

Letters

Political games played by all sides

It has now been publicly revealed that *The Australian Financial Review* is more powerful than the Australian Senate with its 76 democratically elected representatives (“Mining tax hole tops \$100bn”, February 24).

While that revelation may come as no surprise to your readers, it raises fundamental rule of law issues.

The revelation (Senate estimates, February 21 at F&PA 3) came about because last year two Senate committees – the Senate select committee on fuel and energy and the Senate select committee on security of new taxes – sought from the government information on the breakdown between mining tax revenue on coal and iron ore.

That information was properly and reasonably required in respect of an issue of significant importance to Australia now and in the years ahead.

It was proper and reasonable that the Senate publicly and transparently inquire, and in any case the two committees received their reference from a majority vote of the Senate as a whole in accordance with the provisions of the Australian constitution.

The information was never provided to the committees nor was any reason given why it was in the public interest not to provide the information.

However, the *Financial Review* is reported as having obtained the information spontaneously in response to a request under the Freedom of Information Act.

The Senate is a vital element of the separation of powers principle under the rule of law. It is also a critical driver of transparency and accountability. The Senate cannot perform its functions if a government refuses to provide

information as requested by a majority of elected representatives in that chamber.

It is suggested that unless the Senate wishes to be continually sidetracked into irrelevancy by being starved of information, it should not pass any new legislation unless the legislation expressly provides that the Senate has the power to obtain information on the operations of the legislation directly from the government agency that administers it (with appropriate sanctions on the agency if it is not provided).

In this way the political games played by whichever government is in power can be circumvented, and the Senate can thereby perform its proper functions.

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