



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard 16 October 2001

OMBUDSMAN BILL

Hon. P. D. BEATTIE (Brisbane Central—ALP) (Premier and Minister for Trade) (12.56 p.m.): I move—

That the bill be now read a second time.

Before the 1998 election, I promised to work with the Ombudsman to revamp the office and to modernise the legislation. This bill delivers on that promise by replacing and rewriting the Parliamentary Commissioner Act 1974. It is another plank in my government's commitment to public sector integrity.

This bill is commonsense. It merely pulls together provisions from other legislation such as the Commissions of Inquiry Act 1950 and the Parliamentary Committees Act 1995, and enshrines current practices of the Legal, Constitutional and Administrative Review Committee into the one place. I stress that, because it is important. The bill does not represent substantial changes. I repeat: the bill does not represent substantial changes. It improves transparency and provides a legislative basis for the continuing revitalisation of the Ombudsman's office.

The bill formalises the oversight role of the Legal, Constitutional and Administrative Review Committee. This will ensure appropriate managerial oversight of the Ombudsman's office by the bipartisan parliamentary committee and enhance consumer protection for all Queenslanders who are concerned about government action. The parliamentary committee will not be able to dabble in individual complaints as is currently the case under the Parliamentary Committees Act 1995.

The role of LCARC is entirely consistent with the role of other bipartisan parliamentary committees that oversight other independent bodies, such as the role of the Parliamentary Criminal Justice Committee's role in overseeing the present Criminal Justice Commission, and the Parliamentary Public Accounts Committee oversight of the Queensland Audit Office.

There was a report in today's *Courier-Mail* in relation to this legislation. As members can see from what I have said, that report is simply wrong, wrong, wrong. We have released a discussion draft that has been consulted to death. There have been three non-government reports in relation to this. The facts speak for themselves. The report in the *Courier-Mail* is simply wrong. I refer members to the Ombudsman's introduction in his 1995-96 report, in which he says—

... I report to the Legislative, Constitutional and Administrative Review Committee. As the Ombudsman is an officer of Parliament, the Committee will be the conduit which relates my Office to the Parliament itself.

I add that we are simply ensuring that the Ombudsman has the appropriate legislative arrangements in place. In essence, this bill represents no change in practice. It is about management oversight. LCARC will not be able to direct the Ombudsman, and I make that point very clear. The current powers of LCARC are contained in the Parliamentary Committees Act 1995 and the Parliamentary Commissioner Act 1974, and include: administrative review reform; the role in the appointment, suspension, and removal of the Ombudsman; the Ombudsman's budget; and the conduct of strategic reviews of the Ombudsman where they are consulted about the reviewer and terms of reference.

The Wiltshire report stated that the Ombudsman would benefit greatly from greater involvement with the parliament and key committee and recommended an increased role for the oversight committee. The bill does propose to give LCARC a function of monitoring and reviewing the functions of the Ombudsman under the bill. This power was included as a result of the Wiltshire review, which

recommended increased oversight by the parliamentary committee, but it substantially reflects no change in the practice. It just puts the practice in the bill.

LCARC is a bipartisan parliamentary committee and is independent from the executive arm of government. Other independent bodies are oversighted by parliamentary committees, such as the Queensland Audit Office by the Parliamentary Public Accounts Committee and the present Criminal Justice Committee by the PCJC. As is presently the case, LCARC is not able to review how the Ombudsman handles individual complaints. LCARC will have no power to direct the Ombudsman with respect to any matter—merely oversight and review. It is looking only at management issues; it is not looking at reconsidering or reviewing reports, findings, recommendation or decisions. As I said again, the *Courier-Mail* report is wrong.

The bill should not be viewed in isolation. It is part of broader reforms that mark a new era for public integrity and accountability in Queensland. Just as the Crime and Misconduct Commission Bill heralds the emergence of a revitalised, refocused commission better equipped to serve Queensland into the future, so does the Ombudsman Bill herald the emergence of a revitalised Ombudsman's office.

Since 1974, the Ombudsman's office has provided an essential service to Queenslanders, giving them an avenue of redress against mistakes in government administration. There have been a number of reviews of the office since 1998.

In light of the time, I seek to incorporate the rest of my remarks in *Hansard* for the information of the House.

Leave granted.

It is clear from the recent reviews that there is room for improvement in the way that service is delivered. Professor Kenneth Wiltshire's strategic review was commissioned by the Borbidge Government, and reported soon after the 1998 election. In 1999, the Legal, Constitutional and Administrative Review Committee reported on the Wiltshire review. Also in 1999, the House resolved that I commission a strategic management review of the Ombudsman's office. The resulting report by The Consultancy Bureau was tabled in June 2000. Most of the recommendations from those reviews are internal management issues for the Ombudsman's office, and will be addressed by the new Ombudsman as part of his functions. However, the Bill will support their implementation.

The Bill will make the Ombudsman more responsive in dealing with Queenslanders' complaints against government agencies. For example, the bill enables the Ombudsman to resolve complaints informally. The bill also enables the Ombudsman to help public sector agencies to deal proactively with systemic issues, just as the new Crime and Misconduct Commission Bill will focus the commission on continually improving conduct in public administration. The reviews also made some recommendations for legislative amendment.

The bill implements the Legal, Constitutional and Administrative Review Committee's recommendation by establishing the committee's specific functions in relation to the Ombudsman. LCARC is a bipartisan parliamentary committee and is independent from the executive arm of government. Oversight by LCARC is both appropriate and important to ensuring that the revitalisation of the Ombudsman's office continues.

The bill also implements LCARC's recommendations by making a name change to Ombudsman and providing a 10-year cap on a person's appointment as Ombudsman.

The bill will clarify a number of jurisdictional issues that have arisen under the 1974 act. For example, the bill clarifies that non-operational and non-disciplinary administrative actions in the Queensland Police Service are within the Ombudsman's jurisdiction.

The bill also does away with the 1974 act's archaic provision that deems the Ombudsman to be a standing royal commission. Instead, the bill replaces the existing Commissions of Inquiry Act 1950 powers with stand-alone powers. These provisions are tailored to the office's needs, and will ensure accessibility to the relevant provisions in the one act.

They observe fundamental legislative principles, but will ensure that agencies comply with the Ombudsman's requests during an investigation.

The stand-alone powers in the bill include the power to require a person to give a document, create a document or attend before the Ombudsman to give a document or answer questions. It is an offence if a person fails to comply with the requirement and the Ombudsman may request that a magistrate issue a subpoena requiring attendance of the person before the Ombudsman. If the person continues to fail to comply, the Ombudsman may seek an arrest warrant from a magistrate to cause the person to attend before the Ombudsman. The Ombudsman also has power to enter and inspect a place occupied by an agency and take extracts from, or copy, documents located in the place.

The bill also makes the Ombudsman more accessible to people who do not speak English, are illiterate or have a disability, by allowing complaints to be received orally and requiring the use of interpreter and other appropriate assistance. In other respects, the Bill modernises the Parliamentary Commissioner Act 1974 so that it is more readily intelligible for Queenslanders.

The bill was the subject of extensive consultation. The Ombudsman was consulted closely, and on 25 August 2001 the bill was released for public comment.

I record my appreciation to the immediate past Ombudsman, Fred Albietz, for the constructive way in which he began implementation of the review recommendations. Mr Albietz has retired, having held the position of Ombudsman for 10 years. Mr Albietz has had a distinguished career as Queensland Ombudsman and should be congratulated for his exemplary service to the people of this State.

I also look forward to working with Queensland's new Ombudsman, David Bevan, in continuing that process. On 9 August 2001, the Governor in Council approved the appointment of Mr David Bevan as Parliamentary Commissioner for Administrative Investigations for a term of three years. Mr Bevan, formerly the director of the Official Misconduct Division of the Criminal Justice Commission, brings a wealth of legal and managerial experience to the role, particularly in the area

of complaints resolution. The recruitment process for Mr Albietz's successor commenced in 2000. The process complied with all the requirements of the Parliamentary Commissioner Act 1974.

I lay upon the table of the House copies of the appropriate correspondence between myself and the Legal, Constitutional and Administrative Review Committee of the 50th Parliament regarding the appointment, together with Mr Bevan's curriculum vitae. On behalf of all members, I wish Mr Bevan the very best for this new and challenging role.

I commend the bill to the House.
