

Knowing Victoria

With FOI legislation hitting the headlines, debate continues to rage about the centrality of information to democracy and accountability

Issues of freedom of information and the right to know were hot topics in Victoria during May. Unfortunately the developments highlighted the reverse side of the access to information coin: the ongoing vulnerability of freedom of information legislation to government change, and the blocking of access to information through commercial confidentiality, government secrecy and privatisation.

The month began with the introduction of the *Freedom of Information (Amendment) Bill* into the Victorian Parliament. The amendments require information that identifies any person or discloses their address or location to be deleted from documents sought under FOI. An applicant who wants access to this information would have to apply to the Victorian Civil and Administrative Tribunal and make a case for access.

Widespread criticism of the amendments has focused on the potential for greater anonymity, contrary to FOI's aims of openness, accountability and responsibility. The amendments could prevent the naming of public servants, even in the context of their professional duties, and extend to third parties dealing with government on a commercial basis.

FOI Melbourne conference

The Communications Law Centre and International Commission of Jurists are hosting a major conference in Melbourne from August 19-20, 1999 at the Sheraton Towers, Southgate. "Freedom of Information and the Right to Know" will be a timely and necessary contribution to debate about the centrality of information to democracy and accountability. With an impressive line-up of Australian and international speakers, the conference promises to be the pre-eminent FOI event in Australia this year.

International speakers include: Sir Brian Elwood, chief ombudsman, New Zealand; Maurice Frankel, director, Campaign for FOI, UK; John Grace, former information commissioner, Canada; Maeve McDonagh, University College, Cork, Ireland; and Arnold Zeitlin, Freedom Forum, US.

Australian speakers include: Peter Bartlett, Minter Ellison; Eugene Biganovsky, ombudsman of South Australia; Tom Brennan, Corrs Chambers Westgarth; Madeline Campbell, office of the Australian Government Solicitor; and Amanda Cornwall of the Public Interest Advocacy Centre.

Sessions include openness in Australia and the right to know; what is happening to information in the Information Age? FOI: a minimum standard in a diminishing sphere? FOI and journalism; international FOI developments and models; issues for practitioners; FOI and public interest work; access to medical records; review processes; and future directions for FOI.

Contact Jenny Mullaly on (03) 9248 1278 or by email at melbourne@comslaw.org.au

The Attorney-General described the amendments as minor and necessary to protect the safety of public servants, a reference to the controversy that erupted in January when it was revealed that a convicted murderer had used FOI to obtain details of nursing and clerical staff rostered on at a suburban hospital. He sought the information in an attempt to prove an alibi that he was visiting his partner in hospital on the night of the murders. The Attorney-General's justification was unconvincing in light of the Kennett government's track record of legislative change that has reduced the scope of FOI and created disincentives to its use.

The bill was followed by a long feature article published in *The Age*, "The Secret State: How the Kennett Government Keeps Victorians in the Dark". The article documented numerous developments blocking access to information in addition to the progressive weakening of FOI: the increased use of commercial confidentiality to deny access to information about government dealings with the private sector; the use of secrecy provisions in government contracts; privatisation of the audit system; the silencing of public servants; and the loss of previously available information upon privatisation of prisons and utilities.

The importance of information to government transparency and accountability was a key theme of the final report of the outgoing Victorian Auditor-General, Ches Baragwanath, tabled in Parliament in late May. The report criticised the culture of commercial confidentiality in government dealings with the private sector, warning that such secrecy prevents public scrutiny of financial arrangements and harms accountability.

Concerns about barriers to information access, secrecy and information loss resulting from commercial confidentiality and privatisation are not unique to Victoria. There are parallels and resonances in other states and overseas, and the range of experiences and developments to consider.

Jenny Mullaly