

**Submission
No 44**

INQUIRY INTO RACIAL VILIFICATION LAW IN NSW

Name: Mr Edward Lipsett

Date received: 12/04/2013

Ms. Rebecca Main

New SouthWales Legislative Council Standing Committee on Law and Justice

Dear Ms.Main:

The topic of freedom of expression vs. control of "hate speech" has been a major focus of my research for about thirty years. (I am an independent legal researcher and writer).While "googling" I just found out yesterday about your Honourable Committee's inquiry concerning "racial vilification" legislation. I regret that I am too late to make a formal submission. Nevertheless,I am taking the liberty of sending to you, in case you might be interested,

an article which I wrote concerning reform of Canadian "hate speech" legislation.

Although it deals primarily with the Canadian legal scene, it does take notice of international and comparative jurisprudence in this matter.

Hopefully, it could also be of interest and assistance to persons considering reform of this area of law in other countries and in setting international standards, mutatis mutandis. Please note that since the attached article

was completed and accepted by October, 2008 and published in September, 2009, it doesn't mention some recent important cases that have been decided in the Canadian courts.Of particular importance is the case of Saskatchewan Human Rights

Commission v. Whatcott, 2013 SCC 11 (Feb. 27, 2013) where the Supreme Court of Canada upheld the constitutionality of s. 14(1)(b) of the Saskatchewan Human Rights Code in part.(The case is accessible through <http://csc.lexum.org/>.) Incidentally, s. 13 of the Canadian Human Rights Act, which deals with telephonic and internet hate

messages, seems "on the way out ",as a bill to repeal it has passed third reading in the House of Commons of the Canadian Parliament and is under consideration in the Senate (although it has not yet been passed, as the Supreme Court seemed to suggest in an Appendix).

Attached please find a copy of my article Edward H. Lipsett "A Proposed Hate Communication Restriction and Freedom of Expression Protection Act: A Possible Compromise to a Continuing Controversy" (2009)

Vol. 6 Underneath the Golden Boy 21. It is now also available online at <http://robsonhall.ca/mlj/authors/edward-h-lipsett> , inter alia. Please feel free to copy the attached article and to make it available to whoever may be interested. Kindly keep my email address confidential, however.

Although my article doesn't deal with Australian legislation, I am familiar with some Australian federal and state legislation in this area and some of the related jurisprudence. I hope my article can be of some assistance to your study.

Thank you for your kind attention to this matter.

Respectfully,

Edward H. Lipsett, B.A., LL.B.

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