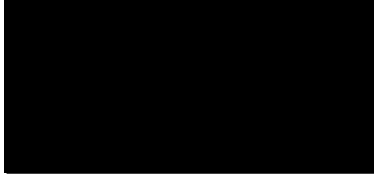


**Submission  
No 17**

**PROSECUTIONS ARISING FROM INDEPENDENT  
COMMISSION AGAINST CORRUPTION  
INVESTIGATIONS**

**Organisation:** Office of the Inspector of the ICAC  
**Name:** The Honourable David Levine AO RFD QC  
**Position:** Inspector of the ICAC  
**Date Received:** 7/08/2014



Our Ref: G4 2014 01  
Your Ref: D14/15996

7 August 2014

The Hon Greg Smith SC MP  
Chair  
Parliament of New South Wales  
Committee on the Independent Commission Against Corruption  
Macquarie Street  
**SYDNEY NSW 2000**

Via email: [icaccommittee@parliament.nsw.gov.au](mailto:icaccommittee@parliament.nsw.gov.au)

Dear Sir,

Re: Prosecutions arising from Independent Commission Against Corruption investigations  
File ref: D14/15996

Attention: Ms Dora Oravec

I refer to your letter of 27 June 2014 and apologise for the lateness, of this response. I am confident that it will be taken into account as essentially I, as Inspector of the ICAC, am in agreement with the submissions made by the Hon Megan Latham, the ICAC Commissioner. I have had the benefit of considering them in draft.

It is to be noted that the website of the ICAC now contains statistical information relating to references to the DPP and outcomes. This is a welcome development. The importance of the availability of information of this nature must be stressed: In my capacity as Inspector I have been the "recipient" of anecdotal comments, remarks and observations to the following effect: "Whilst it is all very well that the public hearings of the ICAC can be viewed, as, of a form of public entertainment such as "a circus" with the capacity to cause immense damage to reputation during the exposure of asserted, corrupt conduct, there remains the issue of "what about "the bread" "? This is a reference to the substantive disposition of allegations of corrupt conduct by the judicial process.

It is my personal view as Inspector that the NSW model is the only stable and effective one in the Commonwealth. The variable models from other States provide little, with one major exception, of use to the structure and the effectiveness of the procedures of the ICAC (and indeed this Inspectorate).

The exception referred to relates to the consideration of the need for the statutory enactment of offences that would otherwise fall within the rubric of "misconduct in public office" at common law. This has been dealt with in detail in the submission from the ICAC and I support it, as I have said. There is much that is attractive about the Victorian formulation of the offence.

I add the following, trite perhaps, observations: First, I would not support any steps that would make the ICAC its own prosecuting authority; secondly the independence of the DPP must be viewed as precious at all times to the point where it can never be said that the want of "bread" after the "circuses" lies only in the lack of resources.

Yours sincerely,

  
The Hon David Levine AO RFD QC  
Inspector, Independent Commission Against Corruption