




Speech By
Stephen Bennett

MEMBER FOR BURNETT

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**INFORMATION PRIVACY AND OTHER LEGISLATION AMENDMENT BILL;
PUBLIC RECORDS BILL**

 **Mr BENNETT** (Burnett—LNP) (4.10 pm): I rise as the deputy chair of the Community Support and Services Committee in support of the Public Records Bill—and I will confine my comments to that particular bill—but I do have some reservations. It is fair to say that at the outset of this inquiry I was somewhat ignorant about the importance of this legislation in the way we are governed according to the rule of law which underpins what we should be able to call a civil society. It is important that we acknowledge that unless public records are handled carefully, professionally and lawfully throughout their entire life span over whatever period that that may place many issues essential to peace, order and good government in jeopardy. Consequently, unless this parliament, acting on behalf of our electorates, can enact safe legislation concerning the proper protection of public records then we will have failed in our sworn responsibilities as elected members to act in the public interest.

From the evidence given to the committee, we heard that the Public Records Act 2002 remains central to maintaining public records and is fundamental to transparency, accountability and the preservation of our cultural legacy. The act also safeguards the rich cultural and historical narratives of Queensland for the benefit of generations to come. The Queensland State Archives holds more than 3.5 million records, reflecting our state's history since the first records were kept in 1823. There have been many issues plaguing the government in relation to transparency and accountability, particularly the community expectation that we can do better in governance. We need integrity of government through enabling the capture of transparent and accountable actions and decisions in the form of public records.

The integrity of the public record is a vital part of our democracy. Those acting on behalf of the public should be fully transparent and accountable to the public that they serve. Legislation needs to ensure that that is the case and those seeking to ensure integrity in government should be supported and protected. I believe that this cannot be stated often enough about creating, receiving and lawfully administering the whole life of public records, because issues surrounding access and non-access and disposal and retention—as they are either defined under clause 9 of the bill or when falling within the area of clause 8's definition regarding what is a public authority—are involved. In this bill it is also about reinforcing public confidence in the lawful functionality of government regarding how it handles its public records. This is because public records—given their relevance in the fair operation of democratic principles, for example, like open, transparent and accountable government—sustain individual human rights for all our citizens, including First Nations peoples, and the right to justice regarding the accessibility of public records as evidence in the administration of justice.

This is unquestionably more important than most public interest legislation. As I said before, it was a real eye-opener to work out just how important this particular piece of legislation is. Common sense and good governance demand that we as legislators set the legal concrete terms providing the ability and duty of a truly independent State Archivist to operate as a trustworthy steward to protect the public interest against the influence and intimidation of any government at any time. While I appreciate

the issues surrounding the independence and ministerial directives as mentioned at clause 43 under the heading 'Control of archives and repository', I am not fully convinced that they are adequate or fit for purpose and hence I have real reservations. For example, if and when differences of opinion arise—as they invariably will—between, say, the government's cabinet and agencies, corporations, First Nations entities or individuals regarding an application of access or non-access, retention or non-retention concerning certain relevant public records whose contents could be politically explosive or embarrassing, let alone potentially point in the direction of suspected illegal activity, I believe that the legislation will not be strong enough to see that the public interest prevails. It is important to remind the House of the recent treatment of the former state archivist, Mr Mike Summerell, involving an attack on his so-called independence under the Public Records Act 2002 which he judged to be sufficiently grave and unacceptable to cause him to leave his position over inappropriate alleged tampering of his annual reports to parliament and what they should say. In other words, what the former state archivist did and did not do remains unresolved and, consequently, it must be said that not all of the lessons from the errors made have been learnt from.

With regard to the role of the State Archivist—namely, to protect the integrity of public records from the abuse of disposal like shredding and to ensure their legal, administrative, data and historical right and obligation to exist or not to be deliberately instructed to omit information from annual reports to parliament—more is needed in legislation to entrench the State Archivist's independence. Apart from supporting the general context of this bill, there is a need for further reform which I believe can only be fixed in respect of entrenching the independence of the State Archivist by following the examples of the Auditor-General and the ombudsman. Like submitters to the committee such as RIMPA and Heiner affair whistleblower Kevin Lindeberg, I am persuaded that a complementary State Archivist bill like the Auditor-General Act should be enacted. Without such a bill, a missing link in Queensland government accountability shall exist and leaving it unconsidered means that an otherwise avoidable weak link is being ignored with possible serious consequences. The State Archivist firstly being legally awarded the status of an officer of the parliament and secondly as head of a newly created 'Independent Office of the State Archivist' will better secure the essential protection of the State Archivist from intimidation by the executive while administering this enacted bill—that is, the Public Records Bill.

At some point this parliament will have to complete the vital post-Fitzgerald task regarding the vital area of accountability legislation with the implementation of the Public Records Act and a 'State Archivist of Queensland Act'. Each piece of legislation would support the other in legal and administrative harmony and give, in the most public way possible, the archives profession its long overdue status and rightful place as a key player in holding the government to account for its actions, upholding human rights for all and ensuring that governments always conduct themselves by preserving public records for pending, impending and realistically possible future judicial proceedings so intrinsic to our most fundamental and precious democratic right—namely, equality for all under the law.

The committee received some valuable information with regard to technological advancements which have not been addressed in the bill. What we have in the bill before us is not up to date with the principles of capturing, managing, protecting and disposing of digital data. All records started from the same conception of managing paper but then digital records emerged as an output of business and government activities such as the creation of documents in Word, Excel, PowerPoint, email, websites et cetera. Submissions to the committee highlighted the difficulties of managing digital data, and hence one of the committee's recommendations is the sovereignty of a First Nations person's information, and the dilemmas stemming from a rapidly advancing technological environment. It is argued that the rapid evolution of technology will make some storage formats obsolete and data will not be accessible for the generations that follow. There is merit in acknowledging the information in the committee submission from RIMPA Global and in acting on the growing rise of disinformation, misinformation and malinformation and their impacts. How do we identify what is real information and what is false information, especially when it comes to archiving and preserving information for future generations?

In conclusion, meeting the new State Archivist and knowing her passion for the role going forward means that we are in a good place in Queensland. We look forward to many years of good service to ensure that this important area of public records continues for the benefit of all Queenslanders.