Submission to the review of the Victorian Charter of Rights and Responsibilities

Scrutiny of Acts and Regulations Committee,
Parliament House, Spring Street, East Melbourne. Vic 3002
01 07 2011

Submission to the review of the Victorian Charter of Rights and Responsibilities

Attn Mr Edward O'Donohoe

From: Walter Morrison

Dear Sir

I request your committee to support the repeal of the Victorian Charter of Rights and Responsibilities.

This law is unnecessary as the rights of Victorians are already adequately protected under common law.

Common law principles, formulated from centuries of legal experience, reflect our society's delicate and highly effective manner of dealing with the difficult question of where one person's rights and responsibilities end and where another's begin. By contrast, the human rights listed in the Charter are vague, ill-defined and fail to effectively draw the boundary between competing rights and responsibilities.

And, really, they are a parody of human rights and a bad example to other Governments in Australia and an insult to Australian citizens and taxpayers.

There is no — and there can be no — consensus as to which rights ought to be included in the Charter. The very fact that successive governments will include, or exclude, rights according to their own whims and ideologies, is evidence that there is no consensus. Further, the process of changing the list of human rights in the Charter from one government to another simply serves to politicise human rights.

The Act is trivialising aspects of the law, turning Victoria into a bureaucratic, "nanny state" and costing Victorian taxpayers millions in the process.

As the Herald Sun ("Taxpayers cop red tape madness," June 24, 2011) has pointed out, millions of
dollars have been spent checking if new legislation violates the Charter in ways that are trivial.

It's ridiculous spending taxpayers money to check if bans on graffiti and fake ID equipment breach the right to freedom of expression, as listed in the Charter.

It's absurd spending money to check if a persons' right to a 10 cent bottle return refund is violated if the person fails to return the bottle and collect the refund. Do we really need to have a legal opinion to decide if a person's failure to collect a refund violates the person's right to private property, as listed in the Charter?

The Institute of Public Affairs and others have pointed out that, in its first four years of operation, the Charter has been used to interfere in the judicial determination of criminal matters. In particular, its been used to enhance the defences available to people who the courts would otherwise determine to have broken the law.

Some sections of the community have suggested that the Charter should be amended to allow litigants to bring legal actions purely based on alleged breaches of the Charter. Allowing such actions would result in an inevitable surge in opportunistic litigants — predominantly against the state — and would therefore exhaust significant legal resources at great expense to the taxpayer.

Given such shortcomings, and given that there is simply no need for the superfluous protections that the Charter claims to offer, I ask that the Charter be repealed.

Yours faithfully

Walter Morrison