

QUEENSLAND COUNCIL FOR CIVIL LIBERTIES
ANNUAL REPORT OF THE PRESIDENT, MATT FOLEY
ANNUAL GENERAL MEETING, 26 NOVEMBER 1985

INTRODUCTION

1985 in Queensland has not been a good year for the liberty of citizens.

At the State level the Queensland Government has shown a breathtaking audacity in its use of the law to attack the liberties of certain minority groups. Particular attacks have been mounted against the rights of trade unionists, homosexuals, and abortion and vasectomy patients. The limited liberties enjoyed by disadvantaged citizen such as prisoners and resident of Aboriginal reserves have not been enhanced.

It is noteworthy that groups such as the Queensland Committee, Academics for Human Rights and Citizens for Democracy have emerged in protest at the action of the Queensland Government in denying democratic rights. The Queensland School continue to organize seminars on human rights topics.

At the Commonwealth level a more insidious invasion is taking place upon traditional liberties. New information technology has given governments the power to collect, process and store vast amounts of information on citizens. This technology is being enthusiastically embraced without corresponding safeguards in law for the privacy of citizens.

International human rights law has featured prominently. A catalogue of breaches of International Human Right Covenants and Conventions has provided a critical element in the debate over Queensland's new industrial laws. The International Covenant on Civil and Political Rights forms the basis for debate on the introduction of a Bill of Rights at the Commonwealth.

At a time when the Parliament in Queensland has ceased to be an effective forum for protecting the liberties of citizens, the work of the Council for Civil Liberties remains of the utmost importance. For the Council it has been a busy year.

ADMINISTRATION

(a) Executive

The Executive has met every two or three week to discuss public issues and to attend to the administrative task of the Council. Attendance of members has generally been good, particularly in the earlier part of the year.

I wish to record my thanks to all members of the Executive and particularly to Vice-Presidents Terry O'Gorman and Stephen Keim, Secretary Fleur Kingham, Assistant Secretary Elizabeth Elemis and Treasurer Tony Macklin. All members of the Executive have been enthusiastic in planning and carrying out the work of the Council over this past year.

The public telephone number for the Council is c/- Lew Wyvill, who continues to process the large volumes of requests for personal advice and assistance received from members of the public. The Council owes Lew a special debt of gratitude in this respect.

The newsletter has been cranked up into a regular publication. As the newsletter is the lifeblood of communication within the Council this has been a most positive development. Thanks go to Paul O'Shea for his editorship of the newsletter.

(b) Administration Officer

As a result of a policy decision taken at the last Annual General Meeting in February 1985 the administration officer, Ms Anne Elliott, has been appointed on a part-time basis. Her work has included the task of creating order in the Council's filing system, helping to organise seminar and fund-raising activities, co-ordinating a membership drive and assisting with the newsletter. Anne's assistance over this year has been very valuable indeed. Her hard working and flexible approach has enabled the Council to undertake at short notice projects which would otherwise not have been possible (for example the public meeting on 6 October, 1985 on the proposed ban of Local Government appeals).

(c) Committees

The committees play very valuable role in undertaking the research necessary for the Council's contribution to public debate. Committee convenors will be reporting to the AGM directly. There is room for further involvement of Council members in the work of the committees.

(d) Fund-raising

A theatre night including supper and a band was organised through the TN Theatre Company on 19 April 1985. The play "The Removalists" conveyed a strong civil libertarian theme. The night was a great success. Particular thanks go to Fleur Kingham for her co-ordination of this.

A film evening was held at the Schonnel Theatre followed by supper at the Bistro on 25 October, 1985. The film was "The Emerald Forest". Some hundred and fifty people attended, a most successful night. Particular thanks go to Anne Elliott and Fleur Kingham for co-ordinating this.

A grant was received from the Human Rights Commission for the publication and dissemination of materials and information related to human rights. A contract has been drawn up with Tony Macklin co-ordinating on behalf of the Council.

(e) Australian Council for Civil Liberties

The Australian Council for Civil Liberties based in Sydney maintained contact during the high controversy over Queensland's industrial laws. Although no member of our Council was able to attend the National AGM of the Australian Council for Civil Liberties held in Melbourne on 3 August 1985, arrangements were made for a telephone conference hook-up. Queensland moved two motions calling on the Commonwealth Attorney-General to introduce a Bill of Rights binding upon the States and further calling upon the Commonwealth Attorney-General to provide legal aid to all persons charged under Queensland industrial laws assessed by the Human Rights Commission reports to be in breach of Australia's obligations in international law. Both motions were passed unanimously.

PUBLIC ISSUES

The Council for Civil Liberties continued to play a part in public debate over issues of controversy throughout 1985. As a result of the effort of previous presidents, particularly Terry O'Gorman and Derek Fielding, the media have proved willing to publish the view of the Council on a wide range of matters. The following is a brief synopsis.

(a) Industrial laws

The first half of 1985 was dominated by dispute over new Queensland legislation ousting traditional right of employees in the electricity industry and elsewhere in the industrial conciliation and arbitration system.

The Council for Civil Liberties criticized the legislation insofar as it breached international human right laws concerning freedom of expression, freedom of association and the presumption of innocence in criminal proceedings. The Council was also critical of the use of state-of-emergency powers to suspend civil liberties. The Council did not express a view on the industrial merits of the dispute in the electricity industry. The Council called upon the Commonwealth Attorney-General to introduce a Bill of Rights to override repugnant state legislation. The dispute highlighted the importance of various international covenants and conventions to which Australia has committed itself in international law.

(b) Provisional licenses for drink-driving

The Council welcomed the introduction of special licenses in working hours in the case of drink-driving offenders dependent on a license for the earning of their living. (Courier Mail 25.2.55 p.9). This view was criticized by one letter writer to the Editor (27.2.85 p.4).

(c) Freezing assets of criminal suspects

Terry O'Gorman criticized proposed new Commonwealth laws impounding the assets of suspected criminals. Mr O'Gorman said it could "completely knobble the defence in a criminal prosecution by stripping the suspect of his fund to pay for legal representation". (Courier Mail 28.2.85 p.3)

(d) Corporal punishment in schools

The Council was invited to comment on the issue of corporal punishment in schools. The Council expressed the view that parents should have a say in the type of discipline used by schools, contrary to the present policies of the Education Department. (ABC - Blair Edmonds -24.2.85). Thanks to Andrew Knott for his assistance in preparing this material.

(e) Detention powers for dog inspectors

Amendments were introduced to the Local Government Act giving dog inspectors the power to detain citizens without arrest on suspicion of having given a false name or address. Following criticism of the amendment by the Council and the State Opposition, Local Government Minister Hinze withdrew the offending clauses from the Bill. (Courier Mail 18.3.85 p.7, Daily Sun 18.3.85 p.7)

(f) Ousting press from racing appeal meetings

The Racing Minister, Mr Hinze, introduced legislation to ban the press from steward's inquiries and appeal hearings. The Council protested against this amendment to the Racing and Betting Act as an assault on the principle that justice should be seen to be done. This represents perhaps the first time that the Council for Civil Liberties has been published on the sporting pages. (Courier Mail 6.4.85 p.68)

(g) Medical Board access to patient files

Changes to give the Medical Board broader powers in cases of doctors charged with misconduct were introduced in February. The Council welcomed this move provided that the patient consented to access to his/her own records. (Daily Sun 18.2.85)

(h) Bill of Rights

The Council has been critical of the Commonwealth Attorney- General Mr Bowen's proposal to introduce a Bill of Rights not binding on the States. The Council has urged in various media statements, in a submission to the Senate Standing Committee on Constitutional and Legal Affairs and in correspondence with the Attorney-General that the Bill of Rights override the State legislation repugnant to human rights.

A public seminar was held on Saturday 18 May 1985 at the Caxton Street Hall, Petrie Terrace on the Bill of Rights. About 40 people attended. The speakers were Matthew Foley, Bill Lane and Senator Michael Macklin.

On 17 September 1985 I gave a paper on the Bill of Rights to the Queensland School. The seminar was held in Physiology lecture Theatre No.3 at Queensland University and attended by approximately 40 persons.

(i) Drug treatment for prisoners

Terry O’Gorman drew attention to the lack of adequate drug treatment facilities for Queensland prisoners. He warned that heroin addicts in Queensland prisons were in danger of dying from drug withdrawals without proper medical treatment. (Daily Sun 7.5.85 p.12)

(j) I.D. cards

The Commonwealth proposal to introduce identity cards for all Australians was considered by the Council. It was noted that community attitudes had changed greatly over the past five years with the advent of credit cards. The Council Executive discussed the issue and came to the view that the Council would oppose I.D. cards until such time as adequate privacy laws were introduced at the Federal level to safeguard the privacy of citizens whose personal details were held in the central register. (Courier Hail 9.5.85 p.5)

(k) Law reform -child pornography

The Queensland Government commissioned an inquiry into child pornography by the Director of Prosecutions, Mr Des Sturgess QC in early 1985. The Council has called repeatedly for the release of Mr Sturgess's report but has been advised that the report has not yet been completed. Concern was expressed that law reform needs to be in the open and not conducted behind closed doors. (Courier Hail 13.5.85 p.3)

(l) Privacy - seizure of medical files in abortion clinic raids

Police raids on abortion clinics in May led to thousands of files of patients being seized (variously estimated between 18,000 and 47,000). The Council expressed public concern that information in the hands of police could be passed on to other Government Departments under Section 69C of the Police Act. The Council sought and obtained an assurance from the State Attorney- General that the information contained in those files would not be passed on to the Public Service Board. Dr Janet Irwin, Terry O’Gorman and I participated in the public debate through the media and on television concerning the heavy-handed use of police power in this way. (Courier Mail 22.5.85 p.1, 23.5.85 p.1, National Times May 24-30 p.11)

The search warrants used by police were subsequently held to be illegal by the Full Court of the Supreme Court. (Sunday Mail 30.6.85)

(m) Cost and delay in court system

Attention was focused on the cost and delays in the court system by a series of Courier Mail feature articles. (8.7.85 p.5, 9.7.85 p.6, 10.7.85 p.6). The Council contributed to these articles, commenting on the absence of women judges and magistrates in Queensland as "one of the great weaknesses of the judicial system".

(n) Prison disturbances -call for inquiry

Following disturbances in the Townsville and Woodford Prisons in August the Council for Civil Liberties called for a public inquiry into the reform of prison laws. It was noted that the Prisons Act 1958 had changed little from Queen Victoria's time. (Daily Sun 19.8.85 p.11). A joint press conference was held by Stephen Keim and Matthew Foley to release

correspondence between the Council and the prison authorities concerning prisoners' grievances at Townsville going back over a period of 6 months. A committee was established under the chairpersonship of Mr D Galligan, former Solicitor-General, to review prison discipline laws. The result of that Committee's work has now been made public.

(o) Privacy -monitoring of narcotic drugs

A computer system for the Health Department to monitor the prescription of addictive narcotic drugs has been introduced in Queensland. The Council expressed concern about the confidentiality of files in this computer system and in particular the absence of a Freedom of Information Act in Queensland to enable doctors and patients to check if the information on file is correct. (Courier Mail 17.9.85 p.20)

(p) Police Complaints Tribunal

A fourth position has been created on the Police Complaints Tribunal. The Council called for the appointment of a defence lawyer to that position to balance the views put by the Police Union representative along with the Magistrate and Judge currently constituting the Tribunal. (Courier Mail. 24.9.85 p.18)

(q) Local Government Court appeals

A Bill was introduced to Parliament in September amending the Local Government Act to abolish the right of citizens to argue their case before a Local Government Court when objecting to a rezoning of land for redevelopment. The Council for Civil Liberties protested publicly at the taking away of this right. Many other groups including lawyers and small business persons also protested. (Courier Mail 26.9.85 p. 3). The Council convened a public meeting to debate the issue on Sunday 6 October 1985 at the Caxton Street Hall. Speakers included Mr Bill McMillan, Barrister of the Environmental Law Association, Mr Phil Day of the University of Queensland Department of Regional and Town Planning and various speakers in a public forum. This proposal has now been abandoned by the Government in favour of the reintroduction of costs to the Local Government Court. This makes the third change to an amending Bill brought about as a result of public protest this year (the previous ones were the dog inspector detention powers and the ousting of press from racing appeal hearings).

(r) Mandatory life imprisonment for drug dealers

The Queensland Government has proposed to introduce mandatory life imprisonment for drug traffickers. The Council queried the wisdom of this action as it did not co-ordinate with the plans of the recent National Drug Summit. It removed also the discretion from sentencing Judges to take into account the facts of a particular case. (Sunday Sun 15.9.85 p.27)

(s) Juries - majority verdicts, confidentiality and local venues

The Justice Minister, Mr Harper floated suggestions of majority verdicts for juries. The Council opposed this suggestion as it eroded the notion of proof beyond reasonable doubt. Change is also foreshadowed by the Minister to laws protecting jury confidentiality. The Council Executive supported the principle of jury confidentiality, but resolved to look carefully at new laws which wrongly muzzled public criticism of the system of

administration of justice. (Daily Sun 21.10.85 p.11)

A proposal by the Police Union to abolish "home town juries" was criticised by the Council as detracting from the ideal of trial by one's peers. (The Australian 19.11.85 p.3)

(t) Police "Noah" campaign

On 13 November 1985 police undertook operation Noah, "a community-based anti drug campaign". The Council expressed concern about the possible abuses of such a campaign and about the privacy problems attaching to Section 9C of the Police Act authorising the Police Commissioner to pass on information in its possession to any Government Department. (Daily Sun 5.11.85 p.9)

(u) New liquor laws -"sexual perverts and deviants"

In November 1985 the Queensland Parliament passed amendments to the Liquor Act forbidding licensed victuallers to allow "drug dealers, sexual perverts and deviant" and child molesters" on licensed premises. The Council criticized this legislation as being intended to terrorise the gay community without being a realistic assault upon the problem of child abuse. The Council also criticised the legislation on the grounds that it was clumsily written and placed an impossible burden upon hotel licensees. (Courier Mail 21.11.85 p.9 & p.4, Daily Sun 21.11.85 p.2)

SEMINARS & OCCASIONAL SPEECHES

In an attempt to set positive issues for reform rather than merely reacting to topical controversies, the Council organised two seminars.

The first seminar on the Bill of Rights was held at the Caxton Street Legal Service on 18 May 1985. A seminar was held on the reform of administrative law in Queensland at the Caxton Street Legal Service on 24 August 1985. Speakers included Fleur Kingham, Roger Byrom (substituting at the last minute for Dr Chris Gilbert), and Mr Bryan Keon-Kohen, Barrister and Secretary of the Victorian Council for Civil Liberties. The seminar highlighted weaknesses of the present administrative law in Queensland and identified reforms at the Commonwealth level and in Victoria.

Members of the Council have given occasional speeches to various community groups throughout the year.

NEW EDITION OF BOOK

A new edition of "The Citizen and the Police" is to be released entitled "Your Rights and the Police". The book is written by Chris McKelvey of the University of Queensland Law School. It is jointly published by the Council and the Caxton Street Legal Service. It is to be launched shortly.

CONCLUSION

The single greatest need in the forthcoming year is for in-depth research on public issues within the committee structure of the Council. Council members or interested friends are encouraged to contact committee convenor to this end.

MATT FOLEY, PRESIDENT

Brisbane, 26 November 1985