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The Secretary
 Joint Standing Committee
 on Treaties
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 (3 Pages Altogether)

Submission No. 202.....

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 10 May 2001

Dear Committee Members,

Please accept my following submission on the Statute of the International Criminal Court, which I have heard that you are currently reviewing. I urge you all to support this Court, and ignore the ill-founded, scaremongering arguments of those opposed to it.

① Those claiming that such a Court would intrude on our national sovereignty, imply that Australia is uncivilized enough to approve of those crimes which this Court is designed to prosecute. Such a claim is therefore a vile insult to Australia's long-held commitment to human rights, fairness, equity and decency. Only barbaric dictatorships would use this argument to oppose such a court, because they would not wish to curtail their own tyrannical oppression in any way. Australia's progressive laws, based in freedom and democracy, show that our sovereignty is not likely to be jeopardised at all, by such a court.

② To claim that this Court would act as a social engineer, and impose radical ideological agendas for their own sake, absurdly assumes that its prosecutors and judges would be chiefly composed of firebrand activists. What basis in reality exists for this claim? How many courts today, can demonstrate that their judges are anything but quite conservative? If such an unlikely outcome as a socially radical International Court, ever seemed to be on the verge of occurrence, many countries would simply withdraw from the Statute forming this Court; and the entire system would cease to be in force. The Court's staff would be well aware of this, and of their responsibility to prosecute only the most serious of internationally recognised crimes, like genocide. They are not

going to fritter away their resources trying to be social engineers. In fact, they are more likely to be very skilled in diplomacy, and highly sensitive to nations' mainstream sentiments (which are usually conservative anyway); because the Court's continued function will depend on the ongoing support of the countries involved.

③ To claim that the Court will impose trial by inquisition, and deny the accused a jury, ignores the fact that only serious crimes like genocide will be prosecuted here, where the evidence is so blatant and overwhelming, that public opinion will be demanding such a trial. No doubt Adolf Hitler would have preferred a trial by jury, than by three judges such as this Court will have, to enable his lawyers to convince as many people as possible of Hitler's innocence, had this dictator ever been prosecuted. There are some crimes, such as genocide, which are too serious to be left to the vagaries of a trial by jury, where jury members are subjected to fancy performances of eloquence and court stunts, more often than not by the competing lawyers. As admirable as trial by jury might be, it also has its flaws. Most jury members are not trained in the more complex points of law, which a judge would be more capable of understanding; and judges are less likely to be swayed by a clever lawyer's subtle courtroom antics, aimed at clouding the real legal issues at hand, in an effort to prove his or her point.

④ It is false to claim that the accused will be automatically presumed guilty, if tried by such a court. However, it is important to remember that the presumption of innocence is very much prized among the truly guilty; and that this Court would not be set up to simply form a paragon of legal procedure, but to actually prosecute those guilty of terrible atrocities. This Court will not be dealing with more "mundane," everyday crimes such as theft or drunk driving, but with horrors like mass murder, which are really beyond the scope of most ordinary court systems, to properly deal with. Indeed, media "personalities" like Saddam

Hussein, whose moral mistakes are well documented, would obviously have a lot of explaining to do about their actions. But this Court can hardly be blamed for that, because human decency would demand that justice be done, regardless of whether a mass murderer was a regular feature of the evening news, or not. Would this Court's critics feel uncomfortable if an Adolf Hitler, or a Pol Pot, or a Saddam, were to be found guilty of war crimes, by such a court?

⑤ To claim that this Court places too much emphasis on victims, again ignores why such a court is being considered in the first place. Would its critics object to those who perished in the Holocaust of World War II, being referred to as "victims"? It is bordering on the maliciously frivolous for these critics to bring up such points. Mass murder is exactly about victims and criminals - and this Court is urgently needed, because human history, (as Bosnia, East Timor and Kosovo have shown) sadly tells us that mass killings and genocide have happened all too frequently, and recently.

This Court is the best way which the modern world currently has, to indicate that horrors like mass murder, are universally seen as crimes, and that the civilized nations of this world will indeed unite to prosecute such blots on the human record, in a spirit of brotherhood and co-operation which transcends national boundaries. This is the great benefit of such a court, which its critics sadly fail to recognise, at a time when trust and co-operation between the nations of our world, for a common good, is desperately needed.

Australia's laws, and people, are sufficiently advanced, to actually enhance the establishment and operation of such a court, and contribute to its effectiveness. We have nothing to fear from it, as Australians will always stand up for human rights and basic moral decency, with our belief in freedom and democracy being as strong as it is. Therefore, I hope that you will ratify the Statute of the International Criminal Court immediately, Committee Members, in honour of your country.

Yours faithfully, *J. J. Dene*