

Submission from Benji Wakely

I have a comment and a concern about this bill that I would like to submit for consideration.

General Comment:

- The extension of secrecy provisions to include Opinion and Advice seems to be to be unfavourably weighted against (for example) civil servants or politicians making potentially quite beneficial public commentary on matters that have strong public good.
- I will allow that if an opinion would strongly reveal otherwise secret information, it may be difficult to provide both the ability to give an opinion and keep secrets, and it may be that giving opinions may "lose out" in this case.

Specific concern:

s122.6: Defences

This defence indicates:

(6) It is a defence to a prosecution for an offence by a person against this Division relating to the dealing with or holding of information that the person dealt with or held the information:

- (a) in the public interest (see subsection (7)); and
- (b) in the person's capacity as a journalist engaged in fair and accurate reporting

I would like to see this defence extended or duplicated to cover the "journalist source", for example by including:

(c) Or where the provision of information is found to be in the public interest.

Essentially, I believe it should be excusable for a commonwealth officer to communicate with a Journalist otherwise secret information where it is in the public interest.

Our government has the duty to operate "in the light" by default, and this includes relying on individual Commonwealth officers / whistleblowers with a conscience making it difficult for the government of the day to sweep Inconvenient Nasty Behaviour (c f. Manus island, the intervention) "under the carpet".

Anyone who is found to have been right to have communicated information that is in the public interest should be allowed this defence under the act, not merely protecting the publisher of the information.

I would also like to see a statement that the term "Journalist" is intended to be interpreted Quite Broadly.

Thank you for your consideration,
--Benji Wakely