

Royal Commission into Family Violence

My name is [REDACTED]. I was born on the [REDACTED] and am [REDACTED] years of age. My occupation was [REDACTED], now retired due to heart disease. I was raised as a member of a Roman Catholic family with a mother who endured [REDACTED] pregnancies and [REDACTED] additional mis-carriages, thus a potential for [REDACTED] children. My father, [REDACTED], was an only child born into a family of iron discipline, boarding school at a young age and a firm belief by his father that corporal punishment and *going for the knuckle* was part of a young man's upbringing and thus, violence in the home and at school were part of a healthy education for a young Catholic gentleman.

My mother, [REDACTED], was not dis-similar with her father being cold and indifferent to his [REDACTED] daughters and estrangement being part of their upbringing. Both my father and mother's upbringing and education profoundly affected my early development. Considered a good and healthy influence we, the boys, were sent to boarding school at [REDACTED] College Preparatory Junior School, [REDACTED], in [REDACTED] whereupon reaching age seven years we were *sentenced* to five years as a boarder and educated in a culture of the cane, the strap and coercion by God's good delegates, the [REDACTED] Clergy. From early years, age seven, we the boys dealt with continual violence, harsh school discipline and little contact with our parents. To see my father drive past boarding school every day as he went to work, who had an overwhelming attitude that boarding school discipline (violence) was good for our development, was heart-rendering for me.

In the home, when we were there, was a man unsuited to fathering [REDACTED] children and a resentment of the burdens of family. Frustrated by "his lot" the boys were hit and kicked and harsh family punishment (blood) was a result. My mother and father were never suited to a large family with all its responsibilities and the pay back, violence, was a result. Rarely were we punished for wrong doing, but rather severely chastised because mother and father were frustrated with their lot.

Eleven years was to pass where we were educated by the [REDACTED] for a life as an aspiring adult. Needless to say we received no education on the realities of life, nor more particularly, how to deal with women in society. Women, because they did not enjoy a virgin birth, were to be judged as either pure and chaste or otherwise dirty and unworthy. I left [REDACTED] college aged [REDACTED] years knowing nothing of the facts of life nor the role of women in society.

Thereafter my examination results were such that I was encouraged to aspire for a career in the Priesthood, Royal Military College Duntroon or Melbourne University Law School. I chose [REDACTED]. But [REDACTED] onwards were challenging times for young students. Conscription, the Vietnam War, human rights, women's rights, freedom of religion and freedom of expression were actively encouraged. A questioning attitude was expected and I benefitted greatly for the years at university. I obtained a [REDACTED] Degree in 1973, was [REDACTED] as a [REDACTED] in [REDACTED]. Thereafter undertook a period of [REDACTED]. Within three years I had lost much of my motivation in being a [REDACTED]. The Magistrates Courts were police courts. Magistrates were Clerks of the Justice Department. Known as courts of Petty Sessions, bias was everywhere. Most of the court work was by unqualified people e.g. Police Prosecutors and Magistrates and a *thems us* mentality was everywhere. Furthermore as much as 70% of the County and Supreme Court Bench were Catholics indeed [REDACTED]. Having taken years to break out of a Catholic straight-jacket at

University I was now confronted with the Catholic hierarchy yet again. Despondent I left the [REDACTED] in [REDACTED] and pursued an alternative lifestyle both in Victoria and in Queensland. Arriving in Queensland in [REDACTED] I watched with interest the plight of the Bjelke-Petersen Government and the refreshing pursuits of the Fitzgerald Inquiry (Tony Fitzgerald QC). Bolstered by a change in Government I applied to [REDACTED] and after some studies [REDACTED] in Queensland. Believing I was in an age of considerable reform, I joined the [REDACTED].

I pursued a strongly held belief, arising out of the Royal Commission into Aboriginal Deaths in Custody and the National Aboriginal Health Strategy that Australia needed a Federal Magistrate service with criminal justice jurisdiction and a Federal Coronial service. Furthermore, because [REDACTED] the Lawyers and the Courts had so badly treated our indigenous people, so nothing less than a profound review of our institutions was necessary. As years passed Queensland showed itself ensconced in conservatism, particularly the legal profession and the judiciary. The current dispute between CJ Tim Carmody and the Bench and the Bar are but one example of many ills that beget Queensland and its legal institutions. By 2000 I had accepted that there would be no profound reforms. It was business as usual. The [REDACTED] required strict conforming norms, stated simply *you do it our way or take the highway*.

Reluctantly I returned to Victoria and returned to [REDACTED]. Living in [REDACTED]

[REDACTED]. In 2006 I suffered a severe heart attack and upon recommendations by Cardiologist ceased [REDACTED].

So, what recommendations can I make towards reform? My membership of the [REDACTED] took me to [REDACTED] conferences in ten years and why? To see how other people think and what other people think. I can positively say that I met only one [REDACTED] at those conferences. What! Does the [REDACTED] think it knows it all? The [REDACTED] are far too in-ward looking and place little if any regard for what other people think.

The Magistrates Courts, whilst improved significantly by the enactment of the Magistrates' Act, thus entitling practitioners to be appointed to the bench, nevertheless the Court is living in a Colonial age. What are the Police doing in the Courts? Police Prosecutors are unqualified people appointed by the Executive to be Officers of the Law. Meanwhile Lawyers upon Admission become Officers of the Court and yet are given no opportunity to represent the Prosecution, victims and complainants. On current statistics 60% of people who obtain a Bachelor of Laws Degree do not proceed to become Barrister or Solicitors of the Supreme Court and of the 40% remaining, up to 45% of these people leave Legal Practise within five years because there is no opportunity. I recommend that this Royal Commission look to the Royal Commission into Criminal Procedure in the UK in 1983 (The Phillip's Royal Commission). Its recommendations were to remove from the UK the anachronistic practices involving Law Enforcement personnel at the Bar Table. The Police Prosecutions Units and the DPP's Office cease to exist and a new more comprehensive Crown Prosecution Service was created. All Court work was to be undertaken by Officers of the Court, not Law Enforcement Personnel and a new Prosecution of Offences Act was created which was the funnel through which all prosecutions were to be channelled. In short the peace-meal and

fragmented approach by various adhoc bodies to prosecutions was to cease and Officers of the Court, that is Lawyers admitted to Practise were the one to take all Court work and people pursuing this career path would, by their qualifications, be able to advise victims and complainants of their rights in the Civil Jurisdiction, Criminal Injuries Compensation and Family Law.

These issues were dealt with on at least four separate occasions by the AIJA and the AIC in the 1990s, yet 15 years later nothing has been done. Reform the access to justice equation. Require Prosecutors to be better educated and better trained practitioners and provide a renewed confidence in the justice system. In short the Magistrates Court becomes the Peoples' Courts not the Police Courts. Police Prosecutors especially people appearing in uniform originated in the Courts of Petty Sessions in approximately 1804 in NSW. NSW was a penal settlement until the Bigge Report of 1820s. Currently Magistrates Court practices go back to the days of the penal settlement, not colonisation. Australia is now a multicultural, multi lingual society, yet much of the Magistrates Court practises have not changed since the hangman's noose and the lash. Reform the procedures and practices in the people's court as was undertaken in the UK 30 years ago.

And finally the judiciary itself. Significant steps have been undertaken to broaden the base from which Magistrates are appointed. I recommend that in addition to the traditional grounds upon which appointments are made, so extra consideration be given to the applicant's back ground. Stated simply, in addition to a successful legal career, what else have applicant's done with their lives? A Magistrate or Judge whose interests are red wine, Beethoven and Chess might not be suitable for appointment to undertake family violence considerations. Furthermore, it is most important that the judiciary are accountable for their attitudes and conduct. I can categorically state that some of the rudest and nastiest people that I have dealt with in my years were Judicial Officers. Granted life-time tenure they become untouchable. NSW has a Judicial Commission, moves are afoot to have a Judicial Commission in QLD. The Bench must be accountable for the manner and the way they deal with people before the Court.

I commend the Royal Commission into Family Violence and am pleased and proud of my associations with [REDACTED] and the money spent on attendances at their conferences for they have given me an insight I would not have got from a career [REDACTED]

Thank you for reading my submission.

Yours sincerely

[REDACTED]

26 May 2015