

ADDRESS BY SENATOR MARGARET REID AT THE OPENING OF THE ELEVENTH BIENNIAL CONFERENCE OF THE AUSTRALIAN CRIME PREVENTION COUNCIL AT BRUCE HALL, ANU, CANBERRA — 31 AUGUST 1981



I want to begin by thanking the Australian Crime Prevention Council for giving me the opportunity to open this Eleventh Biennial Conference of the Australian Crime Prevention Council.

The theme of this Conference "Policing a Democracy" captured my interest immediately. The paper you have heard and those which remain to be heard discuss issues which are fundamental to the preservation of democracy in Australia.

This Conference is another, in a long line of Conferences which over the years have provided a forum for many distinguished speakers to bring their learning and experience to hundreds representing a wide range of disciplines and vocations. There can be little doubt that one of the by-products of these Conferences has been that Governments and those involved in the Administration of Justice have been persuaded to introduce reforms and contribute financially. Since 1971 the Commonwealth Government has contributed financially to the Council.

Unfortunately the contributions of the State Governments have not increased substantially for a number of years and at present I understand total approximately \$8,000. As well as the exchange of ideas and influence of Government, we shouldn't discount what some would assert was the most important aspect of Conferences viz the informal discussion between delegates and the friendships formed.

If one were looking to list the achievements of the Australian Crime Prevention Council and its predecessor the Australian Crime Prevention and Aftercare Council, one would

have to mention the efforts of successive Conferences in urging the creation of an Australian Institute of Criminology. The address made by Sir John Barry to the third National Conference of the then Australian Crime Prevention and Aftercare Council advocated the establishment of an Australian Institute of Criminal and Penal Science. I think it can be truly said that the Australian Crime Prevention Council played a significant role in persuading the Commonwealth Government to establish the Australian Institute of Criminology.

It was clear in those days that there was a need for a full-time body established on a Commonwealth-wide basis to promote research in criminology and penology and to conduct symposiums and seminars for people engaged in various aspects of the administration of criminal justice and to conduct training programmes inter alia for police officers, prison officers, probation and parole officers.

It was appreciated that the work that needed to be done in these fields could no longer be done on a part-time basis. Many of you here have probably had the advantage of attending one or more of the many courses that have been run by the Australian Institute of Criminology since its inception as I have. One just has to glance at the reports of proceedings of the Institute's courses to see how far it has come in achieving its goals.

In his second reading speech on the Criminology Research Bill 1971 the then Attorney-General, Mr Hughes, said "the cost of crime to the nation is enormous. I speak not only of cost in terms of Government expenditure, but of the tragic waste and loss of human resources, the unhappiness that is caused, the erosion of human character and the breakdown of families. People are the most precious resource of any civilised community. In this field therefore, Parliaments and Governments should no longer confine themselves to law making and law enforcement. They must provide the facilities for the study of the causes and effects of crime and of means for its prevention".

What Mr Hughes said then is still true today. Australia needs an Australian Institute of Criminology with adequate funds to maintain its research and training programmes and if I may say so, Australia needs an Australian Crime Prevention Council dedicated to the task of bringing to the attention of the Australian Government and State Government's proposals for improving the working of the criminal justice system. It is a matter of great regret to me that the States do not seem to appreciate the value of the Institute and seem unwilling to significantly support it. That is not the only role of the Australian Crime Prevention Council. It has really valuable work to do in involving the community in Crime Prevention.

This morning you heard Mr Clifford and Professor Passmore and others refer to our democratic ideas. It is so easy for all of us, particularly politicians and those engaged in the Administration of Justice to speak in glowing terms of our democracy and the need to maintain the Rule of Law, but let us never forget that until we achieve the reality of utopia in our society, there will always be a disparity between the rhetoric and the reality of our society. I hope that your deli-

berations here this week may lead to some reduction in that disparity.

I have not had the advantage of reading all the papers you will have presented to you, however, I am aware of some of the suggestions which have been, and will be made to you.

Both Mr Clifford and Inspector Avery make a plea for greater community involvement in crime prevention. I support this. Mr Clifford has suggested the creation of Crime Prevention Commissions and Inspector Avery a Social Safety Council. Mr Clifford's Crime Prevention Commissions, as I understand it, would function at a National and State level and Inspector Avery's Social Safety Council at the level of local Government. No-one can seriously suggest that crime prevention should be left to the police alone or even to a combination of the police, Parliament and the Courts. It is true that police have a very important role in crime prevention but as Mr Clifford says in his paper, "the community by which we mean family, neighbours, workmates and friends can stop crime before it requires police attention. Even when it does require police attention, the police can rarely deal without information from the public." The case for greater community involvement in crime prevention is, in my opinion, established and I hope that the suggestions made here will be considered and action taken to involve the community in crime prevention.

Modern technology, the increased sophistication of the community at large, the greater awareness of the rights of the individual and the advent of legal aid have all combined to put pressures on the criminal justice system. We must respond. We need to ensure that our criminal justice system is kept up to date. The technology available to police to help detect crime should at least be as sophisticated as the technology available to criminals to perpetrate crime. This is not just a matter of buying a computer to two — much more is involved — outmoded laws should be removed from the Statute books, new laws introduced which take into account modern business procedures, the use of the computer, a telex and the like. The law has to be updated to facilitate the prosecution for example of the sophisticated frauds made possible by modern technology.

Reference has been made to the need for better education of the police and to the need for a broad approach to better high level training in criminal justice and crime prevention generally. I would like to see those needs recognised and action taken.

There are three aspects of our criminal justice system which I want to mention just briefly.

FIRSTLY — CONFESSIONS

So much Court time is taken up hearing evidence to determine the admissibility of confessions obtained from persons in police custody. Accused persons not infrequently allege that they have been verbaled or that the confession was given as a consequence of physical duress. It is time that a procedure was introduced to ensure that confessions when obtained will be admissible. It does not seem impossible to me to provide an answer to this problem. It could be that an independent person should record the confession or that confessions are recorded on tape recorders which have been designed to prevent tampering with the tape.

SECONDLY —

POLICE AND PROSECUTION DISCRETIONS to lay and or withdraw or discontinue prosecutions.

We can all appreciate that there is no way that every breach of the law could be prosecuted. We must recognise that individual constables have a discretion whether or not to prefer a charge and that the prosecution should have a dis-

cretion to withdraw or discontinue charges. I do not think it would be possible let alone desirable, to lay down in legislative form the criteria for exercising those discretions. However, in this pluralist society I believe it would be prudent for police to record the criteria used for determining whether to lay a charge and for prosecutors to record the criteria used to determine whether a charge should be withdrawn or discontinued. I believe that this course would help to reduce if not eliminate the public disquiet which exists from time to time in relation to people not charged or prosecutions withdrawn or discontinued.

THIRDLY — PROTESTORS

Problems have arisen when protestors for ends which seem justifiable to them break the law. Protests of this kind can sometimes involve the arrest of tens, if not hundreds, of citizens, with an enormous amount of police and court time taken up in their prosecution. Frequently they involve relatively minor breaches of the law and an attempt is made to use the courtroom as a platform to further the cause of protestors. Do we need to respond to these minor breaches of the law by way of arrest and prosecution? or could this type of problem be resolved by empowering police to remove the protestor from the area of the protest. I hope that these questions will be considered and a better solution to the problem of law breaking protestors worked out.

Before concluding I want to refer to some parts of the Law Redorm Commission's Interim Report on sentencing offenders. Firstly, on public attitudes to punishment. The lack of Australian research. Punishment is a concept that Australians understand. There is a view that everyone who goes to prison deserves to be there and that conditions ought to be tough, otherwise offenders will prefer the security and comfort of prison to the hazards of life outside. Australia began as a convict settlement and penology could be said to have been its primary industry for 50 years. Perhaps it is our convict ancestry that has resulted in us not having much sympathy for prisoners. They are not seen as victims of society, but as outlaws, who have declared war on society.

The limited research which has been done in Australia into the public attitudes to crime and punishment tends to confirm the view that Australians by and large have little sympathy for or understanding of criminals. Although no detailed examination has been made of the levels of differential public support for different philosophies of punishment, there seems good reason to believe that notions of retribution and deterrence feature prominently in the minds of many citizens when expressing views on this subject. Such data as does exist about public attitudes to crime and punishment suggests that the public has little knowledge or understanding of the administration of criminal justice. Perhaps that is the fault of those of us involved.

Although particularly atrocious crimes, or so-called crime waves arouse momentary punitiveness, in general disinterest and apathy prevail. Few have seen prisons or criminal courts operating.

There is a need for us to see that the public is better informed about the state of prisons and the operation of the criminal courts. Just how we go about achieving a better informed public is very much open to debate. But if our democracy is to be safeguarded we have to make the effort. This Conference itself provides part of the answer.

Secondly, Non-custodial options for the A.C.T. Judges and Magistrates have fewer sentencing options than their counterparts in other parts of Australia. A solution to this is needed.

Thirdly, the use of imprisonment. To sentence a person to imprisonment is to order him to be deprived of his liberty by

confinement. In our society, the deprivation of freedom is one of the severest methods of punishment we can employ. Moreover, it is a widely held view that imprisonment is in many ways an unsatisfactory form of punishment. This view is shared by the Law Reform Commission. Neither the history of the use of imprisonment nor contemporary research lends any support to the persistent belief that the use of imprisonment leads to the diminution of crime either by way of deterrence or rehabilitation. Imprisonment as a sanction should be used only as a punishment of the last resort. By the expression 'last resort', the Commission means that, so far as is consistent with the protection of society, courts should not resort to the use of imprisonment as a punishment unless no other sanction can achieve the objectives contemplated by the law. Commonwealth laws and practices should encourage and facilitate full consideration being given to punishments

alternative to imprisonment and if necessary, amendments should be made to provide a greater variety of non custodial sentencing options.

Finally, I would like to take up the plea made by Mr Justice Everett of the Supreme Court of Tasmania in his paper "The Prison System — Should it continue?" read at the recent Legal Convention in Hobart for a critical analysis of existing penal systems in Australia and of what is just, humane and a socially desirable basis for the punishment of offenders against the law. If anyone doubts the need for this critical analysis let him read the Report of the Royal Commission into NSW Prisons which was conducted by Mr Justice Nagle of the NSW Supreme Court.

I have great pleasure in declaring this Eleventh Biennial Conference of the Australian Crime Prevention Council open.

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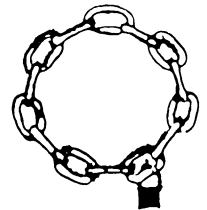
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