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NSW FREEDOM OF INFORMATION COUNCIL

SEMINAR, SYDNEY UNIVERSITY LAW SCHOOL

SATURDAY, 3 APRIL 1982, 10.20 A.M.

FOI AND PUBLIC PARTICIPATION

The Hon. Mr. Justice M. D. Kirby
Chairman of the Australian Law Reform Commission

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HONEST BUT SECRETIVE

One of the most interesting things I have ever done was to drive a Komb overland from India to England. Of course, this was done many years ago when I was a barrister. I was not prepared to countenance tax avoidance trusts or farms. Just stopping earning for a while was the only form of tax relief I could contemplate. Before I crossed through the famous Khyber, I spent a few months travelling around the Indian subcontinent. It is a wonderful experience. I commend it to you all.

In the midst of the smells and sounds, the tastes and colours of India, one thing was all pervading. This was the bureaucracy left by the British. Its minions were everywhere : ultimate inheritors of the elite tradition of the Indian Civil Service : the 'Heaven Born' as they were proudly known. The citadels of this bureaucratic empire were also to be seen in every town, lined up in a row as if for inspection by the Viceroy himself. The post office, the railway station, the State bank, the police barracks, the courthouse and the town hall : these remain the fabric of government in India. Not far away, on the quieter side of town, in the cantonment, were the club and Anglican church to which generations of bureaucrats repaired for the spiritual assistance of their choice.

This bureaucratic edifice is replicated throughout the old Empire. If you think about it, its Antipodean manifestations are to be found just down the street. Following the great English reforms of the middle of the 19th century, it was a bureaucracy fundamentally honest, competitive and increasingly non-discriminatory in its recruitment, dedicated and reasonably hard working, often unimaginative and resistant to change; but always secretive.

This last quality, the secretiveness of British administration, is the abiding enemy against which the yapping dogs of FOI — like the dogs that still surround the circuit houses and clubs of India - bay and growl. Secretiveness is the enemy. But it has to be reported that gradually and inexorably, the Scandinavian notion of greater openness of administration is coming to be accepted. Its arrival has been facilitated by the acceptance of its principles in the North American English-speaking federations. To understand the resistance and to see the debate about freedom of information in Australia in its proper context, one must study and seek to understand the rationale of secretiveness in administration.

It may be uncongenial for some in this audience to conduct that search. To some, public participation depends upon more open administration and is a good thing in itself : end of debate. The opponents of freedom of information legislation in Australia have, as Senator Missen recently wrote, rarely come out into the open.[1] But it would be a foolish proponent of FOI who believed that the opposition has been vanquished by the passage of the Federal Act through the Australian Parliament in February 1982. Even if we leave aside entirely the Commonwealth administration, the opponents of reform of public administration are well represented in State administrations. There is nothing particularly wicked in their point of view. In part, it is simply a reflection of that well known bureaucratic phenomenon of precedent : settled ways exist of doing things. Things have been done without public participation (or 'public interference') for a very long time. To such people, the proponents of reform bear an almost Herculean task of convincing them and their political masters that things should be changed. There are many, including many in influential positions in our country, who see reform not as a matter of adjustment to changing technology of information, greater levels of education and modern notions of civic rights, but reform as the work of gadflies who will not 'leave well alone'. I, on the contrary, am convinced that reform can be the agent of thoughtful conservatives, for reform implies retaining what is good, whilst embracing the necessities of progress.

Because the arguments against FOI legislation have rarely been openly expressed, one can only surmise the reasons and make the most of hints dropped by anxious officials. Take this sample:

- FOI, it is said, will ruin firm government. Instead of being allowed to get on with the business of government, to the advantage of the mass of the citizenry, administrators will have to tarry to locate information and to assess the obligation to produce it, all to satisfy inquisitve individuals.

- FOI, it is said, is non-productive activity. Government trading corporations will be put at a disadvantage against their competitors. They will have to provide information and explain things. All of this involves 'non-productive' time at a period in our history when the razor gang and staff ceilings limit the capacity of the public sector to do its job effectively for the mass of people who will never make these unreasonable demands.
- FOI has also been said to be an American invention out of keeping with our system of responsible government. According to this view, we do not need it, for our Ministers are answerable in Parliament and 'responsible' for things done or omitted under their administration. The unreality of holding Ministers responsible for the vastly expanded public service under them is now generally recognised as a reason for laying this myth to rest.
- FOI, it is suggested, will be misused. Though intended for the ordinary citizen, it will become the means by which the media harass politicians already distracted from their tasks of firm government. Competitors will use it to spy on each other's information supplied to government. Nuisances will use it to waste official time. And, bottom of the pile, academics will use it to have others doing their research for them.

These and other objections to freedom of information fail to take into account the dynamic forces that promote the demand for FOI. Amongst these forces are the growth of the size and importance of government in all our lives and the need, if it is to be accountable, to have readier means of redress in the case of complaint. Uninformed complaints will make less headway than those which are based upon actual information in the possession of government. The development of the new information technology, of computers linked by telecommunications, pose many new risks to individual privacy. These risks include the possibility that information supplied to government for one purpose may be used for others, that total composite profiles will be built up upon which decisions affecting our lives will be made and that all of this will be in the hands of trained experts who, without access to the information, may not be accountable to us. The growth of government and the new technology have put intolerable burdens on the theory of responsible government. It is like the fairy tale that judges never make laws but only find new legal principles somewhere in their bosoms. No-one now believes that story. The fairy tale of ministerial accountability for every act and omission of public servants in their administration cannot now be accepted. In any case it would not be fair to impose such a duty on a modern Minister which he could never, practically, deliver. The growth of the power of the permanent bureaucracy must be frankly recognised. The need for new instruments of control to assert the ultimate power of the people whose servants they are, is the central political object of freedom of information legislation.

The elitist notion was appropriate, perhaps, to the shiploads of ascetic young men arriving at, as administrators, in Bombay, Lagos, Sydney Cove and at the Whaling godown in the Falkland Islands in the 19th century. There was a code of honour amongst them. There was lack of responsiveness to the natives, settlers and convicts they governed with firm, rustic integiry. The technology they used was inefficient by modern standards. All of these qualities must all give way to greater accountability in the age of big government, big technology and big social changes.

THE NEW ADMINISTRATIVE LAW

The centrepiece of Australian freedom of information law is now the Freedom of Information Act 1982. It does not stand alone. One of the happiest features of law reform at a Federal level in Australia has been the effort of successive Federal Governments to move, in recognition of the forces I have been describing, to provide greater accountability of the public servants to the people they serve. A few developments can be described:

- A general Administrative Appeals Tribunal has been created. It has novel powers, which include the power to require statements of reasons to be given for Federal administrative acts under its scrutiny and a power to substitute a decision 'on the merits' for that reached by the admininstrator appealed against.[2]
- An Administrative Review Council has been created, of which I am a member, to monitor and push forward developments of a new system of administrative review, designed to be more accountable to the people coming into contact with Commonwealth administrators at every level.[3]
- A Commonwealth Ombudsman has been established with wide powers to investigate individual grievances of bad administration. The Ombudsman has power to gain access to documents on behalf of the complainant. The innovative use of the telephone, especially suitable in our large Federal country and in the current age, has meant that Professor Richardson has been able very rapidly to secure a more responsive administration, answerable to individual and community concerns.[4]
- A little-known reform involves significant change in the law governing the review by judges of Federal administrative decisions. Whereas in the past, administrators could coldly provide their files with minimal information contained in them, the new law positively obliges Commonwealth officials to supply to a complainant the reasons for their decision, findings on material matters of fact and a reference to any evidence relied on.[5]

All of this opens up what was formerly closed. The full impact of these reforms is not ye fully understood throughout Australia. Their implications for freedom of information an community participation in the aspects of Commonwealth Government are not yet fully appreciated. Changes so fundamental take time to be absorbed.

FOI : THE CENTREPIECE

The passage of the FOI Act has brought to an end a debate, under successive Federal Governments, which lasted nearly ten years. Such legislation was promised in the campaign speech that swept the Whitlam Government into office. Interdepartmental committees took their time. But now we have it. The Bill has been passed through Parliament. The legislative debate, at least, is over. The Federal Attorney-General has been reported as saying that the Federal Act might be operating by 1 July 1982. He says that there are a number of administrative problems to be sorted out before the new legislation can operate. However, because of the recognised benefits to the community of this legislation, he hopes that implementation can be quickly organised.[6]

The Bill as passed is different in significant respects from the Bill introduced into the Senate in June 1978. There was a great deal of criticism about that Bill, equal in its vigour on the Government and Opposition benches in the Senate. The legislation was referred to the Senate Standing Committee on Constitutional and Legal Affairs. That committee, under the leadership of Senator Missen, conducted a vigorous investigation which serves as a model for effective use of parliamentary committees. One hundred and sixty nine submissions were taken. One hundred and twenty five witnesses were called. The committee produced its report in November 1979. The report was unusual in many respects. It was highly readable. It was intellectually rigorous. The footnotes were many and accurate. Above all, it was bipartisan and courageous.

The committee proposed 106 recommendations to strengthen the Bill (and the accompanying Archives Bill). Just before the 1980 elections, the Federal Government announced its acceptance of 39 of the proposed amendments, although others were rejected. The following are those recommendations of the Senate Committee which were rejected by the government and which Senator Missen has described as 'vital areas':

- Access to prior or existing documents. Denial of this would have meant that very little information would be available for access under Federal FOI for years to come.

- The removal of the system of 'conclusive certificates' was recommended by the committee but rejected by the Government. This would have denied any appeal at all against access to documents relating to security, defence, international relations, Cabinet records and public interest decisions concerning 'internal working documents'.
- The narrowing or elimination of a number of proposed exemptions was proposed by the committee but rejected.
- The number of government agencies and documents exempted from the Act entirely was proposed to be reduced but not agreed to.
- An increase was proposed in the power of the Ombudsman to act as conciliator, counsel and monitor of the legislation but this was not accepted.
- Amendment of existing secrecy provisions in a large variety of Federal Acts (194 separate provisions were identified) were recommended but not agreed to.

The 1978 Bill was reintroduced into the Senate in April 1981 by the Attorney-General, Senator Durack. With the view to making it a more effective instrument of public access, Government and Opposition Senators proposed to move some 80 amendments during the debate in committee. Such was the strength of feeling in all parts of the Senate that the Government suffered a number of defeats on divisions in the committee stages. It then adjourned the debate to enable negotiations to take place with those Senators of the Liberal Party who were supporting Labor, Australian Democrat and Independent Senators proposing amendments to the Bill. Let Senator Missen say what occurred:

> Lengthy discussions then took place and, in a final compromise, the government agreed to support some 35 amendments, including other amendments of its own, in order to head off a Backbench revolt and to secure the passage of the Bill through the Senate before it lost its Senate majority on 30 June 1981.[7]

Amongst the more significant changes accepted by the government and thus incorporated in the Bill were:

- Existing government records. The government relaxed the restriction on access to prior documents. A person can gain access to his or her personal affairs if the document is no more than five years old at the date the Act commences operation. Further regulations may later modify the Act to grant a broader right of access to pre-existing documents.

- Conclusive ministerial certificates. The power of Ministers and Departmental Heads to issue certificates deciding conclusively that documents are exempt has been amended. Appeal can now be made to a new Document Review Tribunal (comprising Federal or State judges or ex-judges). This tribunal can examine whether there are reasonable grounds on which the claim for exemption could be made in the fields of security, defence, international relations, Federal/State relations or Cabinet material. However, the Document Review Tribunal's decision is recommendatory only. Experience will teach whether Ministers and Departmental Heads observe or rebuff the recommendations. Of course, there will be political pressures to observe them.
- Personal records. A scheme for the correction of information relating to personal affairs of the person that is found, on access, to be incomplete, inaccurate, out-of-date or misleading, is now incorporated in the Bill. Pending the comprehensive report of the Law Reform Commission on the protection of privacy (a report which is hoped to be concluded this year) this interim measure provides a wide protection for privacy of personal information records in the hands of the Federal public sector. Basically, a person will be entitled to request access to a record and to ask that it be corrected. If this is refused, he will be entitled to appeal to the Administrative Appeals Tribunal. Even where he is unsuccessful, he will be able to request that a short statement of his objection accompany the record.
- The Commonwealth Ombudsman. Under the Bill as passed, the Ombudsman is empowered to investigate matters arising under the FOI Act and is not prevented from doing so by the provision in the Ombudsman Act that restricts his powers of investigation where other alternative avenues are available to the person with the grievance.
- Information access offices. In order to facilitate the actual operation of the FOI Act, special offices are to be established throughout Australia so that ordinary citizens will be able to find, without charge, how to go about gaining access to a document to which they are entitled.

The debate about adequacy of the new Act, soon to commence operations, is bound to continue for some time. The criticism of the final 'package' can be anticipated by comparing the Bill as enacted with the bipartisan Senate Committee report. Senator Missen again:

> In a number of vital areas, the 1981 Bill remains very unsatisfactory. A great disappointment to FOI reformers during the Senate debate [was] the government's refusal, despite undertakings to the contrary, to accept amendments adding a public interest test to exemptions in the Bill. However, with a commitment by the government to review the Act after its first twelve months in operation to see if further 'existing documents' may be added to the jurisdiction, this and other matters will be kept under continuing review. While the FOI Bill 1981 [is] a flawed Bill ... it [is] a worthwhile addition to open government. By redressing, to some extent, the balance of power in Australia, it will make for better arrangements and better accountability of governments to the people.[8]

STATE DEVELOPMENTS

The commencement of the Federal Act is unlikely to be the end of the Australian tale. Developments of this kind have a tendency to spread. Once the closed tradition of government gives way to more openness and accountability in one sector, it will probably prove difficult to contain the haemorrhage.

This very day, in the Victorian State elections, the people of that State have to choose between a Government and Opposition Party promising differing forms of freedom of information law. Before the Parliament rose for the election, the Attorney-General, Mr. Storey, introduced his Freedom of Information Bill into State Parliament. He pointed out that it was the first such Bill introduced by any State Government in Australia. He claimed that it was 'a more effective Bill' than the Federal measure. For the first time, said Mr. Storey, people would have a right to inspect government documents:

> This legislation will strengthen the community's understanding of the process of government and will give it more confidence in government decisions. The government in Victoria will be the most open government in Australia. This Bill is yet another example of the lead Victoria is giving in reform of government administration in Australia.[9]

One important difference from the Federal Act is the provision in the Victorian Bill for a right of appeal to the Ombudsman against decisions to deny access to information. Mr. Storey suggested that:

> In this way disputes over information access will be resolved in a speedy, simple and inexpensive manner.[10]

The Leader of the Opposition, Mr. Cain, a past Member of the Australian Law Reform Commission, has indicated his intention to move for a freedom of information law adopting a different approach, with fewer discretionary grounds for rejecting a claim for access and a right of appeal, in the event of disputes, to the Supreme Court of Victoria.[11]

In New South Wales, an interim report of Professor Wilenski's inquiry into New South Wales Government Administration foreshadowed freedom of information laws for this State, with the longest established bureaucracy in the nation. Professor Wilenski's final report may be expected to propose the design of a New South Wales law on this subject.

OVERSEAS DEVELOPMENTS

Australia is not alone in these moves towards enforceable access to government documents. Many countries of Western Europe have enacted data protection and data security laws, a key element of which is access to personal records. Others provide a wider basis of access to government information generally. A Bill for a Federal freedom of information law is still before the Canadian Federal Parliament. In New Zealand, the final report of the Committee on Official Information (known as the Danks Committee after its chairman, Sir Alan Danks) advocated a substantial effort on the part of the New Zealand Government to carry into practice the accepted principles of freedom of official information.

The Bill attached to the New Zealand committee's report was introduced into the New Zealand House of Representatives and given its first reading. It was referred to a Select Committee which, unusually, decided to hold hearings in public. The dissolution of Parliament terminated the inquiry, but it will now be resumed. Criticism of the New Zealand measure has been directed at the machinery for enforcement. The first New Zealand Ombudsman, Sir Guy Powles, expressed his criticism this way:

> All this is very good and high-sounding, but the Bill fails in several very important respects. In handling the various exemptions towards the disclosure of information, the method adopted by the Bill is not to mention or classify types of documents, but to attempt to classify types of information. ... The method proposed for the enforcement of access to information is also liable to important criticism. What is proposed is that applications for information which do not meet with initial success may be brought to the Ombudsman. ... His official recommendation will, of course, be to a Minister and nothing further is provided except to say that the Minister must make a decision within a certain time and must make public his reasons. ...

> There is a strong feeling that the final say in the matter must somehow be left to the courts, and that to leave the final decision in the hands of the Executive may, in certain circumstances, prevent the fulfilment ... of the broad objectives and purposes of freedom of information so nobly declared in the Bill itself.[12]

Other criticisms are offered, as is the conclusion that 'while the Bill suffers from some very serious defects it is not by any means wholly bad, and if passed in its present form would mark a major step forward and produce much of the desired change in government attitude ...[13]

A measure of the impetus behind the freedom of information movement can be seen in the fact that its influence is now spreading to Japan, with its different cultural values. Pressure for an FOI Act has arisen in the wake of a number of scandals that have accompanied breaches of the wall of government secrecy:

- In 1962 when thalidomide was identified as a cause of deformities in children, the drug was recalled throughout Western Europe and Australasia within weeks. In Japan it was not recalled for ten months. It has been estimated that 48% of Japanese thalidomide babies were born to mothers who used the drug after the warning bells were sounded and whilst the bureaucracy was still considering the issues.
- A similar case arose more recently when a civil action in Japan was brought against the makers of an antibiotic, with the claim that it caused a blood disease. Before bringing the suit, the plaintiff asked the Japanese Health Ministry to provide information disclosed by the manufacturers at the time the drug was licensed. The Ministry refused. The Japanese plaintiff then secured the self-same information from the Food and Drug Administration in the United States under the US Freedom of Information Act.
- More recently, the ledger of a prestigious Japanese Geisha house has been disclosed. It records the names of visiting bureaucrats, with details as to who entertained whom, how many Geishas were involved and how much each banquet cost. The most frequent guests were officials of the Finance Ministry. Apparently other ministries and government corporations seeking favours from Treasury invited these officials and paid the bill with government money, sometimes to the tune of $250 a person for dinner and refreshments. This case led on to allegations of phoney trips, bogus overtime, secret bonuses and political gifts. More than 500 Japanese officials were ultimately forced to resign or accept demotion. The case has shaken confidence in the secret aspects of Japanese bureaucracy. The media in particular have stepped up a campaign for a public access FOI law for Japan. A weak law is predicted 'with broad exemptions and no appeals to the courts'.[14]

I set out the schedule of the status of freedom of information legislation in countries of the OECD as the position stands in January 1982.[15]

Country	Study	Report	Bill in Parliament	Date of First Law	Personal Data Access Law	Document Publicity Law
Australia			×			
Austria				1974	×	×
Canada			×		×	
Denmark		× [1]		1970	×	
Finland				1951		
France				1978	×	×
Germany (FR)					×	
Ireland						
Japan		×				
Luxembourg				1979	×	
Netherlands				1979		
New Zealand			×			
Norway				1970	×	
Sweden				1776	×	
Switzerland			×			
United Kingdom		×				
United States		× [1]		1966	×	
Council of Europe			×			

[1] Amendments being proposed

Transnational Data Report

This is a broad picture of how the freedom of information movement stands worldwide. Public access legislation is seen by its supporters as the key that can open the door to effective scrutiny of the government and the bureaucracy that goes beyond triennial accountability at the ballot box. The first thing you learn about cross examination in courts, as a young lawyer, is that without the data, only a windfall can save you from disaster. Information is needed as the basis of questioning and scrutiny. Public participation in governmental administrative decision-making can be made much more effective if members of the public, representative groups, the free media and gadfly individuals can gain access to the material on which decisions are made. Allowance must be afforded to other competing social policies that favour confidentiality, including international relations, domestic security, resolute government and so on. But the need for greater public access and the reduction of administrative secrecy now seems to have been accepted in at least some quarters in Australia. As I have shown, we are at a staging post and much work remains to be done.

PUBLIC PARTICIPATION AND LAW REFORM

I cannot leave the topic of public participation without saying something about the efforts of the Law Reform Commission to increase participation in lawmaking by its work.

The Commission is established to advise the Federal Government and Parliament on the review, modernisation and simplification of Federal and Territory laws. There are State law reform commissions with similar functions. The Australian Law Reform Commission works on references received from the Federal Attorney-General. It has produced a number of reports, many of them acted upon both at a Federal and State level.

Consultation with the public is the distinctive feature of law reform inquiries. But the mode of consultation differs from one body to the next. Some agencies simply distribute to a very small number of recipients (usually judges and lawyers) detailed working papers written in technical language that would not be understood or read by the layman. Other agencies, including my own Commission, have prepared documents in a different format precisely to provoke popular interest and participation in law reform projects. In part, the difference of methodology depends upon the nature of the tasks assigned to the law reform agency. In part it varies with the importance attached by the agency to community involvement in law development. Whatever the methodology used, it is hard to imagine being able to engender much public concern about the Role against Perpetuities. By the same token, where laws are developed that affect people, even a minority of people, it is right in principle and efficacious in practice to submit these issues for public debate. I say it is useful because it frequently provokes information and perspectives that were not seen by lawyers. But it has another utility, in the way in which it raises community expectations for particular reforms and, indeed, for the success of orderly reform generally.

On his recent retirement from the position of Victorian Law Reform Commissioner, Sir John Minogue lamented the lack of community participation in his work of law reform. Indifference to the discussion papers and other consultative documents he issued filled him with a profound disillusionment.[16] However, sometimes, as it seems to me, the Mountain must go to Mohammed. If we are serious about community involvement and public participation, law reform agencies must embrace the modern means of securing public participation. Even at the risk of over-simplifying difficult and complicated issues, law reformers must find ways of presenting law reform controversies to the general community.

Is it impossible to engage community participation effectively in law reform? Have centuries of legal spoon-feeding produced a society incapable or unwilling to participate in law reform proposals? It is my view that a great responsibility falls on law reformers themselves to shape their procedures of consultation in such a way as to ensure genuine public involvement. There is often resistance in the legal mind to the methods of

the social sciences. There is also antipathy, suspicion and fear of the new media of communication. If law reform bodies are serious about public participation in their work, they must overcome these inhibitions. The Australian Law Reform Commission has not hesitated to use a variety of novel procedures to promote public involvement in the work it has been assigned to do by the Government. Among the procedures used have been:

- use of public opinion polls to test key questions in projects under study;
- the conduct of informal public hearings, with Commissioners sitting at the Bar table rather than on the Bench and often leaving courtrooms altogether, for more informal venues;
- the conduct of vigorous industry and professional seminars for lobby groups affected by an inquiry, in order to bring their points of view out to public scrutiny;
- participation in talk-back radio, with the opportunity to respond to unorchestrated questions from listeners in the general community;
- involvement in television programmes both about the law generally and concerning particular issues that have been studied by the law reform body;
- distribution of cassettes, setting out tentative proposals, discussing in simple and informal language, the issues for consideration. This was the procedure recently used by the Australian Law Reform Commission to ensure that Aboriginal communities in remote Australia had a simple but full exposition of the matters raised in the written discussion paper. Without this method of oral communication, it would be unlikely that the discussion paper proposals would ever be canvassed;
- the issue of media releases should not be a matter of embarrassment. Such a release recognises the very great pressures upon journalists working to deadlines. Furthermore, it is a means of facilitating accurate reportage of law reform work and avoiding neglect or, worse still, concentration on trivialisation or sensationalisation of law reform projects;
- short form discussion papers and pamphlets, widely distributed, including beyond the legal profession and specific interest groups must be utilised by law reform bodies if they are serious about public participation. The lengthy tome and the scholarly treatise have to be prepared for in-house use. But if the aim is public involvement, the methods of communication have to take into account the audience addressed. It is not much use complaining about lack of response, public apathy and indifference to law reform, if no effort is made to adapt the language and the manner of communication to the audience and to the purposes of public involvement.

I do not suggest that even if these and other innovations are tried, we have the whole answer to the problems of public participation in law reform. No-one is more conscious than I am of the room for future improvement. Just consider the following questions:

- How can we be sure in law reform bodies that we are tapping a good cross section of community opinion and not simply attracting the activists and those who hold extreme opinions, rather than the middle ground?
- With scarce resources, how can bodies such as law reform commissions secure submissions from across the whole face of the Australian continent, particularly from outlying rural areas and provincial towns?
- Should any allowance be made for the fact that debate can sometimes be counter-productive, for example:
  - by provoking noisy minority interest group and single issue campaigners on particular issues;
  - by provoking political or professional jealousy or resistance to high profiles;
  - by giving a false impression of activity in law reform which is not reflected or equalled in law reform implementation;
  - by raising false hopes of comprehensive law reform not matched by subsequent follow-up and by giving a false picture of the resources devoted to law reform which may be quite out of proportion to the media coverage of the subject.

Despite the difficulties and occasional disappointments, progress is being made. It is now increasingly accepted that the community should be given the opportunity to take at least some part in controversial law reform developments. The great advantage of law reform commissions is that they have neither the formality of courts and Royal Commissions nor the political inhibitions of Departments of State and parliamentary inquiries. If we can develop flexible, efficient, hardworking bodies with a talent for interdisciplinary expertise and effective public consultation, we may yet provide our democracy with adequate means to respond to the legal needs of a time of rapid change.

I appreciate the opportunity to be present at this session. I am sure that the day will be an interesting and useful one. It is addressed at nothing less than the future good health of democracy in our country.

FOOTNOTES

1. A. Missen, 'The Australian Struggle for Freedom of Information' in International Freedom of Information Newsletter published in Transnational Data Report, January/February 1982, Vol. V No. 1, 35.

2. Administrative Appeals Tribunal Act 1975 (Cwlth).

3. id, s.51.

4. Ombudsman Act 1976 (Cwlth).

5. Administrative Decisions (Judicial Review) Act 1977 (Cwlth).

6. As reported, West Australian, 26 February 1982.

7. Missen, 39.

8. ibid.

9. H. Storey, 'New Access to Information for Victorians', News Release, 24 November 1981, citing Second Reading Speech on the Introduction of the Freedom of Information Bill 1981 (Vic).

10. id, 2.

11. The Age, 8 October 1981, 5.

12. G. Powles, 'New Zealand Official Information Bill' in International Freedom of Information Newsletter published in Transnational Data Report, January/February 1982, Vol. V No. 1, 40.

13. ibid.

14. D.C. Rowat, 'Scandals Add to Pressure for Public Access Law' in Transnational Data Report, January/February 1982, Vol. V, No. 1, 37, 38.

15. Transnational Data Report, January/February 1982, Vol. V, No. 1, 36.

16. Sir John Minogue has reported in the Age, 21 January 1982.