

**INQUIRY INTO CORRECTIONAL SERVICES
LEGISLATION AMENDMENT BILL 2006**

Organisation:

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Date Received: 31/07/2006

Subject:

Summary

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Date: 31/07/2006 8:31 am
Subject: submission, regards the "Correctional Services Legislation Amendments Bill"

The Members
General Purpose Standing Committee # 3
c/- The Director, Mr S FRAPPELL
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SYDNEY NSW 2000
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Dear Honourable Members

Opening comments:

I could easily gather together a whole case of legal technicalities to argue & cross-argue the relevance or otherwise of Common, Constitutional, Statute & Tort law relating to this issue. Notwithstanding, I have successfully acted as a "McKenzie friend" on several occasions winning praise from the Bench. However, because I am not a lawyer there would always be someone who would conjecture that I am wrong - whether I am morally or ethically would not matter to my protagonist. But that would only make them right according to their interpretation - other lawyers could also disagree with them. Therefore, I will not take that approach, which is contentious at best.

Of my format: it could have been a formalistic document similar to most which you will likely encounter. I choose for it not to be in that style, but rather attempt to tell a story in a sequence which I hope will make sense, & will compel you to do what is right, rather than what might be 'legal'.

Preamble:

At the outset I wish to state that I am a "victim of crime". However, having stated that, it is highly apparent to me that, with 'undoctored' statistics, one could very easily acknowledge & support the proposition that mankind has not yet effectively learnt to appropriately deal with "law & order" issues. Instead, much of the legislation which is continually introduced is a reactionary process to a recent indiscretion. Sometimes we even decriminalise something because it becomes an operational or administrative "nightmare". But that does little to stem the tide of increased violence, & infact, because of the very nature of our 'offence' in making legal that which is morally & ethically abhorrent, ignores the reality that there always is a "victim" & "offender" in all criminal activity, & that the offender is probably a victim before he/she offended. Thus society implodes & haemorrhages.

Ladies & gentlemen, if we are going to successfully & genuinely reduce criminality, then we must better co-ordinate the various "law enforcement" agencies - the police, the judiciary, the prisons systems, probation & parole - & more effectively interface them with other agencies such as mental health, health (itself) & the various 'private' agencies which are scattered throughout society. Many of those organisations are themselves trying, with frustrating degrees of minimal success, "to heal the broken". It is a reality, that some of those broken individuals will become criminals, too, in their confused & misguided attempt to achieve justice, or, because they are so "broken" through trauma, that they lose proper perspective.

Who am I:

I am not a person particularly known to all of you - although many of you may know of me. However, during my once substantial corporate career I negotiated many scenarios into reality for a well-known company - Unilever. But the ravages of my own mother's murder, when combined with the utterances of a very traitorous, but still very-much loved former-wife, who herself had separately suffered trauma, have left me less-than prosperous. My former-wife made untruthful statements & allegations about me, all pursuant to an unwarranted AVO, & to enhance her tactics in the Family (Law) Court of Australia during 1999. When one combines this with the decimation of a plethora of other unresolved traumas over some 45-years, observers wonder how I have kept my sanity. I could have chosen anger. However, contrary to what others sought to portray of me, I have always sought understanding & dialogue. Violence should & must be a very last resort to any complex conflict. But its consequences are dire.

Despite this, & having once been within eyesight of retirement - which I am far from now - a well-know academic said of me recently, & I quote: "Although it's obvious the events of time have taken their toll on 57-year old Paul Steele, both physically & mentally, he somehow remains passionate & resolute about the future.". That is true. Nonetheless, injustice is a dreadful shackle to one's existence - just ask Kerri & Bev BALDING, Garry & "Peg" LYNCH, Ken & Lynette MARSLEW, Brian MORSE, Lindy CHAMBERLAIN & John BUTTON, et alii, can attest to. I know most of them quite well.

Of John, his wife Helen said: "What got to John in the end, was that no one would listen." But you, the General Purpose Standing Committee # 3, have an opportunity to do what wasn't done for John, myself, & others - almost until it was too late.

Beyond this you might be interested to know that one of my uncles was a former NSW Police Commissioner, plus the former Head of NSW Mental Health, Professor Beverley RAPHAEL, is my deceased father's cousin. A former & now-deceased NSW politician was also a relative. Law & order issues, & politics, have been in my blood since I was a youth. I envy your ability to be "a shaper" of the 'inheritance' that our generation will leave the next (generation). But it must be handled with wisdom.

How should we treat others?:

There is no great mystery in all this. Basically there are only two options: differently to ourselves; like/the same as ourselves. Having said that, there will be times when it is

prudent to use an option which is in contravention to the philosophy which one might normally adhere to. That could be said for instance in the case of where a pacifist might encounter his wife being brutalised by an intruder. An alcoholic ought not to attempt to encourage all to become drunkards either. However, when it comes to the treatment of incarcerated criminals, then we have a "duty of care" to the imprisoned, & a moral obligation to those in society to protect them from any dangers which might ensue by a re-occurrence of criminality. Both those facets are intrinsically intertwined. Notwithstanding, I would conjecture that we, as a society, do neither particularly well.

Dr Donald NATHANSON MD, the founder of the Silvan S. Tomkins Institute, said in his book, "Shame & Pride" (I can't find my copy), but I quote nonetheless: "The healthiest environment for human beings is one that encourages free expression of emotion." That is true. But our ability to freely express our beliefs & intentions must be tempered with the reality that, what we think & do, can, & will, have an impact upon the lives of others. It is a wise human being who seeks never to negatively impact others. Therefore, emotions such as anger must be harnessed, & ought not to be reflected in a way that incites others to an adversarial response.

The Department of Corrective Services:

The incarceration of criminals is one of the most important areas of concern for all of society - though many people don't realise the absolute significance of this very important government ministry. Yes, education & health (amongst the others) are significant, but it is how we handle the criminal element, & scale, proportionately, the offence itself, that will determine much of the morality of society & its willingness to better & peacefully integrate.

Over many years the recidivism rate has remained pretty much constant. In March 2006 a report stated that "sixty-four per cent of offenders released from prison on parole re-offend within two years of release, according to a joint study released today by the NSW Bureau of Crime Statistics and Research and the Research Division of the NSW Department of Corrective Services." That is appalling!! And whilst I recognise & have publicly stated my support for NSW DCS Commissioner, Ron WOODHAM, when I said, & I quote: "I am very much a fan of your strong stance on justice. But I am equally impressed with your willingness to confront new horizons & to pursue justice & the prison system for what it really ought to be - a holding-pen for the non-conformist, the violent & the recidivist. To those who are genuinely remorseful & prove to be capable of & willing to change, there ought to be - as you have so rightfully instigated - an avenue for re-education, with the potential of re-entry into society as a worthwhile contributor.", there is much that hasn't been done - yet. But part of that comment - & much more that was said of Ron WOODHAM - is available for perusal in a public document. He is an outstanding commissioner.

Repatriation of prisoners:

I am not afraid to be counted amongst the few who understand & support the processes of Victim-Offender Conferencing, which is commonly called Restorative Justice. I attempted to pursue that process in 1996 just as my marriage began to unravel under the

weight of the aforementioned multiple unresolved traumas. At that stage I had read about the successes which had occurred in the United States. I believe that Restorative Justice has the potential to revolutionise the behavioural pattern of many minor & serious offenders. But it will only work in amongst an environment of honesty, empathy & compassion, & with a positive vision for the future for those with the capacity to see it.

Of my mother's killing, when it was mentioned to some people who sought his execution, that I am not a "capital offence" proponent, one angry elderly lady said, & again I'll quote: "Well you couldn't have loved your mum very much?!" How would she know? Infact, unbeknown to her my comments have been consistently the same since 1990, & are mirrored in what I said in November 2005: "In no way does that excuse what this individual did - it was deplorable. He could only have hurt me more by his irresponsible actions if he'd killed my former-wife, or one of my estranged children. That would quite likely almost have destroyed me." DCS "Bulletin", Issue # 594, March 2006, p. 14, article "Letter to the Commissioner from the son of a murder victim". You see this angry & fear-ridden woman didn't know that I had thoroughly researched the history of the offender - before his trial in May 1991. He was a drug-dependent, disillusioned, frightened 17-year old who had 'allegedly' been the victim of sexual, physical & psychological abuse from the age of pre-5-years. He left home at 8-years, & became a "street kid", an individual who graduated to crime as the only alternative, that he saw, when our "social do-gooders" & undoubtedly some government departments, continued to 'mis-treat' him. All he sought was the comfort & love of his father & aunty, who were about the only human beings he trusted, & who genuinely loved him. But his mother, whose background is very dubious, & who was divorcing her husband, sought to poison "decision-makers" into believing that his father was almost demonic. Seventeen-years later, it is only his father, his aunty & myself who visit a 32-year old inmate, who is remorseful, but so appreciative that 3-people understand him & care about his future.

You might like to know that if he had received less than 20-years gaol for his offence I would have felt betrayed. He received 23-years due to the skills of His Honour Justice John "Jack" SLATTERY - a man with whom I have recently been honoured to have dialogue. Jack's learned decision reflected a social norm & an appropriate impost, & showed a bench-mark which sadly all too few of the judiciary follow with any consistency these days. That again is one of society's failings - actions & consequences.

What politicians say about the proposed legislation:

I probably don't have to remind all you people about what has been said inside the House - both Houses - because you know more than I do about what was articulated in corridors & behind closed doors about the legislation itself, & the peripherals to it. However, it does one good to be reflective so I might mention a couple of the comments about which I am familiar, viz:

1. The Hon Charlie LYNN [3:14pm]:

"... If the Government took the time ... to consider all aspects of it (the legislation) perhaps we would get it right the first time & not have to amend acts at a later date. ...".

Is that really ever likely to be a reality? Surely the evolving nature of criminality, when combined with man's greater ingenuity & propensity to disobey even basic laws, or

to challenge the boundaries of those laws, will mean that we will forever legislate to reverse something which our own independent judiciary interprets contrary to the intended 'spirit' of the legislation. Nonetheless, there does seem to be with successive governments a great desire to expedite voluminous legislation through Parliament - legislation which is often, one might assert, prejudicial at drafting.

2. The Hon Dr Peter WONG [3:20pm]:

"From the outset the Unity Party voices its opposition to this bill, the introduction of which is a sad indictment because one of the groups that will be most affected by the intent of this bill is the Aboriginal community.".

I agree Peter, but let us not forget that although most inmates will be correctly incarcerated, there will be those such as Lindy CHAMBERLAIN, Rosanne CATT, Western Australia's John BUTTON, conjecturally Kylie FITTER, & others, who, if they'd wallowed away in our prison systems under the proposed legislation, & upon eventual appeal had been found innocent, at a time when their reproductive time clock had expired - through illness or, as in women, their natural reproductive fertility cycle - then it is us (society) that bears the shame for the injustice. And it does little good for us to hypocritically say "Well, that's life", when it was us who put them there. What if Lindy CHAMBERLAIN had been your wife or daughter? How would you reconcile the matter?

3. Reverend the Hon Dr Gordon MOYES [3:28pm]:

"... It may be said that one of the motives behind this legislation is to send a message to those directly affected by heinous crimes that the Government is doing all it can to uphold justice. It is a fact that law, order & justice must be at the helm of government responsibility ... However, in assessing this bill ... I consider the Government to consider the dire ramifications & possible precedents that may arise ...".

I concur with the Reverend on much of what he has to say throughout his speech. However, & in addition, as a "victim of crime" this legislation does not make me feel one degree safer, & if our learned Members of the House & this committee were to unemotionally analyse the probable impact upon the prison population, then it could rightfully be propositioned that this matter, above nearly all other matters - including access to a sandwich-maker or a TV - could be more of an incitement to anger amongst prisoners than most other deprivations. But there are greater implications.

Having gone through the processes of Restorative Justice on two occasions, & with a third proposed for late-August, I can tell you that the little pleasures which we take for granted - a Tim Tam for instance - are but "treasures" to an inmate of 16-years duration. Should we not allow them to see & sense - given that they are/become genuinely remorseful - what life is like beyond the barb-wire? Should we vindictively deny them the comprehension of what they've 'missed' with an explanation that "it's a two-strikes & you're out" 'deal'? Surely that explanation of actions & consequences will be more impactful upon a former-criminal mind?

But how can we possibly expect prisoners to integrate, upon release, if we deny them every facet of existence which they will need to embrace & skill themselves towards when their incarceration ceases? We would be better served making magistrates & the judiciary more accountable under Section 72 (ii) of the Australian Constitution.

4. Ms Lee RHIANNON [3:42PM]

"The Greens strongly oppose (this) bill, which is medically unsound & has ... no regard

to its ethical implications. ... Both the ... [AMA] & the Royal Australasian College of Physicians have come out strongly against this bill. ... The AMA's position is that the bill infringes upon the rights of prisoners to access the same medical services as those accessed by other members of the community. This is particularly relevant to cancer treatments, ...".

Hear, hear!! Ms RHIANNON. The unethical aspects of this legislation are indeed dire. But as I comprehend it, so could the implications be at Tort law. Should a medical professional ever be placed in danger of breaking a Statute law simply because that medico also is required, under their medical protocols, to preserve life? I would hope not. But that's what I & others read into this legislation. Which is the more correct? I would suggest saving a life.

Community response:

There is little doubt that a sizeable proportion of population will have little comprehension about this legislation, & I infact anticipate that there will be a great deal of apathy & indifference to the matter. There will be a degree of hostility towards what many of them see as injustice - a prisoner having any rights (at all). But much of that will be born out of ignorance & a lack of proper understanding of law & order issues.

Beyond that comment: I am overjoyed to discover that Corrective Services have at long last taken over control of the Juvenile Justice centre, Kariong. For far too long, "do-gooders" interfered with a correct & appropriate incarceration procedure for juveniles who have been proven to be rebellious & no-compliant. A more military-style of regimen ought to begin to ensure that life is not about lack of responsibilities & culpability. Rather, there are consequences - substantial consequences to any non-conformity.

Doing the right thing:

So, ladies & gentlemen, "the buck stops with you" in terms of the drafting & implication of legislation. You can either do what is ethically & morally right in the process of policy formulation, or you can react in indignation & according to a Media-driven public out-cry. How courageous & correct will your decision be? If you question my thinking, then simply place your most-treasured loved-one in the scenario of being subjected to what you propose. Would you then be happy for your spouse, your child or your partner -especially if they are innocent yet incarcerated - to be subjected to the treatment implicated through this legislation.

In 1977, & again in about 1987, consecutive governments dismantled the powers of the Summary Offences Act. We thereafter made it a moral issue for a male "to unzip his fly" & urinate on the pavement. What message did that send to the community? The wrong one I would conjecture. Did respect for policing & authority improve? Or did other offences such as abusing Police, &, thereafter, disrespecting old ladies (for instance) increase? And it's taken us 20-years to re-empower Police.

I would conjecture that bad behaviour ought not be tolerated under any circumstances, because it simply encourages non-compliance elsewhere. Heh, aren't I

politically-incorrect? I'm actually advocating non-tolerance. And so it should be: because if society had openly & unashamedly condemned child molestation, & had appropriately dealt with violence, then it is conjectural that my mum might not have suffered the indignity that she did at 12:20pm, Thursday 22nd March 1990 - a date which negatively impacted more than 200-people, & forever changed the course of my life, my estranged family, & the dysfunctional family of my mum's killer.

Could we better learn from non-conventional academics, such as the wonderfully insightful & stunningly impactful American psychologist, Dr Dina McMILLAN, a research specialist into "violence"? I would suggest an emphatic "yes"!! Should we more rigorously seek to understand people such as Ken MARSLEW from "Enough Is Enough"? Again, I would suggest that such people understand, more than most do, about attitudes towards societal harmony. For it was also said by Nelson MANDELA that "Safety & Security don't just happen: they are the result of collective consensus & public investment. We must address the roots of violence. Only then will we transform the past century's legacy from a crushing burden into a cautionary lesson."

Conclusion:

Could it be that 19th Century Police Officer, Sir Robert ANDERSON, knew something about the human mind that current world-wide leaders fail to comprehend? Statistically, & despite the tragedy of the "Jack the Ripper" crimes, it can be graphed that crime was reduced under his leadership like almost no other time in British history. But he isn't the only genius in understanding the criminal mind. There are other instances, in modern-day treatment of prisoners, whereby the statistical results show as a benefit to society. American President Richard NIXON's former legal advisor has introduced a range of measures into some prisons in the United States (USA) which dramatically reverse the 67% recidivism rate - as low as sub-30% in many cases. And his methodology doesn't include treating prisoners as second-rate citizens either.

Please also recognise, that the USA has an annual re-injection of 600,000 ex-prisoners back into society. They will soon have to adopt policies which aren't injurious to rehabilitative processes or crime will become more rampant than it already is.

Ladies & gentlemen, if you are unable to positively impact & mould current thinking, then you will individually & collectively be responsible for the unfortunate outcomes which transpire, because it has been said of society that: "The anti-culture begins by pleading tolerance for its anti-values & ends by devouring all who will not say its shibboleths." Meic PEARSE. "Why the Rest Hates the West", London: SPCK, 2003, pp. 174-175. Thus your decisions & recommendations are an awesome responsibility, but one which I believe that your committee has the courage to bravely confront.

Yours sincerely

Paul
R P Steele JP

"The true test of a man is not what he does, but what, with the principles he holds, he would do;" and if this be true of individuals, it is still more intensely true of communities. Sir Robert ANDERSON, 1841-1918, [Assist. Comm. of Metropolitan Police & Chief of the Criminal Investigation Department 1888 -(?), during the time of 'Jack the Ripper'.], p.134, "The Coming Prince", ISBN # 0-8254-2115-2, year 2000 edition.
