Opposition Leader and now Premier. We are just trying to help him out. It is as simple as that. All of a sudden he does not want our help. It is very difficult to understand.

We are in a time when we have to be more accountable, whether we like it or not. Each and every one of us has to make information more available. I would be the first to admit that sometimes we do not always like doing that. But if we take on a position of public office, we have to be prepared to have all of our actions subject to public scrutiny. There are some exceptions, and I think I could quote one. For example, if somebody writes to the Parliamentary Criminal Justice Committee with a complaint about somebody and that issue is discussed within the committee, I would not like to see the deliberations of the committee—the tape-recordings and so on—discussed in this place. Members of a committee must be free to discuss certain matters fairly and squarely without fear. If the committee had to reveal its discussions on a certain matter, it could inhibit committee members from giving the matter true and purposeful consideration. But that is one of the few exceptions that I believe should exist. The normal operations of a Government department should be subject to public scrutiny. Individuals must be free to examine documents relating to themselves to enable them to ascertain whether a decision affecting their affairs was justified or received a full hearing.

Some of the comments by the member for Warwick were interesting. I am reminded of a question I asked during the tree-clearing debate. A report by the Department of Primary Industries indicated that the costs were much higher than the Government had made out. The Government has not been too keen to debate that report or make it available to the people of Queensland. In fact, I was astounded to discover that Government Ministers actually called those people—good DPI officers—clones of our Government. That was a dreadful thing to say about fully fledged departmental officers who dared to give information that might have been contrary to the position of the Government at the time.

Mr Borbidge: The Minister for Primary Industries effectively said he had no confidence in his department.

Mr LESTER: He absolutely did that. I have always believed that Ministers should try to back up their departments. These officers give a straight-down-the-line assessment on what they think is right and wrong. They were shot down in this Parliament. A Government should not put its public servants down. A Government should not run for cover and blame them. That is what this Government did. That was one of the saddest days of this Parliament.

At that time tree clearing was a very important issue to this State. It does not matter what the Opposition or the Government thought at the time; it was an issue that was of public importance. There were demonstrations, there were rallies and there was deep feeling on the issue, but we did not even get to the Committee stage of that legislation. That was a very sorry day. I have to wonder: did the Government decide that those affected by tree clearing were people in conservative electorates and

that, therefore, it would not make much difference to the Government's vote, so it did not really matter. We await with great interest what will happen when the Water Bill comes before the House.

I have an article here titled "Back to the drawing board". It contains preliminary recommendations and assessments on redesigning Australian freedom of information legislation in the future. It states—

"This article attempts to return to basic principles and primary design choices about access to official information in Australia. Other articles have either attempted to weave together the key points of specific law reform suggestions over the past decade and/or have looked at compliance and administration reforms. Yet we seem to be bound to the narrow vision of our original designers who opted for a basic US adversarial/litigant model with a series of patchwork connections."

That is really what we did. The article continues—

"These connections were to incorporate the essential dynamics of a hybrid Westminster system that had evolved during the slow development of Australian government since 1788.

There are a number of 'standard' features, which are essential to an effective freedom of information (Fol) legislative scheme. The components of an ideal Fol model are best adopted as an integrated 'package' to maximise the utility of the legislation and to encourage greater public participation. A balance needs to be struck"—

and this is important—

"between the notions that power and secrecy are relative rather than absolute concepts and that government power will not be drastically diluted merely because there is improved citizen access to information."

What the authors are trying to say is that the information given out has to be fair dinkum and real and that it does not have to be sanitised in any way. That is always a huge problem when it comes to freedom of information. I have heard so many complaints over time that when people have been able to access freedom of information the documentation appears to be sanitised; it appears to have been got at; it appears to have been made to seem different. This is, of course, a dreadful state of affairs.

As I said before, whether we like it or not, we are living in the new millennium and people expect those who are public servants and those who are elected to serve the Crown, to serve the Parliament and serve the people to be accountable. The article continues—

"Any attempt to formulate basic design principles for Fol must begin with a statement of objectives to structure and guide the accompanying policy and process. The objectives of the legislation must be to enhance public access to information and improve overall government accountability."

If people know that they have to give out decent and fair dinkum information, then a little bit more care will be taken in the first place. Surely to goodness, that really starts to get us on the road to better and more accountable Government. We all fail from time to time. I do not think anybody in this world is perfect, but if we can go to bed at the end of the day and be able to say that we have tried to be as honest as we can during the day, well then we have got a fair chance of facing the next day. A simple scenario like that is probably not a bad way to go. The article continues—

"A statement of objectives must be expressed in clear and uncompromising words, which mandate that access is the paramount objective. The very title of the legislation can assist in emphasising these objects—a legislative title of 'Access to Information' would symbolically imply greater openness than does the title 'Freedom of Information'."

What freedom of information is trying to achieve is exactly that. If we require certain information, then that is what we should get, not a sanitised version of the information. The article continues—

"An Fol legislative scheme cannot be effective without a commitment from government and its servants to openness and accountability."

We should just look at that concept for a moment. I repeat that a freedom of information legislative scheme cannot be effective without a commitment from Government and its servants to openness and accountability. That is really what we should be trying to achieve. If we are committed to being open and accountable, it should be second nature. If it is second nature, we are going to try to be more careful of what we do in the first place. The article continues—

"This commitment must be genuine; it must be long term; and it must be evident not only among Fol officers assigned to process requests, but also among senior bureaucrats, policy advisers and at the ministerial level. To this end, a simple starting point is to avoid direct references to any exemptions to the legislation in the statement of objects. Thus rather than a statement such as 'This Act seeks to ... subject to ...' it would be more appropriate if the statement read: 'This Act will ...'. Minor changes in wording can be of symbolic significance.

Australian Fol legislation has so far failed to achieve an outcome where access to information in the custody of government is the norm, and non-disclosure is a contestable and limited exception."

That is what we are looking at—a very limited exemption—as I pointed out before. The article continues—

"A viable democracy needs and demands an informed citizenry"—

That is the citizens of this nation. When they demand information, they should be able to get it. The article continues—

"... yet Australian politicians seem prepared to offer us the sad, faded and crumbling relic of our first attempt (the Commonwealth Fol Act) or a hasty back to what it was before version ...

The experiment of Australian Fol legislation has not realised its ambitious objectives. The main problem is resistance to the regime from the government itself."

We are talking about it here tonight; that is why we are having the jolly debate—because there is a resistance. We have put forward a very simple solution. We have simply tried to help the Premier out and he has thrown the ball back at us. He has, to some extent, thrown the opportunity to be totally accountable out of the floor of this House and out that window down into the gardens. That is a very, very sad state of affairs. The article continues—

"The more restrictive the legislation, the greater the level of government commitment. The fate of Fol legislation can be largely influenced by whether there is a 'political patron' within government—such as a Minister with a genuine commitment to Fol principles—to champion the cause. Australia has produced few ministerial champions."

Indeed, when we consider the record of our recent Attorney-General, we find that it is far from good. I can remember him running around when we were in Government addressing Rotary meetings. One morning, I was at one. He pontificated forth about all of the accountability measures that were needed to keep Governments honest and all of that sort of thing. I am not saying that the Attorney-General is not honest, but he could be doing a lot better. It is a worry to us in this Parliament when indeed our own Attorney-General's record could be better.

An Opposition member: Hot air.

Mr LESTER: Yes, there is a fair bit of hot air. That is a very, very deep concern. Tonight, I am greatly disturbed to find that we have to even debate this legislation. It should have been a matter of course. It should have been automatic. It should have been one of the first issues contemplated by the Premier when he came to Government. It has been pushed and pushed away to the point at which it is not only going on the backburner but it will be burnt up altogether. Goodness gracious me! That is a terrible situation!

The article continues—

"Contemporary design principles should not be based on notions that the government generally maintains an unfettered discretion over content, distribution and restrictions on the dissemination of information."

That is quite a worrying statement—that Governments can decide really what they are going to give out and what they are not going to give out. It is a bit like a rabbit with a head of lettuce: they will give out what is good for them, but they will not be too keen on giving out what is not too good for them.

That is why we are, unfortunately, having this debate. This is one of the saddest nights that I have had in the Parliament because we have to debate legislation such as this just to have ordinary accountability. We are not talking about over-the-top stuff; we are just talking about ordinary accountability—if we do something, to say what we have done. If we have made a mistake, so what? It does not matter. We should just get on and fix it up. Sometimes when we have made a bit of a blunder, we are better off to say that we have done it and then fix it up. I wonder how much time is spent by people in this world trying to talk their way around mistakes rather than saying, "We made a blunder. We are sorry. We are going to fix it up." That happens so often.

The article further states—

"The design of Fol should first and foremost be to locate access to information as a foundational democratic right."

This right of information to the ordinary person is absolutely fundamental to our rights. We know that that is the case. In finishing, I say that it is fundamental to our democratic rights that if we want some information from the Government, we should be able to get it and there should not be any restrictions placed upon us. Yet, I ask: why are we debating this Bill tonight? I expect the Labor Party to vote with us and show us that they are fair dinkum about freedom of information.

Time expired.