

IN PERSON; Governor Aside, He Says He Has A Right to Know

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JOHN J. O'BRIEN was feeling pretty good until he ran into Catch-21, which is the McGreevey version of Catch-22.

Mr. O'Brien, executive director of the New Jersey Press Association, arrived at work on Monday, July 8, bursting with excitement. This was the day the Open Public Records Act was to go into effect, a law that provides easier access to a broad range of public records at the municipal, county and state levels — and one for which he had vigorously lobbied for over 20 years.

But the next day, he got a phone call he had not expected. A reporter asked for comment on a new executive order regarding the law — Executive Order 21 — which Governor McGreevey had signed without fanfare four days earlier but had not made public until that moment.

Soon, Mr. O'Brien had a copy of Executive Order 21 in his hands, and his heart sank. The order enacted 483 exemptions to the law, and they went into effect without the usual public review period.

“In essence, it blows a big hole in the law,” Mr. O'Brien said one recent afternoon.

As a candidate, appearing before the editorial boards of many of the state's newspapers, Mr. McGreevey had been a champion of easier access to information in government. A measure to that effect was passed by the Legislature and signed into law by his predecessor, Acting Gov. Donald DiFrancesco, on Jan. 8.

But then came Executive Order 21, which goes something like this: I believe in easy access to governmental information except in those cases where I don't. And I don't in most cases.

In enacting the executive order, Mr. McGreevey's rationale was that the exemptions were necessary to prevent terrorists from getting their hands on state secrets. But Mr. O'Brien said that what Mr. McGreevey contends is a state secret can in many cases include things like the locations of farms and historic sites that can be found on any map or encountered on a Sunday drive.

Mr. O'Brien, who began his newspaper career sweeping the floors in the pressroom of The Hunterdon County Democrat in Flemington and was publisher and president of Forbes Newspapers before taking his current position, said he understood the governor's concerns about security.

“We all understand that since Sept. 11 we look at things differently,” he said, “and quite frankly we strongly feel that the protections in the law as it was written and as it was passed do protect the citizens and the state of New Jersey against the inadvertent release of information that could fall into terrorist hands. What this executive order does under the guise of bolstering effectiveness against terrorism is put in a lot of other things that are written so broadly.

“We can't understand why the location of farms in New Jersey are terrorist-related.”

Mr. O'Brien said something more basic is at work here. “Quite frankly, I think there's a fundamental change in people when they get elected to office or they work for state government,” he said. “They tend to think that the information is theirs.”

He recalled a meeting that he covered as a young reporter where a mayor was questioned by reporters. “He got mad and slammed the gavel down,” Mr. O'Brien said, “and he said, ‘You know, if it wasn't for you people in the press, we'd get a lot more done around here.’ And that sentence, more than any other I've heard, kind of signifies the way an awful lot of people in government think. It's their business, it's their information, and how dare you bother them by asking these questions.”

Mr. O'Brien was still in Hunterdon Central High School in Flemington when he developed an interest in journalism. He was leaving a football scrimmage when his English teacher saw him and said she did not know he played football. “You're the new sports editor of the school paper,” she said.

Mr. O'Brien, a nattily dressed, bearded man of 55, laughed and said, “The following year, I became the editor of the school paper and fell in love with the business.” But plans to attend college died after his father became disabled. A work-study program in his senior year had introduced him to The Hunterdon County Democrat, and upon graduation in 1965 he went to work full-time at the weekly. For the next 11 years he labored in every department.

Shortly after Mr. O'Brien got married, his father died, and his 10-year-old brother came to live with him and his wife. After working all day in the composing room he would cover municipal meetings at night. But soon he discovered that the advertising manager made substantially more money than the editor. With three mouths to feed, he moved to the advertising department.

In 1975, he went to work as retail advertising manager for Somerset Press Newspapers in Somerville and moved up to advertising director, vice president of newspaper operations and finally publisher. Then, one day in 1987, he said, "This white-haired gentleman plopped down in front of me and said, 'Hi. I'm your new boss.' "

It was Malcolm Forbes, who asked him to stay on as publisher. Over the next four years, Mr. O'Brien directed the growth of Forbes Newspapers from 6 weeklies to 15 with a combined circulation of 150,000 in Somerset, Middlesex and Union Counties. In 1989, he assumed the duties of president.

In 1991 Mr. O'Brien accepted the position of executive director of the New Jersey Press Association, a trade group that represents 19 dailies and more than 150 weeklies.

Malcolm A. Borg, a board member of the association at the time, said Mr. O'Brien had turned a moribund organization close to insolvency into a "vibrant one."

"I knew he was smart, I knew he was energetic, I knew he had ideas that were somewhat different," said Mr. Borg, who is board chairman of the North Jersey Media Groups, which publishes The Record of Bergen County. "I knew that the association needed to be kicked upside down and that he would be a strong, good leader."

One of Mr. O'Brien's accomplishments, Mr. Borg said, has been to make the organization less dependent on dues by inaugurating the New Jersey Newspaper Network, a service for advertisers that placed \$15 million in advertising in member newspapers last year.

"A big part of my job is lobbying for newspaper interests in the State Legislature," Mr. O'Brien said. Along those lines, his attempts to replace the right-to-know law, passed in 1963, date to when he became a member of the government affairs committee of the press association in 1983.

"If something wasn't mentioned in the old law, it wasn't a public record," he explained. "The beauty of the new law and the way we crafted the language when we initiated the bill was that the premise is that everything is open except in those limited areas where it is spelled out."

Spelling out those limits, especially in the two years before its passage, involved "a monumental struggle of endless negotiations and meetings," he said.

What rankles Mr. O'Brien and other advocates is the way Mr. McGreevey took his action. In the six months before the law was enacted, Mr. O'Brien said, Mr. McGreevey never told him that he had a problem with it. Mr. O'Brien got an inkling when the July 1 issue of The New Jersey Register appeared with a list of more than 400 exemptions.

Mr. McGreevey, who has been less forthcoming with the press than many of his predecessors, spells out his reasons for Executive Order 21 in the order itself. The Open Public Records Act was signed into law a week before his administration took office, he wrote, and all state agencies had to conduct "a comprehensive review of all records maintained by that agency and a thoughtful analysis."

The governor's chief of communications and policy, Jo Astrid Glading, defended his action, saying the exemptions were only suggestions that could be eliminated during a 60-day review and that Mr. McGreevey was committed to an open records law.

In recent days, the counsel for the press association met with the state attorney general, David Samson and members of the governor's staff, and according to Mr. O'Brien, "some progress was made."

But the depth of the governor's commitment remains to be seen.

"When our bill passed, it moved New Jersey from the bottom of the list as far as access to laws in the country goes to at least into the top 10," Mr. O'Brien said. "Unfortunately, with these exemptions that the executive order puts through, it moves us back down to just mediocre status."