

**The Clerk  
Justice and Electoral Committee  
Parliament  
Parliament Buildings  
Wellington**

9 November 2001

Dear Sir/Madam

### **Sentencing and Parole Reform Bill**

1. I write on behalf of the New Zealand Council for Civil Liberties with a short supplementary submissions having missed the point in our principal submissions. The excessive alibility to delegate the powers of the Chairperson is of concern, as the Chairperson is a present or retired High Court Judge, whereas whoever s/he delegates to is not. Such a wide power of delegation makes nonsense of the requirement to have a High Court Judge as Chairperson.

2. Clause 269 reads:

#### **269 Delegation of chairperson's functions, powers, and duties**

(1)The chairperson may delegate any of his or her functions or powers to any 1 or more panel convenors.

(2)Every delegation must be in writing and may be revoked at will, either in writing or orally.

(3)A delegation under this section may not be further delegated.

(4)For the purpose of ensuring that the functions and powers of the chairperson are performed or exercised during any period when the chairperson is absent or incapacitated, the chairperson must ensure that at all times he or she has nominated 1 panel convenor to serve as acting chairperson if the need arises.

- (5) The fact that a person purports to exercise, or to have exercised, any function or power of the chairperson under a delegation or nomination is, in the absence of proof to the contrary, sufficient evidence of the person's authority to do so.
3. Whilst it is laudable to provide for the absence of the Chairperson, such a wide delegation power is neither sound in principle nor I imagine intended by the drafter.
4. The position in principle, which can be achieved with a reordering of the clause, should be as follows:
- 269 (1) The chairperson may delegate any of his or her functions or powers to any 1 or more panel convenors, for the purpose of ensuring that the functions and powers of the chairperson are performed or exercised during any period when the chairperson is absent or incapacitated, and the chairperson must ensure that at all times he or she has nominated 1 panel convenor to serve as acting chairperson if the need arises.
- (2). A delegation under this section may not be further delegated.
- (3) Every delegation must be in writing and may be revoked at will, either in writing or orally.
- (4) The fact that a person purports to exercise, or to have exercised, any function or power of the chairperson under a delegation or nomination is, in the absence of proof to the contrary, sufficient evidence of the person's authority to do so.
5. If it proposed to delegate other powers whilst the Chairperson is not absent, that should be the subject of **careful scrutiny** by the Committee as to the need, and limits on any such further power to delegate (if any) should be imposed to retain the effective safeguard provided by having a Chairperson of the status proposed.

Yours faithfully

**TONY ELLIS**  
**Chairperson New Zealand Council for Civil Liberties**

