

4 December 2006

The Law Commission
P.O. Box 2590
Wellington

Reforming the Law of Sedition

1. I write as President of the New Zealand Council for Civil Liberties, and on behalf of the Council.
2. I have read with interest the 105 page Consultative Document and wholehearted agree with your recommendation that:

the seditious offences set out in sections 81 to 85 of the Crimes Act 1961 be abolished.

3. In particular we concur that in a modern democratic society such offences are not demonstrably justified under s5 of the New Zealand Bill of Rights Act, nor are they ICCPR compliant.
4. Given the extensive research put into the consultative document, I content myself with one observation that the authors have not picked up upon. That comes from Roger Douglas¹ (an Australian Author quoted in the draft but not this article), which is endorsed, Sedition is in reality a form of repression associated with political crimes:

Current concerns about statements which could be construed as giving aid and comfort to terrorists have prompted renewed interest in sedition law. It is difficult to extrapolate from Burns' case to what will happen in the event of renewed interest in sedition-type prosecutions. But it suggests several hypotheses, some worrying; some less so. One is that sedition-like laws have traditionally been used to punish people for what they think (or what they are thought to think) rather than on the basis of the degree to which their activities actually pose a threat to social order (however defined). A second is that sedition laws are weapons which are used sparingly. The imprecision which ensures they can be used as the basis for convictions even where the language scarcely seems to disclose a seditious intent also means that judges and juries may acquit in cases in cases where the prosecution might confidently have expected a conviction. A third, however, is that sedition prosecutions may be worrying not so much because of their direct effects, as for what they symbolise. Their use is a guide to what governments are

¹ *THE AMBIGUITY OF SEDITION: THE TRIALS OF WILLIAM FARDON BURNS*
Australian Journal of Legal History (2004) Vol 9,227-248

willing to tolerate, and even when prosecutions are used sparingly, the fact that they are used at all indicates that governments are relatively confident that the political climate is sufficiently tolerant of repression for them to be able to get away, not only with political prosecutions, but with the more subtle, more ubiquitous, and more effective forms of repression which typically accompany prosecutions for political crimes.

5. There is no room for such a crime on our statute book.

Yours faithfully

**TONY ELLIS
PRESIDENT**