

The Secretary
Senate Finance and Public Administration Committee
Parliament House
CANBERRA, 2600 ACT

17 February 2010

Dear Secretary

FOI REFORM

I wish to provide further comment in addition to my accepted submission (No.5). Firstly, as Senator Brandis and Mark Robinson from the Law Council have noted, the onus amendment in s61 of the Act is anything but minor. The reporter Margaret Simons has stated, this ***“amendment added to the Freedom of Information reform Bill would undermine the move to more open government.”*** Ms Simons makes the important observation that applicants would be at a serious disadvantage if there is a reverse of the present s61. The requirement of natural justice and procedural fairness for the applicant would not be met if the onus amendment prevails. There has been considerable media comment about this matter and it is hoped the committee recommends that the s61 amendment be removed.

My previous submission has attracted media interest and further supports the view that the current Honours nomination system needs reform as a matter of priority. During the Estimates hearings of the Finance and Public Administration Committee on Monday 08/02/10 Senator Bob Brown asked pertinent questions of the Governor General's Official Secretary. That there is a lack of accountability in the nomination system was clearly made out.

In a modern democracy the notion of Letters Patent is an outdated concept which is at odds with the fundamental right of review. There has been considerable judicial comment which supports this contention. The idea that a branch of an agency is seemingly outside the scrutiny of parliament is repugnant to democratic principles as is the notion that there is no or limited access to FOI. Whilst there is debate whether the Council is part of a Commonwealth Agency, the Honours Secretariat which operates within the Office of the Official Secretary most certainly is.

My personal experience of the nomination system has shown that there are serious deficiencies which require redress and that there is a strong case for reform.

Yours sincerely

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