



Speech by

**Mr T. MALONE**

**MEMBER FOR MIRANI**

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Hansard 1 November 2001

### **FREEDOM OF INFORMATION AMENDMENT BILL**

**Mr MALONE** (Mirani—NPA) (2.40 p.m.): Most of the issues about this legislation, and certainly arguments for and against it, have been well canvassed. The paddock has been ploughed very well, so I will make only a few remarks. Obviously, along with other members of the opposition, I too will be opposing the bill.

Firstly, I think that we should address the need for FOI. In the early 1990s FOI legislation was brought into this parliament. It was probably something that had to happen as part of the transition from the way things were done in the past to modern times. Over the past couple of days in this House a fair bit of rubbish has been spoken in terms of who brought in that legislation and who did not, and who is to blame and who is not. I would like to make the point that other jurisdictions in Australia brought in FOI legislation before it was done in Queensland. Perhaps that is part and parcel of why we are a little late in bringing on daylight saving and a few other things. Certainly in Queensland, sometimes we seem to be a bit behind the eight ball, whether it is in terms of employment or a lot of other things. But FOI legislation is now in place in Queensland. It is part and parcel of a democracy. It has to be. I think that is really where the opposition to this bill stems from—from the fact that we could possibly create the situation in which the charges that are to be placed on FOI will lead to a stifling of our democracy.

The need for FOI stems from the need for people to be able to access information that the government has collected on their behalf, or because of them, or because of some dispute that they have had with a government department. There is also a real need for the media to access information so that they can research the direction of the government—whether or not the media is in support of the decisions that the government of the day makes.

In recent times—and this has been canvassed quite widely—we have had the development of the pedestrian bridge and the Lang Park redevelopment. Those projects are a huge cost to our society and the government needs to be accountable in terms of the money that has been spent, the engineers who have been involved and so on. There are a whole host of accountability issues. It is important to note that part and parcel of being a good government is being able to be seen to be accountable as well as being accountable.

Indeed, I recall that when he came to government, Mr Beattie said that his government was going to be accountable and transparent. I have to say that this legislation goes quite a bit against that initiative. Today I listened intently to the Minister for Local Government when she talked about the high cost of FOI applications to her department and to local government. I am well aware that that is an issue. Certainly, it was an issue when the coalition was in government. The fact of the matter is that this legislation could have put in place a mechanism that would limit those excessive and quite ridiculous FOI applications. I would be in support of that totally. But I think ordinary people, possibly even small organisations—as mentioned by the member for Gladstone—have some real problems in addressing issues relating to their area and do not have the money to make applications under FOI. I certainly support the comments of the member for Gladstone in her contribution that we really need to look at where we are heading with FOI. Indeed, governments should, as a community service obligation, allow access to FOI.

The argument is that we certainly need FOI, it has to be able to be accessed easily and it has to be affordable. However, the problem that the opposition in this House has with this legislation is that

there will be people and small organisations who will be stifled in their quest for information simply because they will never be able to raise the amount of money that is necessary to access the information that they require. I note that the minister indicated that there would be a chance for those organisations to get a quote or an indication up front as to how much it would cost to access the information that they require. That could almost be an attempt to stifle FOI right from the start. I am not sure how one could estimate how long it would take or how much it would cost to access information. Does this mean that if a department is very efficient and can access information quickly and efficiently it will charge a smaller amount than would another department that is a little less organised or whose FOI team members are a little less experienced in what they are doing? That opens up a whole range of issues. For example, if a department wanted to stifle access to FOI, it could indicate that it would cost well and truly beyond what any reasonable organisation could pay.

I turn now to the need to change the FOI act. I have already touched on the issue that there is probably a need to limit the number of applications. Certainly, going from some of the indications of the Minister for Local Government, if the FOI process is charged at \$20 per hour, the cost of FOI could blow out quite extensively. But if the number of applications is limited, the flow of information is stifled. So that creates a climate of secrecy in which the government is certainly not accountable. However, a limit on the number of applications would make people and organisations focus their inquiries. I know that sometimes individuals and organisations go on fishing trips and ask for a lot of information that they probably do not need. So the focusing of FOI inquiries would certainly be part and parcel of the charging regime. I guess that would also limit the number of frivolous inquiries.

Every member has constituents who make a nuisance of themselves and use FOI to keep them on their toes, or make things very difficult for them. There are a few of those sorts of people around, and maybe this legislation will stifle that activity. Of course, not least of all, this legislation seeks to recoup some of the costs that are incurred by departments when responding to FOI applications. But I go back to the argument that I believe that governments have a community service obligation to make sure that the flow of information is affordable and is readily accessible by individuals in our society, and not necessarily just on an individual basis. The previous speaker indicated that this legislation certainly places some limitations of the definition of 'personal affairs'.

Perhaps we could save some of the \$7 million cost by limiting the numbers of glossy brochures that are distributed quite regularly. I think that in the last two days three brochures have been distributed in the House. I am not sure how much that would cost, but certainly saving money in that way could help to bring down the costs. There must be ways of minimising costs and saving some money for the government.

**Mr Terry Sullivan:** Three what?

**Mr MALONE:** Three glossy brochures. It was interesting to read the quote from Justice Thomas in the Information Commissioner's report, as mentioned by the member for Gladstone. I thought that it was very apt to the situation. Justice Thomas said 'democracy and open government go hand in glove'. That is a fairly pertinent and important statement. We need to keep it in mind as we move through the legislation.

The efficiency of the department and the FOI team will really determine how much it will cost for individuals and organisations to access FOI. That is a concern. Legislation in other jurisdictions contain provisions that refer to most reasonable costs. That needs to be borne out. As I said earlier, the costs can actually blow out quite substantially either through inefficiencies or as the result of a push by departments or even individuals within a department to make it more and more difficult for people to access information.

Limitations will occur if charges are made for information. From an opposition's point of view, it comes down to resources and the amount of money that is available, whether they are Labor oppositions or, as we have now, a number of Independents and an official opposition in the National Party. The resources that are available to those people is limited. The official opposition in this House has a third less resources than we had previously under the last government.

**Mr Terry Sullivan:** You got a lot for your members. Come on, be fair.

**Mr MALONE:** We still do the same work.

**Mr Terry Sullivan:** But you've got about half the numbers.

**Mr MALONE:** We still do the same work.

**Mr Terry Sullivan:** What do you want?

**Mr MALONE:** The same sort of dollars.

**Mr Terry Sullivan:** So you've got half the number of members and you want the same resources?

**Mr MALONE:** The official opposition is still doing the same work as we were doing before. The fact of the matter is that there are limited resources available for the opposition to access information. Indeed, for the opposition to do our work, we have a limited amount of money to make FOI applications. To make the government accountable, the opposition has to be strong and it has to be able to access information. We are limited in the way in which we do that.

Under this legislation, there will be less chance for the media to make extensive FOI searches. We have talked about the *Courier-Mail*, but there are other organisations involved. Small newspapers and small media outlets look for information on their own behalf. Those organisations are certainly not bankrolled by the likes of Rupert Murdoch. We have some real issues to deal with there.

As I said earlier, and the minister might like to comment on this, there does not seem to be any provision in the legislation to ensure that the cost of FOI access is at the most reasonable level. I do not know how one would put a benchmark on that. Maybe that needs to be looked at. A lot of other states certainly have such provisions built into their legislation.

Speakers from this side of the House have talked about what has happened in recent times in relation to the pedestrian bridge. I do not think I need to go over that. I understand that thousands of documents were taken before cabinet. They would not have been used in any deliberations. There would be specific documents about structural design and so on, and they would not have been needed for any decision by cabinet. I really do not see how the government can justify taking all of those documents to cabinet to exempt them from FOI. Other issues that have been raised include the Lang Park development, issues involved in attracting Virgin Airlines and the Dalrymple Bay lease. Although it does not come under FOI, the numberplate issue certainly proved how one letter from one constituent could change everything. In that case, it created a whole new situation involving numberplates.

The current government went to the election promising to give Queensland a more open and accountable government. We all believed that. Mr Beattie was very believable. We all thought that we were in for a fair go, but that does not seem to be the case. At that time there was no talk of bringing in legislation that would introduce a charge for people accessing FOI information. This is a huge change of direction for the government. I can certainly understand why it is doing it, but I cannot understand why it would introduce legislation that is not capped. For example, costs of up to, say, \$1,000 for accessing FOI could be covered as part of the community obligation, and any costs above that could be charged. That is really the way it should be.

In terms of accountability, the fact that the government is using quite extensively its right to take documents to cabinet meetings to exempt them from FOI is a sign that it is heading in the wrong direction. When it first took office, the government claimed that it would not use this power to any great extent. Certainly that has not been the case. I strongly believe that we are heading down the wrong track with this legislation. We will oppose it.

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