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1 June 2012

The Hon. Robert Clark
Attorney General of Victoria
Parliament of Victoria
Spring Street
Melbourne VIC 3000

Dear Attorney,

Re: Parliamentary Inquiry into Clergy Sexual Abuse

I write to express Liberty Victoria's concern with respect to the establishment and terms of reference set down for the Victorian Parliament's inquiry into the sexual abuse of children by members of the clergy. This is an inquiry of fundamental importance. The inquiry should possess wide terms of reference so that it may examine every relevant aspect of the alleged criminal activities of members of the clergy. It should be conducted by a body having sufficient expertise and power to engage in the investigation of child abuse skilfully and comprehensively. Liberty does not believe that the inquiry established by the Government will be capable of meeting these objectives.

Liberty's particular concerns are as follows:

1. Liberty would have preferred the inquiry to have been conducted by a judge and in a judicial manner. A judicial inquiry would have reflected the seriousness of the matters under investigation. It would have had the expertise to collect, assess and determine the weight of evidence presented to it. It would have engaged with the rightful concern of victims of abuse and their families to have their allegations fully and conclusively investigated. The proposed parliamentary inquiry can achieve none of these objectives. It is a political body rather than a judicial one and is therefore insufficiently independent. It does not have the legal and investigatory expertise to properly undertake an inquiry of this complexity. As a committee, it cannot engage meaningfully and extensively in a dialogue with victims and their families as to actual cases of abuse and proposals for their resolution.

2. Liberty believes that the terms of reference for the inquiry are too narrow. The terms of reference limit the scope of the inquiry to the consideration of the law, policies, practices and protocols established within church organizations and other organizations to deal with allegations of child sexual abuse. We do not doubt the value of such an inquiry. Informed recommendations as to these matters may be welcome. However, we note that in pressing for such an inquiry, victims of abuse and their families' primary concern, and that of the Victorian community more widely, has always been for a comprehensive investigation as to the nature and extent of the problem of abuse and for recommendations for further action, including prosecutions, to be made where credible evidence of abuse is uncovered. The parliamentary inquiry's terms of reference exclude any such examination and, for that reason, the inquiry is likely to confound the reasonable expectation of interested Victorians.
3. Liberty is concerned that the parliamentary committee may have insufficient time and resources to conduct its systemic inquiry effectively. The Committee has six members none of whom are legally qualified. It will take committee members considerable time to establish a sufficient baseline of knowledge on the basis of which to assess and deal with the evidence presented. If victims and their families are to be given the consideration and understanding that is required for them to present hurtful and upsetting stories, the committee will need to provide them with every reasonable opportunity to make their case. That too will take quite some time. The committee's deliberations as to the complex and emotionally charged material with which they will be presented will necessarily be lengthy and extensive. In this light, a reporting date of April 2013 would appear unrealistic, particularly given the fact that the Committee is also charged with completing two other inquiries at the same time.
4. We are concerned that the Committee may not have sufficient resources to undertake its task. To make the inquiry effective, it is likely to need expert legal, policy and procedural advice and ample administrative assistance. We note that the Government has promised to provide the committee with the resources it requires. This is a commitment made at the same time that budget for parliamentary committees has been reduced very substantially. We urge the Government to ensure that this inquiry is provided with resources above and beyond its allocated budget as and when it becomes clear that additional resources are needed.
5. We note finally the problem of lack of independence. Members of the committee are at the same time members of their political parties. It may be in the political interests of some members to exploit the inquiry in their wider political interests. It may be in the political interests of others to constrict its scope. In neither case can the requisite independence of judgment required for an inquiry of this kind be reasonably guaranteed. It would be enormously costly to victims and their families to find that the inquiry split on party lines in making key recommendations. Liberty encourages the government to make it plain to the committee that it

should at every juncture proceed in a bipartisan fashion and that it should to the greatest extent possible avoid split conclusions.

Liberty wishes to make it clear that we do not oppose the establishment of the parliamentary inquiry. As noted previously, we hope that it will make a useful contribution to the resolution of existing allegations of sexual abuse and to ensuring that such abuse does not occur in the future. We fear, however, that the inquiry will fail to meet Victorians' expectations. If that is so, it may be that this inquiry is but the first of many. It would have been better if this one were better armed to undertake its onerous responsibilities in the first place.

Yours sincerely,

Professor Spencer Zifcak
President

CC: Bryan Keon-Cohen