

Labor 'eroding' personal freedoms, says George Brandis

by: Chris Merritt • From: The Australian • February 10, 2012 12:00AM •



Coalition legal affairs spokesman George Brandis says the government's approach to litigation by federal magistrates makes a mockery of model litigant rules. Picture: Kym Smith Source: The Australian

MOVES to examine the personal finances of federal magistrates triggered a ferocious response from the opposition yesterday which said it was part of the growing use of high-handed tactics that erode individual liberty.

Opposition legal affairs spokesman George Brandis used the government's move against the magistrates to unveil a critique of what he described as a pre-modern Labor government that was reducing rights and freedoms.

"This is the government you would have got, had Arthur Calwell won the 1961 election," Senator Brandis said.

"It is not a government that has the liberalising instincts that the Labor Party had during the Hawke years. It is almost a throwback to an earlier, more socialist view of social regulation."

In an interview with The Australian, Senator Brandis:

Denounced the move for a statutory tort of privacy as part of a "gradual, Fabian-like erosion of traditional rights and freedoms in the name of political correctness";

And accused Attorney-General Nicola Roxon of planning an ideological social agenda, while her predecessor Robert McClelland "had his priorities broadly right".

On the Federal Magistrates Court, Senator Brandis found it surprising that the government wanted to examine the magistrates' finances because it had arisen during a legal challenge on a point of constitutional principle.

He said he had not examined the court documents in detail but "it does seem to be an oppressive use of the discovery power and hardly consistent with the commonwealth acting as a model litigant". He believed the incident needed to be seen in the context of what he said was a broader culture in which commonwealth agencies "are very fast and loose with the use of executive power".

"It is not just litigation, it is about a habit of mind that is developing across government departments and agencies.

"The commonwealth has become extremely high-handed in dealing with citizens, whether they be litigants, whether they be individuals or whether they be companies that are the subject of investigations."

He pointed to last year's report by the Rule of Law Institute listing a series of cases in which judges had criticised federal government departments and agencies for failing to adhere to their obligations as model litigants.

The move to examine the finances of the federal magistrates has come to light as the government prepares to unveil the latest version of its plan to restructure the FMC and the Family Court.

Senator Brandis said the FMC "should be left alone".

"The institutional erosion of the authority of the court by this government has, in my view, been a disgrace," he said.

One of the main focuses for Senator Brandis's criticism was Ms Roxon -- who has also been invited to outline her views.

"When she was first appointed she was described as the high priestess of political correctness and plainly intends to use the attorney-general's portfolio to advance a number of social and ideological agendas."

He feared this would lead to diminished focus on what he described as the core areas for the Attorney-General -- national security and law enforcement.

He said Mr McClelland had handled a number of matters poorly. But "I do give McClelland credit for having his priorities broadly right -- that the core business of the Attorney-General is law enforcement and national security".

Senator Brandis said the Coalition supported anti-discrimination laws but was suspicious that Labor's plan for a "generic anti-discrimination statute" could advance other agendas.

That had happened in last year's Andrew Bolt case, when the Racial Discrimination Act had been interpreted in a way that created "a new and significant constraint on freedom of speech".

He said the political-correctness movement had found expression in various "Trojan horse measures" such as a statutory privacy tort and generic anti-discrimination law.

Roxon defends government as 'model litigant'

A SPOKESMAN for Attorney-General Nicola Roxon said it was "a bit rich for Senator Brandis to lecture on how government solicitors should behave, given his recent attempts to influence the work of Australian Federal Police".

"The government is acting as model litigant in its approach to the litigation, which will include the use of discovery if it chooses to pursue it," he said.

"In the event that a discovery application is sought, all private information provided will be treated sensitively and in a manner that will secure the privacy of the individual concerned.

"The new Attorney is carefully considering this case to see what options are available to the parties."