



Speech by

**DESLEY BOYLE**

**MEMBER FOR CAIRNS**

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Hansard 31 October 2001

**FREEDOM OF INFORMATION AMENDMENT BILL**

**Ms BOYLE** (Cairns—ALP) (8.47 p.m.): I am pleased indeed to rise and support the Freedom of Information Amendment Bill 2001. There is no doubt, as other honourable members have said, that freedom of information is an essential tenet in a social democracy. It is, we have been reminded, one of a raft of mechanisms that go towards ensuring such high standards of integrity and accountability as can be found. It is one of the many mechanisms that show the openness of government in Queensland and have over the past decade.

There is a remark made in the Fitzgerald report in section 3.2.2 which applies—

Information is the linchpin of the political process. Knowledge is quite literally power. If the public is not informed, it cannot take part in the political process with any real effect.

Since the introduction of this amendment bill to the House there have been some interesting and important articles written, particularly in the *Courier-Mail*. I have been keen to read these and to consider the opinions expressed.

It is important that we in government who may be using every spare hour we can to be preoccupied with the business of our electorates, to be preoccupied with the core business of government—which in the case of state government is the delivery of services in health, education, housing and the environment and in association with local government, the police and so on—do not lose sight of another level of our responsibility, and that is the confidence of the public in their access to government information about themselves or about topics of concern or issues of conflict. No doubt, in an ideal world, these days a government would have all information easily available through information technology. The system would be excellently cross-referenced and it would take people only a matter of minutes to access the information that they wanted, whether it was historical information or present-day information.

However, we do not have that level of excellence in the system of the Queensland government, nor, I dare say, does it exist in any government in the world. Those of us who have become more and more immersed in government understand why that is so. State governments have a tremendous breadth of operations and a tremendous amount of interaction between departments and subsections of departments. Over the past 10 years, community consultation has been a major feature of government practice and there are a wealth of documents interacting with all of the departments that bear on this consultation. Of course, while we are trying to set up an excellent system to tap into all of that historical government material, day by day we are producing more and more documents and information that the public, in this ideal world, may wish to access.

Nonetheless, it is essential that we open government processes to examination, to scrutiny. While adopting that principle—and, certainly, in recent weeks some members have written about, and other honourable members have spoken about, the high and lofty principles of freedom of information—in practice we have discovered that at the same time we must protect the privacy of individuals. While the government should be open to scrutiny, individuals who have corresponded sometimes with the government or who have expressed their concerns, often about personal matters, should not be, as it were, put on display. That principle has provided us with some necessary and continuing limitations on access to information through the state government.

I note the concerns expressed by many about the sanctity of freedom of information. I agree. However, it is interesting to note that that is not really the issue that is under examination as we debate

this legislation tonight. In fact, the core issue of this legislation is about recovering some of the spiralling costs of FOI administration. It is not about creating a new charge, as it were. Rather, it is about deciding who pays and changing who pays for certain kinds of information.

To understand the present position of the FOI legislation, it is relevant to refer to some of the history of it. The original Freedom of Information Act 1992 was an important marker in Queensland's history. It followed the changes that arose out of the Fitzgerald report and the new era of enlightenment that was dawning in Queensland with the appointment of the Labor government. It has been good legislation. That has been demonstrated by its workability over the past nine years. We were guided in the development of that legislation by the Commonwealth legislation, and I remind honourable members that not only in Queensland but also in Canberra it was Labor governments that introduced FOI legislation.

At the time of the introduction of FOI legislation into Queensland, I was the chair of a health authority in the peninsula, in the Torres Strait region. I saw at close hand the excitement as well as the confusion of people who had access to health-related information. I saw at close hand the training that was needed and the new systems that were required for people within Queensland Health and people new to the health system to be able to negotiate the sensible procedures that would allow for timely access to information whilst protecting patient confidentiality and personal privacy. It was simply a matter of practice and training and it was no more than one to two years before the system was working well.

At that time, I saw up close, too, how the attitudes within Queensland Health changed towards providing information, how skills were developed in assisting people and the change in culture of providing as much information as could be provided as quickly as possible. I noticed, too, some of the changed administrative processes that allowed for much information to be simply available and it became no longer necessary for freedom of information applications to be made in order for that information to be accessed.

However, more recently my experience with freedom of information has come through my membership during the previous term of this government of the Legal, Constitutional and Administrative Review Committee. I participated in a thorough review that was commenced during that term, and I understand that it is to be completed shortly. Through that review process, I met with many of the freedom of information officers from various agencies and departments of the state government. I was impressed by their attitude, their energy and enthusiasm for the importance of their task and by their bias, if I could detect any, towards serving the individual who had made the request or the organisation that needed the information. On no occasion did I detect any bias towards hiding in some protective way information to somehow shore up a departmental position.

However, through the experience of that review, I was also confronted with how much we are all paying for the privilege of freedom of information. Back in 1993, it was less than \$1 million. This financial year, it was \$7.7 million. That is a very substantial cost, and it does not stand alone if the costs of the other mechanisms that aim high to protect our standards of integrity and accountability are added. If that is done, the costs spiral. I refer to the added costs of the freedom of information administration for the CJC, for the Crime Commission, for judicial review, for the Ombudsman, and for the Anti-Discrimination Commission. It is apparent that a significant proportion of our budget is spent to ensure openness and accountability for the people of Queensland.

However, that money comes from the big bucket that is the state government's budget. If that money is being put into these agencies—important as they are—then it is not being put into health, housing, police, or emergency services. For a backbencher in my position, that creates a very difficult decision. Some people who have written loftily about how important it is to keep the standards of freedom of information high do not sit at desks where they are confronted daily with projects, with a desire to provide services for the people of Queensland that cannot presently be funded. They are not people who have to compare and contrast the various needs of their communities and decide which deserves priority within the constraints of today's budget.

That is what this amendment bill comes down to: who should pay? Should it be, as it is presently, a cost to all the taxpayers of Queensland? In my view, that is certainly the case and remains the government's view in the case of individuals accessing personal information. It certainly remains that way after this bill is passed for people who have limited means. But what about private sector organisations, which have been using the system of freedom of information as a research facility at no cost to themselves? Should their requests be subsidised by all of Queensland's taxpayers? The reality is that, for a private business, such as the *Courier-Mail*, the cost of trawling, of speculating, of finding out whether or not there may be matters of interest to be uncovered, has been next to nothing. It is no wonder that such businesses have been encouraged to make requests to a great extent—and some might even say to an excessive degree.

There is no doubt that, although it might be important for journalists employed by the *Courier-Mail* to present information to the public—to put the issues and the debate fairly and squarely before

the public—for the owners of the *Courier-Mail*, the very reason for the paper's existence is to make a profit. In the end, money is placed first. From time to time journalists employed at the *Courier-Mail* or other media outlets may do a good job in exposing to public scrutiny some public sector practices, inefficiencies and mistakes in government, and even occasionally corrupt practices. Nonetheless, they must face the fact that they work for a profit-making organisation that, nationally and internationally, is making a very good profit. Therefore, should I and all of the taxpayers of Queensland pay for them to have a free research facility? Tonight we are saying that the answer is no. Should they wish to undertake trawling exercises and speculative searches for what may turn out to be a story, it is appropriate that they pay. They have the capacity to pay and they should do so. Similarly, although on a much smaller scale, some solicitors have been in the habit of letting taxpayers foot their bills for conducting searches through freedom of information on behalf of clients who are paying them for their services.

With the costs spiralling, the time has come for the government of the day, the Beattie government, to decide who should pay and to make some changes, which is what we are doing tonight. Nonetheless it is important to note that the fees that will be instituted are no greater than the fees already existing in other states of Australia and nationally.

Another issue that I would like to address tonight is applications from individuals and large organisations for fairly diffuse and wide-ranging information. Such applications can be extremely time consuming and costly. Sometimes, the application has not been specific because the applicant has not known how to properly word or direct their search. That problem can be easily fixed through the provisions in this bill that encourage negotiation and communication between the applicant and the administrative FOI provider, allowing information to be accessed as quickly and as simply as possible.

There are those who say that the attitudes of some people in the public sector, particularly at senior management levels, towards freedom of information are resistant. They are not as cooperative as they should be. Therefore, I am pleased that the bill strengthens the provisions requiring agencies to consult with applicants. Particularly in cases where an applicant signals that complex or large amounts of information are required, things can be done much better if the parties sit down at a table to negotiate, to discuss how much time it is likely to take and, of course, to recognise the costs that will be involved.

I have no doubt that this legislation will lead to improvements. Therefore, I have no doubt about supporting the bill. I have no doubt that the freedom of information in this fine state of Queensland will be enhanced and not diminished by the actions that we are taking tonight.

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