

SPEECH AT 11<sup>TH</sup> ANNUAL FUNDRAISING DINNER OF TOONGABBIE LEGAL CENTRE. 1 SEPTEMBER 2018 AT BOWMAN HALL, BLACKTOWN.

ACKNOWLEDGEMENT OF COUNTRY.

CAN I THANK THE CENTRE FOR INVITING ME TO SPEAK AT THE 11<sup>TH</sup> ANNUAL FUNDRAISING DINNER. IT'S A PLEASURE TO BE HERE. AS WITH MANY OF YOU, I'VE BEEN ATTENDING THIS ANNUAL EVENT FOR SOME TIME. I'D LIKE TO CONGRATULATE THE CENTRE FOR THE VALUABLE WORK IT DOES. I SHOULD PAY TRIBUTE TO AND ACKNOWLEDGE THE REMARKABLE AMOUNT OF VOLUNTARY WORK THAT GOES INTO ENSURING THE OPERATION OF THE CENTRE. AS SOMEONE WHO AS A LAW STUDENT VOLUNTEERED AT REDFERN LEGAL CENTRE LAST CENTURY, I UNDERSTAND THE NATURE OF WHAT VOLUNTEERS DO. ONE OF THE MANY THINGS IGNORED IN POPULAR DEBATES ABOUT THE LEGAL PROFESSION IS THE VAST AMOUNT OF PRO BONO WORK PERFORMED VOLUNTARILY BY LAWYERS. YOU'D BE HARD PRESSED TO FIND TOO MANY LAWYERS THAT HAVEN'T DONE SOME PRO BONO WORK. THE AUSTRALIAN PRO BONO CENTRE HAS SET A NATIONAL PRO BONO TARGET OF 35 HOURS OF PRO BONO LEGAL WORK PER LAWYER PER YEAR. THAT IS OFTEN EXCEEDED BY INDIVIDUAL LAWYERS. THE TOONGABBIE LEGAL CENTRE IS A GOOD EXAMPLE OF THAT SORT OF VOLUNTARY WORK – AND ITS NOT OF COURSE ONLY LAWYERS WORKING VOLUNTARILY HERE.

CENTRES SUCH AS TLC FILL AN IMPORTANT AND SIGNIFICANT GAP IN OUR COMMUNITY, MEETING OTHERWISE UNMET LEGAL NEED. ANYONE INVOLVED IN THE LEGAL SECTOR, OR INDEED ANYONE INVOLVED IN OUR COMMUNITY

KNOWS OF VAST AMOUNTS OF UNMET LEGAL NEED. PEOPLE HAVE A RANGE OF CHALLENGES AND PROBLEMS THAT HAVE A LEGAL ASPECT TO THEM, BUT THEY CAN'T AFFORD TO RETAIN LAWYERS.

PEOPLE WHO ARE LEAST ABLE TO AFFORD TO PAY LAWYERS ARE OFTEN THE MOST DISADVANTAGED. THEIR LEGAL PROBLEMS OFTEN CLUSTER, AND THEY OFTEN CLUSTER WITH NON LEGAL PROBLEMS. AND THEY ARE OFTEN LESS ABLE TO RESOLVE PROBLEMS THEMSELVES THAN OTHER GROUPS.

SAYING MANY PEOPLE CAN'T AFFORD LAWYERS IS AT ONE LEVEL, SIMPLY STATING THE OBVIOUS. THERE'S NOW STATISTICAL EVIDENCE BASED ON PROPER ANALYSIS AND COLLECTION OF DATA ESPECIALLY FOR CIVIL MATTERS TO SUPPORT WHAT WE ALL KNEW WAS THIS COMMON SENSE.

THE PRODUCTIVITY COMMISSION REPORT ACCESS TO JUSTICE ARRANGEMENTS POINTS TO GAPS IN LEGAL ASSISTANCE SERVICES. THE POORER AND THE MORE DISADVANTAGED YOU ARE THE MORE LIKELY YOU ARE TO MISS OUT. THOSE THAT KNOW ME WILL APPRECIATE THE IRONY OF ME QUOTING THE PRODUCTIVITY COMMISSION FAVOURABLY. SOME OF THE COMMISSION'S SUGGESTIONS NEED TO BE TREATED WITH CAUTION – REQUESTING SOME PARTICIPANTS PAY MORE FOR THE USE OF THE COURT SYSTEM LEAVES OPEN THE POSSIBILITY OF WELL-FUNDED LITIGANTS GETTING THEIR CASES HEARD MORE EXPEDITIOUSLY THAN OTHERS. THE STRESS THE COMMISSION PLACE ON ALTERNATIVE DISPUTE RESOLUTION MECHANISMS CAN BE QUITE APPROPRIATE – BUT IT CAN ALSO BE A FANCY WAY OF SAYING THOSE WITHOUT MONEY SHOULD BE BANNED FROM COURTS

BECAUSE IT'S TOO EXPENSIVE FOR A COMMUNITY TO FUND THEIR ACCESS TO TRIBUNALS. STILL THE PRODUCTIVITY COMMISSION USEFULLY DECLARES IN THEIR VERY RESPECTABLE AND, DARE I SAY, ECONOMICALLY RATIONAL WAY, THAT THE CIVIL JUSTICE SYSTEM IS INACCESSIBLE TO MANY. THEY ALSO ARGUE, EVEN MORE USEFULLY, THAT THERE ARE GOOD REASONS TO IMPROVE THE FUNCTIONING AND ACCESSIBILITY OF THE CIVIL JUSTICE SYSTEM. INDIVIDUALS BEING ABLE TO ENFORCE THEIR RIGHTS CAN SIGNIFICANTLY AFFECT A PERSON'S QUALITY OF LIFE AND WELL-BEING. AS THE COMMISSION NOTES THIS BENEFIT GOES WELL BEYOND ASSISTING PRIVATE INTERESTS – A WELL FUNCTIONING CIVIL JUSTICE SYSTEM PROMOTES SOCIAL ORDER AND COMMUNICATES AND REINFORCES CIVIL NORMS AND VALUES. AND LEGAL ASSISTANCE PROMOTES THE FUNCTIONING OF OUR COURT SYSTEM BY LIMITING THE IMPACT OF OTHERWISE UNADVISED UNREPRESENTED LITIGANTS.

LEGAL ASSISTANCE CAN ALSO RESTRICT THE POSSIBILITY OF SOMEONE'S PROBLEMS AND CRISES CASCADING INTO SOMETHING WORSE THAT DAMAGES BOTH THAT PERSON AND THE COMMUNITY AS A WHOLE. THE WORK THE TLC DOES IS ACTUALLY QUITE IMPORTANT.

MUCH OF THE DATA AND RESEARCH UPON WHICH THESE DISCUSSIONS ARE BASED ARE IN THE LAW AND JUSTICE FOUNDATION'S LEGAL AUSTRALIA WIDE SURVEY. THE NSW SURVEY ESTIMATED THAT AT LEAST HALF OF THE STATE'S POPULATION OVER 15 YEARS OF AGE EXPERIENCE A LEGAL PROBLEM IN ANY YEAR WITH A SIGNIFICANT NUMBER EXPERIENCING THREE OR MORE LEGAL PROBLEMS. ONLY HALF OF THOSE IN THE SURVEY SOUGHT

ADVICE. RESPONDENTS TOOK NO ACTION TO SOLVE 19.9% OF PROBLEMS. A LEGAL PROFESSIONAL WAS CONSULTED IN ONLY 16% OF CASES.

THERE ARE A RANGE OF LEGAL ASSISTANCE SERVICES IN THE STATE INCLUDING NSW LEGAL AID, COMMUNITY LEGAL CENTRES (OR CLC'S), ABORIGINAL LEGAL SERVICES AND SO FORTH. THE TRUTH IS, THESE SERVICES CAN'T COPE BY THEMSELVES. THEY ALL SEE DEMAND EXCEEDING THEIR RESOURCES. THE CAMERON REPORT IS THE SHORT TITLE OF THE REVIEW OF NSW COMMUNITY LEGAL CENTRE SERVICES, COMPLETED IN DECEMBER LAST YEAR BUT ONLY RELEASED LAST MONTH BY THE STATE GOVERNMENT. THAT REPORT CONCEDED THAT THE LEGAL ASSISTANCE SECTOR IS CHRONICALLY UNDERFUNDED.

FOR CLC'S ITS NOT JUST UNDERFUNDING, ITS ALSO UNCERTAINTY OF FUNDING. 13 OUT OF 34 CLC'S FUNDED RECEIVE MORE PUBLIC PURPOSE FUND (OR PPF) FUNDS THAN THEY DO STATE FUNDING. PPF MONEY IS STUCK ON A YEARLY FUNDING CYCLE AND IS SUBJECT TO DISCRETIONARY ALLOCATIONS. ITS CLAIMED BY SOME TO BE UNDER THREAT. REDUCING RETURNS AFTER THE GFC AND LOW INTEREST RATES HAVE NOT BEEN GOOD NEWS FOR THE PPF. A FURTHER PERCEIVED THREAT AT LEAST BY SOME IS PEXA (OR PROPERTY EXCHANGE AUSTRALIA) WHICH MAY MEAN AMOUNTS CURRENTLY HELD IN SOLICITORS TRUST ACCOUNTS AND STATUTORY DEPOSITS AND THUS GENERATING INCOME TO THE FUND, WILL NO LONGER BE HELD THERE AND THUS NOT GENERATE INCOME TO THE PPF.

WHATEVER ALL THOSE ISSUES MAY LEAD TO, IT WON'T REDUCE THE NEED AND IMPORTANCE FOR ORGANISATIONS SUCH AS TOONGABBIE LEGAL CENTRE, GRANTED CURRENT UNMET DEMAND. TLC IS ALSO IMPORTANT BECAUSE SOME OF THE OTHER LEGAL ASSISTANCE AGENCIES HAVE VERY NARROW AND QUITE INFLEXIBLE ELIGIBILITY REQUIREMENTS. MANY PEOPLE, DESPITE BEING BELOW THE HENDERSON POVERTY LINE, ARE NOT SUFFICIENTLY IMPOVERISHED TO QUALIFY FOR ASSISTANCE. I NOTE THAT TLC IN ITS SUBMISSION TO THE CAMERON REVIEW SPOKE OF THE MISSING MIDDLE – PEOPLE WHO CAN'T AFFORD TO PAY FOR LEGAL ADVICE BUT DON'T QUALIFY FOR LEGAL AID.

ACCESS TO JUSTICE – SOMETHING TOONGABBIE LEGAL CENTRE CONFRONTS THROUGH ITS VERY EXISTENCE - IS ONE OF THE PRIMARY CHALLENGES FACED BY OUR LEGAL SYSTEM. IT IS NOT HOWEVER THE ONLY ONE AND A ROOM FULL OF PEOPLE RAISING MONEY FOR A LEGAL CENTRE IS PROBABLY AN AUDIENCE INTERESTED IN DISCUSSING MORE GENERALLY CHALLENGES TO OUR LEGAL SYSTEM. ONE SIGNIFICANT AND MAJOR CHALLENGE IN THE STATE'S LEGAL SYSTEM IS DELAY AND RESOURCING, PARTICULARLY IN LOCAL AND DISTRICT COURTS. ONE OF THE FIRST INITIATIVES THE INCOMING LIBERAL NATIONAL COALITION GOVERNMENT ADOPTED IN 2011 WAS TO CUT EIGHT MAGISTRATES FROM THE LOCAL COURT. THE SYSTEM STILL FEELS THAT PAIN.

THAT INEVITABLY RESULTED IN COURT CLOSURES SUCH AS AT RYDE AND KOGARAH AND ALL BUT CLOSURE AT CAMDEN. THERE HAVE BEEN REDUCTIONS IN LOCAL COURT SITTINGS FROM MURWILLUMBAH TO BROKEN

HILL. THERE HAVE BEEN REGISTRY CLOSURES AND REDUCTIONS, ESPECIALLY IN COUNTRY AREAS SUCH AS RECENTLY AT YASS.

TO MAKE MATTERS WORSE NEW LEGISLATION HAS PROVIDED THAT VARIOUS STRICTLY INDICTABLE MATTERS CAN NOW BE DEALT WITH SUMMARILY, BY THEIR INCLUSION AS TABLE OFFENCES. I HAVE NO OBJECTIONS TO THE LOGIC OF THOSE PARTICULAR CHANGES, BUT IT IMPOSES MORE WORK LOAD ON THE LOCAL COURT WITH NO INCREASE IN RESOURCES TO MATCH.

THE GOVERNMENT'S ONLY MOVE TO REDUCE WORKLOADS WAS THE RECENT DECISION ON LOW RANGE DRINK DRIVING OR PCA'S, WHICH MEANS YOU DON'T HAVE TO GO TO COURT FOR THAT OFFENCE. IN MY VIEW, THAT WAS A DUMB DECISION FOR OTHER REASONS. THE DISTRICT COURT DELAYS HAVE BECOME ENDEMIC AND IN MANY CASES CATASTROPHIC ESPECIALLY IF ON REMAND. THERE ARE NOW DELAYS IN YEARS FOR CRIMINAL MATTERS COMING ON IN THE DISTRICT COURT. THE LONGER THE DELAY THE LESS RELIABLE WILL BE WITNESSES' MEMORIES AND LESS CERTAIN WILL BE THE JUSTICE RESULTING.

DELAYS ALSO PREVENT THE ACCUSED FROM KNOWING THEIR FATE IN A REASONABLE TIME FRAME AND CONTINUE THE ANGUISH FOR VICTIMS. NO ONE WINS FROM THIS, INCLUDING THE PROSECUTING AUTHORITIES OR THE LEGAL PRACTITIONERS APPEARING FOR THE ACCUSED. THE NSW LAW REFORM COMMISSION IN ITS DECEMBER 2014 REPORT ENTITLED APPROPRIATE EARLY GUILTY PLEAS DESCRIBED DISTRICT COURT TRIAL DELAYS THEN AS BEING IN CRISIS. LITTLE POSITIVE HAS HAPPENED SINCE.

THE ROLLING LIST PROJECT IN SYDNEY SHOWS PROMISING SIGNS BUT IS ONLY PART OF THE SOLUTION IN SYDNEY AND DOES NOTHING FOR NON-SYDNEY DISTRICT COURT CRIMINAL MATTERS.

THE GOVERNMENT SAYS IT SUPPORTS THAT 2014 LAW REFORM COMMISSION REPORT AND HAS MADE VARIOUS ANNOUNCEMENTS SURROUNDING THE EARLY PLEAS OF GUILTY SCHEME. THAT HASN'T MADE ANY DIFFERENCE TO DELAYS YET. I SUPPORT THE LAW REFORM COMMISSION PROPOSALS IN PRINCIPLE BUT AM INCREASINGLY CONCERNED AT THE NUMBER OF SENIOR PRACTITIONERS TELLING ME THEY DON'T BELIEVE IN PRACTICE IT WILL ACTUALLY WORK. IF IT DOESN'T, THAT SUGGESTS INTERESTING TIMES FOR THE POST MARCH 2019 ATTORNEY. AND MEANWHILE DELAYS WON'T HAVE IMPROVED.

ANOTHER AREA OF CONSIDERABLE CONCERN IS THE CORONERS COURT. UNIQUELY IN THIS STATE THE CORONER'S COURT IS LOCATED WITHIN THE MAGISTRACY. THERE ARE NOW COMPLAINTS FROM POLICE AND VICTIMS' FAMILIES AND OTHER STAKEHOLDERS ABOUT THE DELAYS IN THE CORONER'S JURISDICTION. THE PROBLEMS EXTEND BEYOND DELAY-THERE ARE NOW FEWER CORONIAL INQUESTS HELD ALTHOUGH THERE ARE MORE REPORTABLE DEATHS. IN 2011 THERE WERE 290 INQUESTS CONDUCTED WITH 5694 DEATHS REPORTED. BY 2017 THE NUMBER OF INQUESTS CONDUCTED ANNUALLY HAD DECLINED FROM 290 TO 84 ALTHOUGH THE NUMBER OF DEATHS REPORTED HAS INCREASED FROM 5694 IN 2011 TO 6602 IN 2017. MORE DEATHS BUT FEWER INQUESTS. (YOU CAN ALMOST HEAR SOMEONE SAY "YES MINISTER").

THIS IN TURN RAISES SERIOUS QUESTIONS. SHOULD THERE BE A SEPARATE CORONER'S JURISDICTION? NSW IS UNLIKE OTHER JURISDICTIONS IN HAVING IT AS PART OF THE MAGISTRACY. IF IT REMAINS WHERE IT IS, SHOULD THERE BE A CONTINUATION OF THE PRESENT COMPULSORY ROTATION EVERY FEW YEARS OF EXPERIENCED CORONERS OUT AND INEXPERIENCED CORONERS IN? EXPENDITURE PER FINALISATION ON CORONIAL INQUESTS IN NSW IS THE LOWEST IN THE COUNTRY – IN ABSOLUTE TERMS VICTORIA SPENDS ABOUT TWICE AS MUCH AS NSW AND WESTERN AUSTRALIA ACTUALLY SPENDS MORE THAN WE DO.

THIS CORONIAL CRISIS NOT ONLY PROVIDES UNNECESSARY STRESS TO WITNESSES AND THE FAMILIES OF THE DECEASED. IT DELAYS INQUIRIES INTO CRITICAL INCIDENTS WHERE DEATH INVOLVES ACTIONS BY POLICE. IT ALSO FAILS ONE OF THE KEY FUNCTIONS OF THE CORONER – TO RECOMMEND SYSTEMIC CHANGES TO PREVENT AVOIDABLE DEATHS. THAT'S A CRITICAL PART OF THEIR ROLE THAT DOES NOT PRESENTLY SEEM TO BE DONE AS WELL AS IT COULD – THERE ARE TOO MANY INQUESTS NOT BEING HELD.

THE ISSUE OF THE CORONERS COURT AND WHETHER THERE SHOULD BE A SEPARATE COURT LEADS ONTO THE TOPIC OF SPECIALIST COURTS.

THERE ARE OF COURSE ALREADY SPECIALIST COURTS IN NSW. ONE OF THESE IS THE DRUG COURT WHICH WAS ESTABLISHED BY LEGISLATION IN 1998. THAT COURT CURRENTLY SITS AT PARRAMATTA, AT TORONTO IN THE HUNTER AND AT THE DOWNING CENTRE, ALTHOUGH THE LATTER IS A COMPARATIVELY SMALL PROGRAM.



THE OPERATIONS OF THE DRUG COURT HAVE BEEN REVIEWED BY AND REPORTED UPON BY THE NSW BUREAU OF CRIME STATISTICS AND RESEARCH. THOSE REVIEWS AND REPORTS HAVE BEEN OVERWHELMINGLY POSITIVE. THE COURT LEADS TO SIGNIFICANTLY REDUCED RECIDIVISM. PUT SIMPLY, IT RESULTS IN LESS ILLEGAL DRUG USE, LESS CRIME, LESS IMPRISONMENT AND FEWER VICTIMS. ITS EXTENSION IS WELL OVERDUE. THE LAW REFORM COMMISSION HAS RECOMMENDED ITS EXPANSION, SUBJECT TO THE AVAILABILITY OF RESOURCES. AND VARIOUS ADVOCATES HAVE CALLED FOR ITS EXPANSION IN PARTICULAR LOCATIONS.

THE CASE TO EXPAND IT TO THE ILLAWARRA IS, I THINK, UNANSWERABLE.

THERE HAVE ALSO BEEN CALLS TO EXPAND IT TO DUBBO, TAMWORTH, WAGGA AND THE NORTH COAST. THAT IS SLIGHTLY MORE DIFFICULT THAN THE ILLAWARRA. THE COURT CAN'T OPERATE WITHOUT A RANGE OF SUPPORT SERVICES AND A GOVERNMENT WOULD HAVE TO BE CONFIDENT THAT SUCH SERVICES WERE IN OPERATION BEFORE SUCH A COURT COULD BE ESTABLISHED IN ANY OF THOSE PLACES.

THERE HAVE ALSO BEEN CALLS FROM ADVOCACY GROUPS SUCH AS RAPE AND DOMESTIC VIOLENCE SERVICES AUSTRALIA AND INDIVIDUAL ADVOCATES SUCH AS KAREN WILLIS FOR SPECIALIST SEXUAL ASSAULT AND DOMESTIC VIOLENCE COURTS. THE GOVERNMENT RESPONDED TO THIS BY APPOINTING SPECIALIST JUDGES FOR CHILD SEXUAL ASSAULT CASES IN THE DISTRICT COURT. I THINK THERE'S A POWERFUL ARGUMENT TO TRIAL A SPECIALIST COURT, WHICH GOES WELL BEYOND THE GOVERNMENT'S TEPID

RESPONSE. AND YOU'D ALSO WANT TO IMPROVE VICTIMS COMPENSATION AT THE SAME TIME. THE CURRENT VICTIMS COMPENSATION SCHEME WAS DESIGNED BY ACCOUNTANTS FOR ACCOUNTANTS, NOT FOR VICTIMS.

ANOTHER CHALLENGE FOR THE LEGAL SYSTEM, AND FRANKLY FOR PARLIAMENT AND FOR ALL OF US, RELATES TO MAINTAINING A REASONABLE DEGREE OF PRIVACY IN OUR LIVES. IN THE CONTEMPORARY WORLD OF BIG DATA AND SOCIAL MEDIA AND MASSIVE TECHNOLOGICAL DISRUPTION THERE ARE ENTIRELY REASONABLE CONCERNS THAT THE PRIVACY OF INDIVIDUAL CITIZENS IS NOT PROPERLY PROTECTED. THIS STATE'S CURRENT LEGISLATION PROTECTING OUR PRIVACY, THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT WAS INTRODUCED BEFORE THE I PHONE WAS INVENTED. IT'S A LITTLE OUT OF DATE. THERE'S NO DOUBT THAT THESE MATTERS ARE OF GREAT CONCERN TO THE COMMUNITY, RANGING FROM CONCERN OVER E HEALTH RECORDS TO THE REACTIONS TO THE UNAUTHORISED DISCLOSURE OF INTIMATE IMAGES. IT'S AN AREA THAT REALLY HASN'T ENGAGED THE ATTENTION OF THE PARLIAMENT ADEQUATELY, OR OF SUCCESSIVE ATTORNEYS OVER SEVERAL DECADES. A SENSIBLE START WOULD BE TO LEGISLATE SOME OF THE RECOMMENDATIONS THAT HAVE BEEN MADE BY THE NSW PRIVACY COMMISSIONER. THOSE WOULD INCLUDE REQUIRING STATE AGENCIES TO MAKE MANDATORY REPORTS OF THEIR SERIOUS BREACHES OF PRIVACY WHEN THEY OCCUR (THIS WOULD NOTABLY INCLUDE HEALTH AGENCIES) AND TO EXTEND THE PRIVACY RULES TO STATE OWNED CORPORATIONS (SUCH AS WATER AND ENERGY UTILITIES). THE IMPORTANCE OF THAT IS OBVIOUS. THE PARLIAMENT SHOULD ALSO ADOPT THE UNANIMOUS

RECOMMENDATIONS OF A BIPARTISAN PARLIAMENTARY COMMITTEE FROM 2015 (ALMOST FOUR YEARS AGO) THAT INCLUDE FAST AND COST EFFECTIVE METHODS FOR TAKE DOWN ORDERS OF MATERIAL BREACHING PRIVACY AND THE INTRODUCTION OF A STATUTORY CAUSE OF ACTION FOR SERIOUS INVASIONS OF PRIVACY. THAT LAST PROPOSAL HAS BEEN RECOMMENDED BY BOTH STATE AND FEDERAL LAW REFORM COMMISSION AND ITS IMPLEMENTATION IS WELL OVERDUE. IT REALLY IS TIME FOR THE LAW RELATING TO THE PROTECTION OF PRIVACY IN THIS STATE TO CATCH UP WITH THE REAL WORLD.

A FURTHER CHALLENGE WE SHOULD CONFRONT IS HOW GOVERNMENT RELATES TO THE COMMUNITY – TO INDIVIDUAL CITIZENS AND TO THEIR ORGANISATIONS.

I THINK IT'S TIME THAT WE HAD A STATUTORY REGIME OF JUDICIAL REVIEW OF ADMINISTRATIVE ACTION, FOLLOWING THE LONG ESTABLISHED COMMONWEALTH SCHEME. THE STATUTORY RIGHT TO CHALLENGE ADMINISTRATIVE DECISIONS ON A JURISDICTIONAL BASIS (ALTHOUGH NOT ON A MERITS BASIS) SHOULD BE INTRODUCED IN THIS STATE. THIS WOULD HAVE THE EFFECT OF MAKING PROCEEDINGS SIMPLER AND MORE EFFICIENT AND OF REQUIRING ADMINISTRATIVE DECISION MAKERS TO PROVIDE REASONS FOR DECISIONS WHEN ASKED TO DO SO.

SUCH A REGIME WOULD, I BELIEVE, IMPROVE GOVERNMENT TRANSPARENCY AND IMPROVE GOVERNMENT DECISION MAKING.

SOMETHING ELSE THAT SHOULD BE DONE IN THAT SPACE IS TO REWRITE IN AS CLOSE TO PLAIN ENGLISH AS YOU CAN GET, WHISTLE BLOWER PROTECTIONS. SUCH PROTECTIONS PROPERLY UNDERSTOOD AND PROPERLY IMPLEMENTED ARE AN AIDE TO GOOD GOVERNMENT. NSW WAS THE FIRST STATE TO IMPLEMENT WHISTLE BLOWER PROTECTION LAWS. THAT WAS DONE ABOUT A QUARTER OF A CENTURY AGO. IT LED THE COUNTRY AT THE TIME. SINCE THEN OTHER JURISDICTIONS HAVE INTRODUCED LEGISLATION THAT IMPROVES UPON THE NSW MODEL. MEANWHILE NSW LEGISLATION HAS BEEN ADDED TO BY BITS AND PIECES. IT'S GROWN LIKE TOPSY AND IS NOW UNWIELDY AND COMPLEX AND DIFFICULT EVEN FOR EXPERTS TO COMPREHEND. THERE'S AN ARGUMENT THAT IN SOME APPROPRIATE SELECT CASES, WHISTLE BLOWERS SHOULD HAVE DIRECT ACCESS TO PARLIAMENTARIANS AND JOURNALISTS, IN A WAY THEY DON'T NOW. THE LAWS NEED TO BE COMPLETELY REWRITTEN IN COMPREHENSIBLE TERMS.

JUST AS A STATUTORY RIGHT TO REVIEW OF ADMINISTRATIVE ACTIONS AND REWRITTEN WHISTLE BLOWER PROTECTION LAWS WILL IMPROVE GOVERNMENT DECISION MAKING AND HELP GET BETTER DECISIONS, THE SAME CAN BE SAID ABOUT THE ADVOCACY AND ACTIVISM OF NGO'S, AND CHARITIES AND COMMUNITY BASED ORGANISATIONS. OFTEN SUCH ORGANISATIONS HAVE PERSPECTIVES AND INDEED KNOWLEDGE ABSENT FROM GOVERNMENT. THEIR ADVOCACY AND SUBMISSIONS TO INQUIRIES AND AGITATION FOR CHANGE CAN UNDOUBTEDLY BE AN IRRITANT TO GOVERNMENT – AND I RECALL PRECISELY THAT FROM MY TIME AS A MINISTER – BUT IT RESULTS IN BETTER GOVERNMENT DECISIONS AND IS A CRITICAL PART OF OUR DEMOCRATIC PROCESS. FOR THAT REASON, I FOUND

THE CONSERVATIVE AND HARD RIGHT CAMPAIGN AGAINST THE FUNDING OF THE ENVIRONMENTAL DEFENDER'S OFFICE – THE EDO – DISGRACEFUL AND UTTERLY REPREHENSIBLE. THREATS TO DEFUND ORGANISATIONS BECAUSE THEY'RE AGITATORS ARE FUNDAMENTALLY UNDEMOCRATIC.

FOR THESE REASONS I THINK THIS STATE SHOULD HAVE FREEDOM TO ADVOCATE LEGISLATION. THIS WOULD BE MODELLED ON THE FEDERAL LEGISLATION OF THE PREVIOUS LABOR GOVERNMENT. I NOTE THAT THE CURRENT STATE GOVERNMENT VOTED DOWN A PRIVATE MEMBERS BILL TO THIS EFFECT THAT I MOVED IN THE STATE PARLIAMENT. THE LEGISLATION WOULD BAN CLAUSES IN GOVERNMENT FUNDING AGREEMENTS THAT PROHIBIT NOT FOR PROFIT GROUPS ADVOCATING TO OR LOBBYING GOVERNMENT OR THE PARLIAMENT. THAT LAW WOULD SIMPLY IMPROVE THE QUALITY OF OUR DEMOCRACY.

AND THERE'S ONE FINAL THING THAT THE GOVERNMENT NEEDS TO GET RIGHT IF THE LEGAL SYSTEM IS TO OPERATE AS IT SHOULD. THE GOVERNMENT NEEDS TO ESTABLISH A SEPARATE DEPARTMENT OF ATTORNEY GENERAL.

IN WHAT CAN ONLY BE DESCRIBED AS AN ACT OF STUPIDITY THE PRESENT GOVERNMENT ADOPTED A TREASURY INSPIRED BUREAUCRATIC FANTASY CALLED THE JUSTICE CLUSTER STRUCTURE WHICH LUMPED THE POLICE AND ATTORNEY GENERAL IN TOGETHER IN THE ONE CLUSTER. THE PEOPLE MATTER EMPLOYEE SURVEYS RUN FOR THE PUBLIC SERVICE COMMISSION SHOW THAT STAFF IN THIS CLUSTER ARE PROFOUNDLY UNHAPPY AND ARE

THE UNHAPPIEST OF ANY GROUP OF PUBLIC SERVANTS IN THE STATE. MOREOVER, WHEN THE MINISTER FOR POLICE WAS HIGHER IN CABINET SENIORITY THAN THE ATTORNEY GENERAL, IT WAS PERCEIVED THAT THE POLICE CONTROLLED THE ATTORNEY. THAT IS AN ABSURD SITUATION. IF THERE ARE POLICY DIFFERENCES BETWEEN THE ATTORNEY AND THE MINISTER FOR POLICE OR THEIR RESPECTIVE AGENCIES, THEY SHOULD GO TO CABINET AND BE DEBATED AND RESOLVED THERE IN ACCORDANCE WITH THE PROPER PRINCIPLES OF CABINET GOVERNMENT. THEY SHOULDN'T BE SORTED OUT WITHIN THE CLUSTER WITH ONLY ONE OPTION GIVEN TO CABINET. IT'S A GOOD EXAMPLE OF HOW ECONOMIC RATIONALISM, THE MANAGERIALISM OF TREASURY AND NEO LIBERALISM ARE DAMAGING SOME OF THE IMPORTANT PRINCIPLES OF CABINET GOVERNMENT AND REPRESENTATIVE DEMOCRACY. CABINET SHOULD HAVE THE FULL RANGE OF ADVICE FOR A CONSIDERED DECISION TO RESULT – THAT ACTUALLY GETS YOU BETTER GOVERNMENT.

THE FINAL CHALLENGE THAT I RAISE TONIGHT FOR OUR LEGAL SYSTEM AND OUR NATION IS THE ONGOING SCANDAL OF ABORIGINAL INCARCERATION RATES.

ABORIGINAL PEOPLE IN THIS STATE ARE BETWEEN 11 AND 12 TIMES MORE LIKELY TO BE IMPRISONED THAN NON-ABORIGINAL PEOPLE.

THERE ARE MORE ABORIGINAL PEOPLE IN NSW JAILS BOTH IN ABSOLUTE TERMS AND AS A PROPORTION OF THE POPULATION THAN AT THE TIME OF

THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY, WHOSE FINAL REPORT WAS MADE IN APRIL 1991.

ABOUT A QUARTER OF THE POPULATION OF NSW JAILS ARE ABORIGINAL ALTHOUGH ABORIGINAL PEOPLE ONLY CONSTITUTE ABOUT 2% OF THE STATE POPULATION. THE FIGURES HAVE GOT WORSE BY 35% SINCE THIS GOVERNMENT WAS ELECTED IN 2011. ABORIGINAL PEOPLE ALSO DISPROPORTIONATELY COMPRISE THOSE SERVING SHORTER SENTENCES, SUGGESTING THAT IN SOME CASES THEY'RE JAILED IN SITUATIONS WHERE NON-ABORIGINAL PEOPLE WOULD NOT BE OR THEY'RE IN PARTS OF THE STATE WITHOUT ADEQUATE DIVERSIONARY PROGRAMS.

THERE ARE A RANGE OF THINGS THAT CAN AND SHOULD BE DONE IN THIS FIELD. ONE IS TO DEVELOP AN INDIGENOUS COURT IN THE DISTRICT COURT JURISDICTION. THE BAR ASSOCIATION HAS PUBLICALLY SUPPORTED THIS OPTION, THE WALAMA COURT, WITH SUPPORT, INTERESTINGLY, FROM THE AUSTRALIAN NEWSPAPER.

THE GOVERNMENT RECEIVED A SUBMISSION FROM THE DISTRICT COURT ITSELF IN NOVEMBER 2015 URGING THIS COURSE OF ACTION AND, AS I UNDERSTAND IT PROVIDING A PLAN OF HOW TO DO IT. IT'S SAT ON THE DESK OF SUCCESSIVE ATTORNEYS GENERAL WITH NO PROGRESS SINCE 2015. I'M GENUINELY SURPRISED BY THIS GOVERNMENT INDOLENCE ON THIS ISSUE. THIS HAS WAITED LONG ENOUGH AND SHOULD BE ACTED UPON.

EVEN MORE FUNDAMENTALLY, THERE NEEDS TO BE AN ADOPTION OF POLICIES THAT REDUCE OFFENDING BEHAVIOUR AND DEAL WITH SYSTEMIC DYSFUNCTION AND DISADVANTAGE.

ONE APPROACH TO THIS IS CALLED JUSTICE REINVESTMENT. THAT IS A STRATEGY THAT WAS FIRST CONCEIVED IN THE UNITED STATES. MANY OF ITS PROPOSERS WERE FISCALLY CONSERVATIVE REPUBLICANS HORRIFIED AT THE COST OF THE BUILDING OF PRISONS THAT RESULTED FROM THE POLICIES THEY HAD PURSUED. IT INVOLVES INVESTING RESOURCES TO PREVENT BEHAVIOUR THAT WOULD LEAD TO IMPRISONMENT, THUS LEADING TO A REDUCTION IN COSTS, WHICH CAN BE USED TO FURTHER REDUCE THE CONDITIONS THAT GIVE RISE TO OFFENDING BEHAVIOUR.

THE MARANGUKA JUSTICE REINVESTMENT PROJECT AT BOURKE, WITH ALMOST NO GOVERNMENT FUNDING, HAS SHOWN SPECTACULARLY GOOD RESULTS. A SIMILAR PROPOSAL AT COWRA IS STALLED BECAUSE THE STATE GOVERNMENT HAS REFUSED TO PROVIDE A COMPARATIVELY MODEST AMOUNT FOR THE PILOT SCHEME DESPITE THE SUPPORT OF THE LOCAL NATIONAL PARTY. I FIND THAT ALMOST INCOMPREHENSIBLE.

IT'S CRITICAL THAT THESE PROPOSALS ARE DRIVEN BY THE LOCAL COMMUNITY AS IN THE CASES OF BOURKE AND COWRA. A RATIONAL POLICY WOULD BE TO FUND FURTHER LOCAL COMMUNITY-DRIVEN PROJECTS INCLUDING IN WESTERN SYDNEY.



THESE ARE SOME OF THE CHALLENGES THAT I THINK FACE OUR LEGAL SYSTEM. TLC OF COURSE FACE SQUARELY THE CHALLENGE OF ACCESS TO JUSTICE. BUT I SUSPECT THAT YOUR INTERESTS ARE NOT RESTRICTED TO JUST THAT CHALLENGE. IF THEY WERE YOU PROBABLY WOULDN'T BE HERE TONIGHT. CAN I CONCLUDE WHERE I COMMENCED BY ONCE AGAIN CONGRATULATING THE CENTRE AND ITS VOLUNTEERS FOR THE INVALUABLE WORK THAT YOU DO, FOR THE CONTRIBUTION THAT YOU MAKE TO IMPROVE ACCESS TO JUSTICE AND FOR THE WAY YOU CONFRONT THAT CHALLENGE.