



# ACTU

Australian Council of Trade Unions Queensland Branch

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The Research Director  
Legal, Constitutional and  
Administrative Review Committee  
Parliament House  
Brisbane 4000

Dear Ms/Mr

***Re: Further Submission in Relation to a Bill of Rights***

We refer to Issue Paper No.3 "*The Preservation and Enhancement of Individuals' Rights and Freedoms: Should Queensland Adopt a Bill of Rights?*". On the 14 November 1997, we forwarded to you correspondence indicating that we would want to provide some further comment on the matters raised in the Issue Paper, once our Executive had considered the matter. This consideration has occurred, and the following comments are provided.

As your Committee would be aware, the Australian Council of Trade Unions Queensland Branch (ACTUQ) provided to the Electoral and Administrative Review Commission a submission on this very issue. The submission was provided in writing on the 24 September 1992. The ACTUQ also provided further oral submissions on the 27 November 1992.

It remains the view of this organisation that a *Bill of Rights* should be enacted. It also remains the view of this organisation that the content and direction of the submission originally made by this organisation remains unaltered. We continue to be committed to the following positions:

- ▶ a preference for Queensland legislation not to be pursued in isolation to federal legislation
- ▶ as the likelihood of such legislation being enacted at a federal level remains slight then we should proceed independently to secure such state legislation
- ▶ there should be a positive obligation placed on government to protect and promote rights and freedoms
- ▶ any *Bill of Rights* should not be capable of being overridden by existing or future legislation.

We note that the draft legislation produced in the 1993 "*Report on Review of the Preservation and Enhancement of Individuals' Right and Freedoms*" that the entrenchment of the legislation was subject to a five year waiting period wherein such period the *Bill* could be altered by simple majority of Parliament. We also note that the primacy of the *Bill* would not exist for prospective

inconsistent legislation, until such time as entrenchment occurred, thus allowing for an overriding provision to exist in subsequent legislation. We are opposed to these positions and maintain a commitment to the underpinning objective of the *Bill* being its supremacy over all legislation that conflicts with it; and that such supremacy should result in any alteration or amendment of the *Bill* being via a referendum.

We note that since the *Report* was written there have been some major social, economic and industrial changes affecting Queensland citizens - in particular the amendments to industrial relations legislation and the impact such amendments have had on workers; the undermining of ILO Conventions such as the right of worker representatives through that legislation; and social justice issues such as the outcomes in the *Mabo* and *Wik* decisions. It is our contention that the fluidity of statutory and judicial decision making that has occurred in the last five years reinforces our view that any *Bill of Rights* should be supreme in application to ensure that directional changes by governments do not erode the commitment to ensuring the rights and freedoms of our citizens.

We hope that the above commentary further assists the Committee in its deliberations surrounding the establishment of a *Bill of Rights*. We indicate that the progressing of this matter should include a further consultation period if any amendments are made to the original draft *Bill* contained in the 1993 *Report*.

Yours faithfully

  
(for) John Thompson  
General Secretary