

**Ninth Australasian and Pacific Conference on Delegated Legislation and Sixth
Australasian and Pacific Conference on the Scrutiny of Bills.**

**Reception Speech
2 March 2005
5 – 6.30 pm
Canberra Museum and Gallery**

Fellow parliamentarians, distinguished guests.

I acknowledge the traditional owners on whose land we meet, the Ngunnawal people. I respect their enduring culture and unique contribution to the life of our community.

I extend a very warm welcome to those of you who have traveled from interstate and overseas to share your experiences and your expertise.

The legal systems within which delegates to this conference work have many unique and distinguishing features. But they also have much in common with each other.

One important thing they all share is a historic commitment to having the laws of the land exposed to a “second pair of eyes”— a scrutiny that protects the community from an over-zealous or overbearing executive.

Here in Australia there is a strong tradition of putting this task into the hands of parliamentary committees.

There is also a tradition that one of the matters scrutinised by these committees is the impact of new law on fundamental human rights.

In the absence of a national bill of rights, Australian scrutiny committees have historically focused on the civil liberties that have become acknowledged, in a piecemeal fashion, by the common law.

In 2003, with the prospect of a national bill of rights as distant as at any time since Federation, my Government introduced the *Human Rights Act*, a statutory bill of rights for the Territory.

It was the first time any Australian jurisdiction had gathered into one document the basic human rights accorded to members of its community.

I am pleased that delegates to this conference — in particular delegates from the ACT — will have an opportunity to hear from a number of eminent international speakers whose own countries — New Zealand, the United Kingdom and Canada — have adopted bills of rights in recent years.

I am sure their experience will be enlightening.

The effective scrutiny of bills is no less vital now than it was before the *Human Rights Act* became law in the ACT.

If anything, the scrutiny process is more important than ever, because the rights the committee seeks to protect are more explicit and the committee's job is more exacting.

The theme of your discussions over the coming days will be how a “rights consciousness” affects the work of scrutiny committees.

Here in the ACT, the scrutiny committee most certainly approaches its work imbued with a rights consciousness, and that consciousness *must* affect its work.

But this “rights consciousness” doesn't start and end with the scrutiny of bills. Nor should it.

The dialogue model of the ACT's *Human Rights Act* means that a “rights consciousness” permeates every level of the Government's interaction with the people.

The model is designed to get the courts, the Assembly and the public service talking to each other about the human-rights implications of their work.

And not just talking, either, but *thinking* and *acting* consistently with the law in their dealings with the people of the Territory.

What that means is that a “rights consciousness” has been influencing the gestation of a piece of law from its earliest draft, long before the scrutiny committee lays eyes on it.

And once the committee *does* set eyes on a piece of proposed law, the *Human Rights Act* strengthens the committee’s hand, sharpens the quality of its advice and gives it a more powerful role to play than ever before in the development of a human-rights culture in the Territory.

Beyond the ACT, the unfortunate fact is that international human-rights treaties, drafted half a world away, half a century ago, are the closest most Australians come to having a statement of their basic rights.

Domestically, some rights are spelled out in a piecemeal fashion in the Constitution, the common law and statute.

But the result is administratively unwieldy.

More importantly perhaps, it doesn’t lend itself to the growth of a rights-respecting culture.

And it is axiomatic that the work of a scrutiny committee becomes much easier in a society where a rights consciousness is pervasive, where we don’t have to wait until a Bill gets to a scrutiny committee for the issue to be raised for the first time.

That is the kind of culture the ACT Government wants to see evolve here in the Territory.

A culture that permeates all aspects of the Government's relationship with the people — from the day-to-day administrative decisions made by public servants, to the design and application of our laws.

Of course, none of us lives or legislates in a vacuum.

The ACT's *Human Rights Act* was drafted in the light of this Territory's unusual legal relationship with the Commonwealth.

It reflects the limits of our territorial jurisdiction, as well as some political and social realities.

A bill of rights drafted a kilometer across the border might look quite different.

In the same way, the bill of rights drafted across the Tasman a decade and a half ago and the one introduced by the United Kingdom in the late 1990s are quite distinct pieces of law, shaped as much by the past as by future aspirations.

But distinct as they are, each of these recent bills of right reflects a world where judiciaries are ever more inclined to look beyond their national or state borders.

They reflect a world in which policy-makers are more frequently required to take heed of international obligations and international trends.

In the second half of the last century, the post-war development of a global human-rights movement placed new obligations on the nation state and articulated a set of common, universal rights.

In the first half of this century, our challenge is to refine the means by which we safeguard the rights of members of our communities.

The scrutiny of bills will remain a primary avenue of protection.

Indeed, it may become an even more precious and important means of protection, as our laws venture into previously unexplored regions, in response to new technologies, new medical advances and new kinds of treaties.

The next few days will be a valuable opportunity for delegates to share their knowledge and expertise and perhaps anticipate some of the challenges we will jointly face in the coming years.

Once again, welcome to Canberra. I wish you a fruitful and inspiring few days and look forward to hearing what emerges from your discussions.

Thank you.