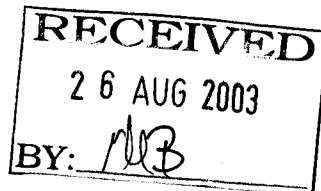


79 McManus St.
Cairns
Q. 4870

22.8.03

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Board of Taxation
c/o the Treasury
Langton Crescent
Parkes ACT 2600

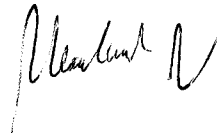


Dear Ms. Schwager,

Thank you for your invitation to make a submission.

1. I am secretary of Friends of Cominos House Inc. 27 Greenslopes St. Cairns 4870.
My phone number (home) is 07 4034 1788.
2. F.O.C.H. manages and presents a small 19th century town house as a museum.
3. My reasons for making a submission are:-
 - * Personal interest in the topic and in accurate use of words aroused by reading the A.T.O. 'Charity Pack' to decide the tax status of three organisations I am associated with.
 - * Affront at a draft of malign litigation.
 - * I hope that, because my submission is personal not representative, it is not considered outside the terms of reference of the consultation. That would exclude the vast interest of members of the public in hearing the informed views of charities by limiting consultation to charities themselves.
4. F.O.C.H. Inc. is endorsed as an I.T.E.C.
6. No additional administration shows in the text, but I cannot foresee the regulations, interpretations and procedures that might flow from it.
7. The Bill appears flexible, but I do not know how it would be interpreted in what circumstances.
8. I think F.O.C.H. is altruistic so we would not be affected.

Yours sincerely,



Michael Bryan

There is an element of fraud in the Draft Charities Bill 2003 in that, while the ostensible purpose is certainty, the wording does not deal with two competing community perceptions identified in the quotation:-

"When I feed the hungry they call me a saint. When I ask why they are short of food they call me a communist."

Only in Frequently Asked Questions No. 10 is there an assurance, based on a press release not seen, that some advocacy would always be allowed by unknown future politicians and officials.

One community perception is certain that charity is only serving objects (persons, buildings, animals, landscape), and that advocacy visible to the public is politics. Another perception is certain that just repairing endlessly the consequences of bad policy is stupid and irresponsible, so that raising public consciousness with experience gained is part of charity work.

The environment centre I belong to keeps supporters from all political parties despite advocacy being a main work, by concentrating on issues and leaving voters to relate these to contenders for power. However we are aware that some conservationists are certain that only management of land is worthy and advocacy is at best personal indulgence.

The Draft Bill does improve certainty for charities that do good works and keep quiet. Because the Draft Bill does not provide a place for advocacy, any representative of a charity making a public statement that a member of the government of the day does not like risks a perception that they are careless of their organisation's charitable status. There would be no trial, but use of government resources through media to accuse direct to the charity's supporters. A lapping tide of self-censorship then grows a culture in which charities do not speak out, so that one that does is then accepted as disqualified under 8(2)(c). Loss to the public of the inside knowledge of charities, leaving government spin versus uninformed criticism to occupy public discourse, would diminish Australia.

Clause 1.5c, fourth dot point, of the Explanatory Material makes clear that an intention of the Bill is choice between charitable status and criticism of government. Under Common Law, putting that choice is perceived and resisted as a potential threat to all charitable status. Under this Bill, quiet charities are protected, so anyone presuming to share information inconvenient to a government is more isolated and exposed than at present.

- Remedy
1. Scrap the proposed Bill. Any Act of Parliament costs money: Common Law does work: the proposing government has shown malign intent.
 2. Remove clause 8(2)(c). Section 4(1)(c) precludes advocacy or lobbying not pursuant to the charity's dominant purpose. Advocacy or lobbying in furtherance of the dominant purpose is not merely tolerable as free speech, it is high public good.