

*Freedom of Information Applications — Adjournment Debate*

**HON SALLY TALBOT (South West)** [5.15 pm]: I rise on the same subject that Hon Jon Ford raised. Like many members on this side of the house, I listened to Hon Norman Moore's contribution to the debate the other day—I think he was closing the debate on the Address-in-Reply—when he chose to focus on the opposition's use of the freedom of information legislation, and in particular the way in which Hon Ljiljanna Ravlich has been using it. There was an incredible implication in what he was saying that she was somehow using the Freedom of Information Act in an inappropriate way.

I want to make a couple of points at the outset. The first is that Hon Ljiljanna Ravlich is by no means the only opposition member to be putting in FOI requests. I have put in several, and I know that my colleagues on this side of the house have done so.

**Hon Ken Travers:** Guilty.

**Hon SALLY TALBOT:** Hon Ken Travers is particularly guilty of this. I am sure that if some of my other colleagues were not detained outside the house on urgent parliamentary business, or maybe trying to get over the flu, they would also admit to having put in many FOI requests. That is the first point I want to make. Secondly, I want to take up on Hon Norman Moore's implication—it was actually more than an implication; I think he said it outright—that this use of the FOI act is somehow inappropriate. To me, what this does is portray the fact that the Liberal Party has absolutely no idea what freedom of information legislation is all about. It simply does not get it. There is something that seems to elude the Liberal Party, and it has done so from the beginning of this debate right back to the 1980s when the Labor government in Western Australia introduced FOI legislation. I did a quick search of the *Hansard* of other states and of the commonwealth, and I found that everywhere in Australia, conservative parties just do not understand what FOI legislation is about. I do not know whether it is any consolation to members opposite to know that they are not alone, but they might like to have a bit of a think about this.

Enshrined in FOI legislation is the very basic concept of the right to know. It was Abraham Lincoln who said, "Let the people know the facts, and the country will be safe." What is wrong with members opposite in the Liberal Party that they cannot grasp that basic fact? Governments have no right to evade scrutiny. If members opposite want to stand in this place and talk about use of the FOI act as being inappropriate, they must account to this Parliament for the fact that what they are espousing is some kind of right to evade scrutiny. I would like to make that point very loudly and clearly to the Premier, who has actually talked about amending the FOI act if Labor does not somehow pull its head in and reduce the number of applications. What an absolutely outrageous assertion to make—that if we do not stop using the legislation, the government will amend it, presumably to make it harder to use.

The whole purpose of FOI legislation was never supposed to be a contest between the applicant and the person holding the information. This has happened not just in Western Australia under conservative governments. Certainly, at the federal level we saw exactly the same thing happen during the period of conservative government. FOI applications have become a sport for incumbent conservative governments. It has become exactly what I just said—a contest to see how little information they can release. As I said earlier, this is not a new phenomenon. It goes back to the 1980s when Labor started putting this sort of legislation on the table. However, I found an example of the Liberal Party's attitude to the use of FOI that goes back to 2000 when, under the Court government, we saw exactly the same attitude to FOI applications that we are seeing now. Conservative governments are well practised in this. Opposition members must stay absolutely focused. We will not blink, because we know what this government's ministers are up to.

**Hon Ken Travers:** Mr Foss used to reply that they report to his ministerial office.

**Hon SALLY TALBOT:** That is a point well making and putting on the record in this context.

The example I will draw on goes back to the year 2000. It was an application under the Freedom of Information Act submitted by Hon John Kobelke, who, as members on this side of the house know, was a very effective user of FOI legislation to stop the conservative government evading scrutiny. On 26 June 2000, Hon John Kobelke put in an application under the FOI legislation that, according to my notes, stated in part —

I am seeking access to all documents relating to the Attitude Monitoring Study conducted in or about June 2000 including the full results provided to the Government under the contract with West Coast Field Services.

He submitted that letter at the end of June. On 14 August he got a letter back from the then Ministry of Premier and Cabinet. According to my notes the letter, in part, states —

After conducting an extensive search of the Ministry's records management data base and relevant areas of our agency we were unable to locate any documents up to the date of your application.

In other words, the letter was saying that an application went in around 26 June and the department had a good look and could find no documents that satisfied Hon John Kobelke's request. The letter continued —

This amounts to a technical refusal of access under Section 26 of the *FOI Act*. Section 26 states that "it is not possible to give access to a document if —

- a) all reasonable steps have been taken to find the document; and
- b) the agency is satisfied that the document —
  - i) is in the agency's possession but cannot be found; or
  - ii) does not exist."

The letter goes on, and this is where it gets into the realm of Monty Python. It states —

However, you may be interested to know that the Attitude Monitoring Studies for May and November 1999 were tabled in State Parliament on 22 June 2000. I understand that the May 2000 study is expected to be tabled in the week beginning on 14 August 2000. All of these documents are publicly available information ... and copies may be obtained from Parliament House.

In other words, on the one hand this one and the same letter states that there had been a technical refusal under section 26 of the act because there were no documents—they had been either lost or did not exist—and on the other hand, the letter then states, "Hang on for a couple of days and it will be tabled in Parliament." What an absolute nonsense!

**Hon Kim Chance:** What we don't have will be tabled in Parliament.

**Hon SALLY TALBOT:** As Hon Kim Chance said, what we do not have will be tabled in Parliament. There might have been a little ulterior motive because technically under the FOI act a public document does not fall within FOI legislation. Therefore, FOI legislation cannot be used to access a document that has been tabled in the house. One might ask why one would want to do that.

Hon John Kobelke was asking for all documents relating to the survey. Nine years ago the then Labor opposition was being told that there were no documents, but the document would be tabled in the house. Obviously it involved a contract that was worth many hundreds of thousands of dollars; however, there was no supporting paperwork for it. What an absolute nonsense. They have been taught well to duck and weave in the face of FOI applications.

That was not lost on the Labor opposition of the day and there was more than an implication—in fact, there was a very strong suspicion—that what the Liberal Party did when in government at that time was to set up parallel filing systems. Ministerial staff actually had private filing cabinets in their offices. Of course, private filing is not covered by the FOI act.

**Hon Ken Travers:** It is now covered by the State Records Act.

**Hon SALLY TALBOT:** No wonder we had to introduce the State Records Act. I thank Hon Ken Travers.

In the face of such obscure behaviour and such a steadfast determination to avoid scrutiny, we cannot afford to take our eyes off these people. I assure this house and the electors of Western Australia that the Labor Party, in the face of a government that is so determined not to be unaccountable, will not blink. We will all continue to lodge freedom of information applications when we think there is some backbone material that may be of use to us in trying to work out how decisions are made and the basis for those decisions. We will not blink. We will keep going with our FOI applications and keep hounding this government until it becomes open and accountable.