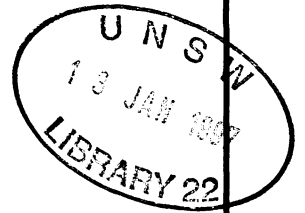


Freedom of Information

Review



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ISSUE No. 66

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The *Freedom of Information Review* is published six times a year by the Legal Service Bulletin Co-operative Ltd.

Editor: Rick Snell

Reporters: Alexis Hailstones (NSW), Jason Pizer (Vic.), Bev Kennedy (Vic.), Cathy Mitchell (Vic.), Brendan Riley (Vic.), Helen Townley (Tas.), Ron Fraser (Cth), Robert Altamore (Cth)

Editorial Co-ordinator: Elizabeth Boulton

Typesetting and Layout: Last Word

Printing: Thajo Printing, 4 Yeovil Court, Mulgrave

Subscriptions: \$35 a year or \$25 to *Alt. LJ* subscribers (6 issues)

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Print Post approved
PP:338685/00011

This issue may be cited as (1996) 66 *Fol Review*.

Comment

As another year draws to a close it is tempting to try and sum up the Australian Fol experience in the last 12 months with a wild generalisation. I am torn between two choices: a 'Year of running on the spot' or 'Something is happening but you don't what it is do you Mr Jones'.

The federal Liberal Government response to the ALRC/ARC Report (except in the area of privacy) has been indiscernable from the outlying regions of the federation. The Tasmanian Legislative Council Select Committee into Fol has drifted along for another 12 months. In Queensland, the Inter-departmental Working Group Review of Fol in that State has been gathering dust in the Attorney-General's Office since February. And, no Virginia, I am not surprised by the paradox of a report on open government languishing in the executive's dungeon. The Queensland Information Commissioner in his Annual Report picked up on a number of themes raised in the ALRC/ARC report namely, the necessity for open government and cultural change, and added a couple of other themes raised recently by Paul Finn — the holding of public office as a public trust, and the integrity principle.

Meanwhile in the west, the WA Information Commissioner has complained about not being told of Fol amendments (*West Australian*, 1 November 1996) and is fighting a push by a number of agencies seeking 'exempt agency' status. At least one agency, if not more, is seeking to have legislation passed in 1997 to remove some of the coverage of Fol to its operations.

Two years ago I argued that one of the inherent dangers in the rapid conversion to Fol by all the State governments was the slow dawning on government ministers, but especially their senior officials, of the threat Fol offered to the continuation of government in private or by concealment. As one Tasmanian government backbencher stated to two of my students undertaking a research project in 1994, 'only a fool would repeal the Act, we will just keep amending it'. It may be time for those committed or concerned about open government to form a coalition or campaign to try and prevent the return of secrecy to the operations of State governments. Despite, or maybe because of, having a greater experience of Fol, journalists, academics, citizen groups and lawyers in the United States have formed such coalitions to keep up the fight for open government.

Yet, strangely, here in Australia we are either silent, isolationist or reliant on the commitment of a small number of trusted public officials (ombudsmen, information commissioners, their staff and a small number of hard pressed dedicated Fol officers). External to the bureaucracy there is the occasional former campaigner, an occasional rogue academic and a small number of journalists (usually inspired by the efforts and words of Chadwick, Waterford and Ricketson) working on solo forays into the world of government-held information.

Fol in Australia is being treated as a jurisdictionally unique operation. Tasmanian academics, journalists and community groups react only to proposed changes to the Tasmanian Act. Developments in NSW receive

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no coverage outside its borders. Yet proposals for retrograde amendments, new ways of avoiding scrutiny and questionable practices (requiring Ministers to be notified of all requests before a decision to release or not is made) flow easily across the country.

Journalists and editors need to lift their sights, every now and then, from the immediate pursuit of a particular file to think about setting up an Australian version of the Reporters Committee for the Freedom of the Press. Lawyers need to stop occasionally and think about the design elements of access to information rather than merely feeding at the trough supplied by the decision in *Sobh*. Academics need to contemplate a break from the endless pursuit of a respectable publication track record to help make the machinations of FoI amenders known to other citizens.

In reality we may very well know what is happening to FoI in Australia and that the current lack of progress is only the lull as the tide turns. The significant retreat from the principles of openness, accountability and responsibility outlined by the Queensland Information Commissioner in his 1994-95 Annual Report, and reaffirmed in this year's report, may very well be an Australia-wide rout.

I have just read the UK Government response to the Second Report from the Select Committee on the Parliamentary Commissioner for Public Administration — Open Government. In the response, the Government rejects the need for a Freedom of Information Act or the need to amend the wording of the current code to assert a right of access to documents. The reasoning, logic and world view of the writers reflect those demonstrated by former Labor deputy premier David Parker, who told the WA Royal Commission that government worldwide was built on the basis of concealment. 'You simply could not run government without secrecy' (as quoted in the Editorial 'Court's open promise blown away', *West Australian*, 1 November 1996).

In Tasmania the operating line is the need for 'governments to think in private'.

If those who care about FoI, open government and access to information do not come together then the open government regime which we managed to achieve in Australia will decline into a state of atrophy. There are some stirring and commendable battles being fought around this country for the principles of openness, accountability and integrity. Yet these are doomed to be rearguard actions of a losing campaign unless those lone battlers are reinforced.

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