

JUDICIAL INQUIRY INTO ANTISEMITISM AND APPOINTMENT OF JILLIAN SEGAL AS FIRST AUSTRALIAN ANTISEMITISM ENVOY

Moves in the Federal Parliament to instigate a Judicial Inquiry into Antisemitism by Julian Leeser MHR and Senator Sarah Henderson (Liberal, Vic), are gaining traction. In response, the Prime Minister has appointed Jillian Segal as Australia's first Antisemitism Envoy.

No sooner was she appointed than the ABC was airing calls for an Islamophobia Envoy.

When was the last judicial commission of inquiry into racism against Australia's Indigenous population? There has never been such an inquiry.

The problem with this anodyne approach to prosecuting antisemitism and racism generally, is that we are forever questioning the obvious instead of addressing it. Everyone knows there is antisemitism.

It is only 79 years since the end of the Holocaust.

The Lyons Government's Chief Delegate to the Évian Conference in July 1938, convened to see which countries were prepared to provide refuge to European Jews just months before the outbreak of World War II and four months before the Kristallnacht, stated:

"As we have no real racial problem, we are not desirous of importing one by encouraging any scheme of large-scale foreign migration."

Thus spake Colonel T.W. White on behalf of the Australian Government in accepting only 9,000 Jewish refugees from Central Europe out of 12 million, imperilled by Hitler's Nazis on the brink of World War II.

2,000 Jewish refugees who fled Austria and Germany were despatched from England to Australia aboard the *SS Dunera*, labelled "enemy aliens" and treated as such upon their arrival in Australia, interned in camps, first in Hay (NSW) and later in Tartura (Vic).

This was despite the prominent role that Jews had played in Australia. By then, there had been a Governor-General, a High Court Justice and a General who had been Commander of the Australian Corps, the largest Corps on the Western Front, in World War I – all Jewish.

Those who rest their hopes on a Judicial Inquiry should appreciate two things:

1. There may be resentment that taxpayer money is being used to fund it; and
2. It will not be entirely one-sided if it is to be a proper inquiry.

There will have to be witnesses called against whom antisemitism is alleged but who deny that it can be proven; the media coverage of the Judicial Inquiry, with the exception of the Murdoch press and Sky News, is likely to range between neutral, sceptical and derisory.

The anti-Israel and arguably antisemitic ABC is likely to distil the most material through the prism of its own extreme bias.

Opinions are not likely to be changed by the findings of a Judicial Inquiry. People who are antisemitic will not cease to be antisemitic because there is a Judicial Inquiry or positive findings. Such an inquiry is equally as likely to fuel antisemitism as to douse it.

By way of contrast, in the Class Action against Sydney University and others which Adam Butt of Counsel, instructed by Levitt Robinson Solicitors will bring, assisted by Ron Merkel SC, former Federal Court Justice and eminent Human Rights Jurist at the Victorian Bar, we are seeking to hold those clearly responsible for fomenting and tolerating antisemitism, to the detriment of Jewish students, staff and academics alike, fully accountable under the law.

Parliamentary and Judicial Inquiries and Royal Commissions may salve consciences and defuse anger but tend to be massive deflections. Typically, such Inquiries and Royal Commissions produce findings that are not followed, and which are mostly consigned to the annals of history.

The seminal book on antisemitism is Jean-Paul Sartre's *"Anti-Semite and Jew"*, published in 1948 but written in 1944. It is still available on Amazon.com and remains in publication by Penguin Books Australia. Just make it mandatory reading and we will not need a Judicial Inquiry.

Risk of Providing Witness Statements

Finally, it is essential that witnesses in the Class Action do not provide statements to the Judicial Inquiry because such statements could provide ammunition to the lawyers for the University of Sydney, to be deployed against the applicants.

While evidence given at Judicial and Parliamentary Inquiries and Royal Commissions is generally privileged and cannot be used in civil proceedings, the transcript is nevertheless published, and the credibility of a witness may be damaged if there is an inconsistency between the evidence given to the Inquiry (which is available for all to read) and that witness's affidavit evidence or Courtroom testimony.

I am not opposed to the Judicial Inquiry or to the appointment of a Federal Envoy on Antisemitism, but the Jewish community should not be lulled into thinking that such diversionary gestures and tokenism are a substitute for real action.

Opt-Out Class Action

The Class Action that we will be running against Sydney University will be what is known as an "opt-out" Class Action. This means that if you fit the definition of a Group Member, you are automatically covered by what happens in the proceedings, unless you take a deliberate step to opt-out when you are given an opportunity to do so by the Court – as you will be – during the course of proceedings. If you do not opt-out, you will be bound by the decision of the Court, including if it involves approving a settlement scheme, and you will be entitled to receive your portion of any settlement sum or damages awarded.

On the other hand, if you opt-out, you will be free to bring your own action but you will not stand to receive any direct benefit or suffer any detriment, directly from the Class Action.

If you have any difficulty in understanding this, please do not hesitate to contact Levitt Robinson Solicitors.

Yours sincerely,

Stewart A Levitt
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