



Speech by

Mr M. HORAN

MEMBER FOR TOOWOOMBA SOUTH

Hansard 31 October 2001

FREEDOM OF INFORMATION AMENDMENT BILL

Mr HORAN (Toowoomba South—NPA) (Leader of the Opposition) (5.30 p.m.): Today we enter one of the dark hours of this parliament as we debate the accountability tax being introduced by the Beattie Labor government. If one went through the records of this place and read what all the civil libertarian proponents from the other side said when the FOI legislation was introduced, one would see that, a few years down the track, the Beattie Labor government is doing everything it can to put one more hurdle in the way of people who want to legitimately access freedom of information. Today we have heard all sorts of arguments from previous speakers in this debate, from attacks on the media to attacks on the previous National Party governments. However, one can tell from the sheepish way that members opposite are presenting their arguments that they do not like this, that they have acquiesced, that they have followed like a mob of sheep at caucus and accepted this proposal put forward by the Premier and the executive of this government who find FOI a nuisance.

Politicians do find FOI a nuisance. Bureaucrats find FOI a nuisance. After time in this place or in administration, those opposite will learn that FOI has a real purpose, and it is a purpose that sometimes takes a while to understand. FOI ensures that at every possible level of government decision making—be it at the executive level or at the various levels of administration—people are mindful that they are working in an open, honest and accountable way to ensure that at any time the work that they undertake and the decisions that they make may be subject to public scrutiny. That allows the public to have confidence in the political process and the administrative process.

People are always sarcastic and cynical about politics. It is about time we started to understand what the cornerstones of open, true, honest and accountable government are and how they work. Yes, they can be a nuisance, but they do have a real purpose. Those cornerstones are the Criminal Justice Commission or an anti-corruption and anti-official misconduct watchdog, the Ombudsman and the system of freedom of information. If we accept that and accept that there is a cost, we will begin to understand that that will be part of the budget every year. But to hear the Premier stand up in this House and say, 'I want to save some money and use it for health and education' is just a spin he wants to put on the issue so that he can cover up the very fact that in Queensland we are now going to have an accountability tax. How does one put a value on some of the information that is unearthed through the freedom of information system by the opposition, media, organisations or associations?

Mrs Edmond interjected.

Mr HORAN: We hear more cynicism from the Minister for Health, who is not even sitting in her right seat, and neither is her mate next to her. They show their usual disregard for the parliamentary rules.

The Health Minister is the one person who should not be interjecting, let alone from her wrong seat. The Health Minister would be aware of a recent refusal for an FOI request from us relating to the Nambour Hospital, and I use that as an example. How can one put a value on finding out information about staffing levels and systems that provide for adequate staffing of a particular hospital? How can one put a value on that? How can one put a value on freedom of information applications to the Department of Families and whether there is a waiting list of children seeking assessment in order to receive care and protection? How can one put a value on some of those things if the pressure of FOI brings about an improvement in staffing levels, brings about an improvement in the assessment of those children or brings about a more open and accountable system which shows how corporations or

businesses received assistance to start their businesses and how that can be honestly and equally applied to other organisations around the state?

Today we are in this House to debate the accountability tax. Over recent months we have seen this government do everything it possibly can to circumvent FOI applications by taking truck loads of data and documents through the parliament.

Mr Mickel: Just like you used to when you were Health Minister.

Mr HORAN: If the member opposite wants to blame the past and believes that we should not improve in the future, why doesn't he go and live in the past? He is always big-noting himself and flouting the rules of the House and yelling out to whomever he likes, but when he gets into the chair it is a different matter, isn't it? He has two standards. The government has done everything it possibly can to put these hurdles and barriers in front of FOI applications. This legislation not only proposes a process of pricing but also makes it as difficult as possible to go through the process. The process can take up to 105 days in certain circumstances, so there is every difficulty for the average person to access FOI. In all likelihood, they will then say that it is all too much trouble.

We often talk in here about levels of performance. One of the greatest pressures relating to level of performance by members of parliament, departments and the government is public pressure. In some cases, it is public shame. We have heard a bit of media bashing here today. In his spin the Premier spoke of the multimillionaire or multibillionaire barons who own particular newspaper chains. However, no matter where one works—even if that is in a particular editorial department—everybody knows that all businesses have a certain budget and that they try to work within that budget. There have been some exposés by the media that have made a difference to certain issues in Queensland. Examples are the marketeering issue and the pressure that has been brought to bear on the Department of Families regarding the lack of assessment and the waiting lists of 2,000 little children who are at risk of sexual and physical abuse and who require care and protection. They are just a couple of examples of exposés. We have submitted FOI applications for issues such as the footbridge, Lang Park, Virgin Airlines and the Nambour Hospital, just to name a few.

I heard the previous speaker in this debate talk about the time when she worked for an opposition in the Northern Territory and how frustrating it was not to be able to use the tool of freedom of information because it was not even in existence. Under this legislation, there will be a similar situation here. She also mentioned the opposition's costs in relation to this issue and acted as if we are acting on our own behalf and not on behalf of the people we represent. We are the opposition for Queensland. We represent a number of seats throughout the state. We advocate issues on behalf of many people who are disgruntled or unhappy with situations in their Labor electorates. One of the key tools we have which costs us money will be put out of our reach. That is a nobbling of the opposition, and that is a backwards step.

In the past three months we have made approximately 25 applications for FOI. Under this bill we will have to pay some hundreds of dollars, and perhaps in a couple of cases thousands of dollars. We have a limited budget. Our budget is controlled by the Premier's Department, so the Premier's Department controls us financially. Our budget was slashed by one-third in the wages component in opposition which took away one-third of our staff. Despite that, we have a non-Labor component in our budget. In that we have a limited amount we can use for things like freedom of information. This is going to put a real handbrake and a real check on what the opposition in the Queensland parliament is able to undertake.

We do not have access to any further funds unless the Department of the Premier and Cabinet decides at cabinet budget review time to provide us with extra funds to undertake freedom of information applications. I do not think that that is likely to happen, although the Premier said that we can put forward that request. However, in this regard the Premier's Department has direct control over us because it controls our finances and we have to stay within budget. We are going to be financially controlled so that one of the most important tools of modern government will be denied to us. Our opportunity to undertake FOI requests that we deem necessary will be denied to us.

In an average parliamentary sitting week we are allowed to ask five questions. We can each ask a question on notice. There are certain limitations to what we can do. Often we ask a question and in his or her allotted three minutes the minister skates around the question and then gives some sort of an answer in the final 30 or 45 seconds. Freedom of information gives us the opportunity on behalf of the people we represent to delve into matters and investigate them thoroughly and deeply.

I have said before that the Freedom of Information Act has become a nuisance to this Labor government. The Freedom of Information Act was designed to extend as far as possible the right of the community to have access to information held by the government. Subject to exceptions provided under the act, everybody has a legally enforceable right to be given access to any document of an agency or official document of a minister. It is a right that has been extended since the inception of this act.

The exceptions provided for under the act recognise that there are competing public and private interests which may warrant non-disclosure of some government held information. Representatives of this government recognise that, too. In introducing the Freedom of Information Bill in December 1991, former Attorney-General the Hon. Dean Wells said—

The object of this Bill is to extend as far as possible the right of the community to have access to information held by Queensland Government agencies.

He went on to say—

Freedom of information legislation throughout Australia enshrines and protects three basic principles of a free and democratic Government, namely, openness, accountability and responsibility. The reasons for enactment of freedom of information legislation have been set out in the Bill, and are as follows—

'Parliament recognises that, in a free and democratic society—

- (a) the public interest is served by promoting open discussion of public affairs and enhancing government's accountability;
- (b) the community should be kept informed of government's operations, including, in particular, the rules and practices followed by government in its dealings with members of the community; and
- (c) members of the community should have access to information held by government in relation to their personal affairs and should be given the ways to ensure that information of that kind is accurate, complete, up-to-date and not misleading.'

It is so interesting to see that within a decade this Labor government is setting about making information held by the government more difficult to obtain, either by restricting access or by making the process less affordable.

Freedom of information was recommended by Fitzgerald for the Electoral and Administrative Review Commission. The Fitzgerald report outlined in part—

The Commission consider and, where appropriate, make recommendations for electoral and administrative reform otherwise identified in or arising out of this report, including:

- (a) the preparation and enactment of legislation on:
 - (i) freedom of information
 - (ii) administrative appeals
 - (iii) judicial review of administrative decisions

Freedom of information legislation was considered and recommended by the Electoral and Administrative Review Commission after it carried out a review process culminating in the release of its report on FOI. EARC's report actually included the draft FOI bill. In fact, the original FOI act was modelled on the draft supplied by EARC. Today would be a dark day for Tom Sherman, EARC's first chairman, as he sees the dismantling of those principles of the Fitzgerald reform process and as he witnesses the serious limitations being placed on the public's access to information held by government, which directly affects openness, accountability and responsibility.

To be true to the principles of Fitzgerald as well as to the core values of democracy, the government has to walk the responsible line between accountability and independence. However, this government has fudged those lines of responsibility and accountability. In a recent article in the *Courier-Mail* by DeMaria entitled 'Freedom from Information', it was revealed that the government's FOI bureaucrats have said no to requests for government documents some 163,088 times. The departments of Natural Resources; Communication and Information; Local Government and Planning; Sport; Families; Education, Training and Youth Affairs; State Development; and Health were the most secretive agencies last year—eight of them. Together they accounted for half of the decisions to refuse access to information under the FOI act. The Department of Natural Resources recorded 10,129 refusals, claiming that the information related to trade secrets, business affairs or research. On top of all of those refusals—the trundling of truckloads of information through the cabinet process, the dodging and weaving and the playing of hide and seek with information that this government goes on with—we will now have a financial hurdle to freedom of information in the form of the accountability tax.

It is interesting to observe that the office most affected by this FOI legislation, the Office of the Information Commissioner, was not consulted on the amending legislation. That was not an oversight—it was deliberate—and it shows the arrogance that has seeped through this government, from the Premier through to the middle ranked bureaucrats through to this parliament with its huge majority.

To reiterate, under FOI legislation access to government held documents is meant to be a statutory right of everyone. However, this government is making it more difficult by not granting approval to access documentation. Probably most menacing is this proposed tax on accountability and the fees to be charged at an hourly rate.

We have been hearing about a fee of \$20 an hour. As well as the cost of \$20 an hour for processing, a supervisory fee of \$20 an hour can be charged. So the cost could actually be \$40 an hour. How often will there be a supervisor? One hundred per cent of the time? Eighty per cent of the

time? No doubt that will be at the whim of the department. There is actually a possibility that the cost will be about double the estimates some of us have made and that we will see a massive charge of \$40 an hour for processing and supervision. If we look at the way the knock-backs have been coming through, we see that plenty of senior bureaucrats will make the decision to ensure that there will be supervision as well. So there could well be a cost of \$40 an hour.

I have talked about the fact that the opposition does not have a discretionary budget and that we have to work within our budget. Democracy in this state will suffer because we as an opposition will be limited in our use of FOI. These charges will be an effective handbrake on the opposition—another part of the deliberative process of the Beattie Labor government to screw down any opposition and any free and open democracy in this state. This comes on top of the one-third cutback in staff numbers for the opposition office.

In 1997 Justice Kirby of the High Court said—

There is undoubtedly a cost (of freedom of information). But it is the cost of running the kind of government that renders authority accountable to the people. It would be a sad irony if FOI were attained at a price which frightened off deserving users.

I think that is the whole point of this legislation. What about those people who for so long were fighting against the decision of the government to redevelop Lang Park? A group such as that will be made to jump through the hoops of applying, getting a decision and waiting for a review. The entire process could take up to 105 days and they are likely to have the charge of \$20 or \$40 an hour applied to them. What about ratepayers groups who might be concerned about a highway? What about progress associations or organisations concerned about decisions on quarries or something else that affects their amenity?

How can we put a price on democracy? How can we put a price on this overarching system that ensures that everybody does things honestly, truly, genuinely and accurately? It ensures that there are no favours for any particular organisation, that taxpayers' money is being used in a proper way, that there are no special deals, that there are no favours. How can we put a price on getting FOI information that ensures that hospitals are working better, that schools are working better, that the justice system is working better, that the welfare services we provide to children are working better, that decision making in providing government grants is fair and honest?

The Premier talks about trying to save a few dollars to put into health or education. In fact, through a proper FOI system we could probably bring about many millions of dollars in improvement, not only in the quality but also in the amount of service that is provided by a department. Maybe the FOI process shows the priorities of a government and how much it spends on matters that are not important as compared with matters that are very important. An FOI inquiry may bring pressure to bear and lead to a reprioritisation so that more important things are done.

Maybe FOI inquiries can bring to light the fact that parts of the state are being continually neglected in favour of other areas, which may lead to the provision of the sort of government funding and support that is needed. Maybe FOI inquiries can lead to a better justice system. Maybe they can ensure that capital infrastructure tenders or purchasing arrangements are fair, are honest and are not circumvented. Maybe FOI inquiries can ensure that the entire process of appointing people on merit is true and honest. All of that leads to a state of honest and accountable government.

What we are seeing here tonight is a dark hour for Queensland. We are seeing here tonight the introduction of an accountability tax. We are seeing the arrogance personified of this government, which will do everything it possibly can—while it has a big majority in the parliament—to stop access to information, to hamstring the opposition, to hamstring community groups that are not satisfied with decisions, to hamstring the media, and to do everything it can to run along on its merry way, to do what it likes and to selectively give us what it wants us to have so that it can keep the bad news to a minimum.

I say once again: shame on members opposite who have given away the opportunity to continue to provide this state with fair and open accountability by trying to introduce this tax on information to which the public are entitled.

Time expired.
