



ATTORNEY GENERAL

MINISTER FOR HEALTH, ELECTORAL AFFAIRS

FOR WESTERN AUSTRALIA

Our ref: 9-26566

The Hon Justice Ronald Sackville
Deputy Chair
Judicial Commission of Australia
C/- Judges' Chambers
Federal Court of Australia
Level 17
Law Courts Building, Queens Square
SYDNEY NSW 2000

Dear Judge

MAGISTRATES COURT BILL 2003

I refer to your letter dated 16 April 2004 in which you raise a number of concerns regarding this Bill.

I apologise for sending this reply to you at your Chambers, but the letterhead of The Judicial Conference of Australia does not bear an address for correspondence.

The concerns you express are consistent with those that have been put to me by the Stipendiary Magistrates' Society. As I told the Society, I readily accept that the principle of judicial independence applies with as equal force to the Magistracy as with other members of the judiciary. However, I do not believe the Bill poses any significant threat to the judicial independence of Magistrates in this State.

In Western Australia, as with Victoria, Queensland, South Australia and Tasmania, we have had legislation providing for the suspension of Magistrates for misbehaviour on the initiative of the Attorney General for many years. No one has been able to point out to me any instance where that power has been abused or the existence of that power has adversely affected the judicial independence of the Magistracy in this State or elsewhere in all those years. The existing provisions do not differ markedly from those contained in the Bill, although, if anything, the Bill provides greater protection for judicial independence.

I see the current suspension procedures, which are to be found in section 5 of the *Stipendiary Magistrates Act 1957* (WA), and those to be provided for in Clause 14 of Schedule 1 of the Bill as in fact providing important safeguards against unwarranted suspension or removal of a Magistrate from office, as opposed to a threat to judicial independence. In the case of the provisions of the Bill, the initial suspension can only

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