



SUBMISSION

to

Parliament of Australia
Senate Legal and Constitutional Committee.

Inquiry into the provisions of the Australian
Human Rights Commission Legislation Bill 2003.

by

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SUBMISSION BY K.G.GALL, Single page.

I must say at the outset that this submission opposes the provisions of the Australian Human Rights Commission Legislation Bill 2003.

In support of this view I request that the Senate Legal and Constitutional Committee's Inquiry into the above Bill consider the following reasons and recommendations.

- The Bill undermines the effectiveness of the Commissions work by reducing the present five commissioners each responsible for his own portfolio to three commissioners jointly responsible for the five portfolios. The prospect of three commissioners attempting to wear five hats is a recipe for confusion and the possibility of one or more portfolios being left on hat pegs.
- The Bill seems to contain an extra portfolio which makes education, dissemination of information and assistance, central functions of the new Commission. This proposal indicates that the present functions of the Commission are sidelined.

The Commission considers these changes unnecessary and unproductive as the current structure of the Commission provides a strong educational and advoca role for individual Commissioners and has received significant community support since 1978.

(HREOC 2003 Media Release 27 March 2003 Para.7)

- The Commissions intervention powers allow it to intervene, with the leave of the courts, in legal proceedings before Australian courts and tribunals as an independant body, and has never been refused leave to intervene since its inception in 1986. These powers are to present argument and in some cases make recommendations. The Commission has no powers to implement its submissions. Its role has received the respect of the courts and from those concerned with human rights issues. Due to its independance and courage it has been a powerful advocate for human rights since 1986. Why should this be changed?
- The Bill proposes to remove the Commissions independance by legislation requiring the Commission to seek consent of the Attorney General before it exercises its powers to intervene in court proceedings and to remove the Commissions power to recommend the payment of damages and compensation. These changes would result in the Commission becoming a tool of the Government and interfere with the due process of the courts, by allowing the Attorney General to instruct the courts on what it may or may not accept. This could be seen as an infringement of the rules of the separation of the powers.

RECOMMENDATION

May I recommend to the Inquiry that all proposals of the Bill undermine the liberties and human rights of all Australians and that the Bill should not proceed.

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