Dear Solicitor,

AN OPEN COMMUNICATION TO THE PUBLIC HEARING ON CRIMINAL JUSTICE ISSUES HELD BY THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

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www.Carolodonnell.com.au https://youtu.be/MOrlfEC1dWQ.

FROM 'I GOT YOU BABE' TO 'IT AIN'T ME BABE', DON'T LET LAWYERS RUIN IT! (HERE'S TO YOU, NEW YORK)

My submission to the Public Hearing into Criminal Justice Issues is attached with supporting evidence and on www.Carolodonnell.com.au. It deals with all the terms of reference related to '**the experiences of survivors of child sexual abuse'**. However, matters related to this particular risk of early scarring are considered under **5. Any related matters.** From the risk management and life cycle perspectives which I naturally adopt on the land, institutions, persons, insurance, fund management and related matters, sexual abuse is just one of many risks children may face when starting life. War, death, homelessness, malnourishment, sickness, neglect and other unusual punishment are other examples. The market encourages people to forget the past is another country. (In Australia I recommend the movie 'Newsfront'.)

In making a critique of the principles in the booklet **'Defend Yourself: Facing a Charge in Court',** found on the Law Information Access Centre website, one also shows the acute limitations of the theoretical paradigm expressed in the **Application for Leave to Appear at the Royal Commission**. This is where a solicitor or counsel may be expected to attend court and speak, rather than having the Commission consider a case in writing, as put here, in order to ask questions about it. This appears the naturally more direct, clearly evidence-based, honest and cheap approach to life. People who are poor in writing could work with others who write well to help them express their views. Some of life's apparently cleverest men, one finds, unfortunately appear unwilling to write and prefer leaving all of this to others. Fortunately Pope Francis is not among that group. I therefore strongly urge consideration of his **Encyclical on Climate Change and Inequality 'On Care for Our Common Home'** in internationally and regionally related lights. Otherwise the institutional drift will be towards lawyers who tend to be savage men supported by trivially compliant women. (Fuck the lot of them? I preferred them as typists.) Why not take 'On Care for Our Common Home' with related financial and administrative matters up with Cardinal Pell and others instead, for example. Invite the Pope to Canberra. He seems spry enough. Key Australian state principles on treatment, rehabilitation, insurance, competition and fund management are discussed in related lights later. One primarily writes to point out why one hates lawyers so much. Their approved words in 'Defend Yourself: Facing a Charge in Court' condemn them as evil liars seeking advantage rather than truth. (Come on Larissa, have a go yourself.

Simone de Beauvoir observed that women are basic mediums of exchange and communication. Baby, that's you. I'm coming Donald.)

I would certainly be happy to attend the Royal Commission to answer any of its questions upon this submission to the best of my ability on the spot. **Will this be necessary or desirable?** If so I will speak representing myself, based on the material below and attached. (Heil Myself?) This written submission is more considered and checked than any spoken word I could give off the cuff. One unfortunately tends to feel one has come to marshal the troops when one speaks – (the coalition of the willing in this case). Get down in the gutter with the Pope and Donald Trump for example. I'd rather read Pell on church finance than see him. **Shall or should one fill in an application for leave to appear at the Royal Commission?**

Thank you in anticipation of your speedy response to this and other material attached. Cheers, Carol O'Donnell, St James Court, Glebe, www.Carolodonnell.com.au

(Also known as Lilith the Magic Pudding, Chief Alternative to Faith and Queen of the Monkeys)

The regional and historical context for an examination of the booklet 'Defend Yourself: Facing a Charge in Court' (2008?)

This submission to the Public Hearing into Criminal Justice Issues which is held by the Royal Commission into Institutional Responses to Child Sexual Abuse deals mainly with the apparent maltreatment of police as public servants in a democratic state such as NSW is generally supposed to be. In the apparently authoritative booklet **'Defend Yourself: Facing a Charge in Court',** found on the Law Information Access Centre (LIAC) website at the State Library of NSW, the public appear encouraged to refuse to answer police questions and to treat the police as if they represent adversarial liars. This is discussed later and contrasts, for example, with the state attitude ideally taken to the Australian Taxation Office (ATO), where taxpayers are expected to respond to questions put to them by the ATO. In spite of the title 'Defend Yourself: Facing a Charge in Court', the public also appear encouraged to turn to lawyers when facing any distress caused them by police action, rather than dealing with issues in other ways. The specifics of this charge and more openly related ways forward are discussed later and attached, including at the Constitutional tops addressed in '**Matters of Judgment' (1978)**, an autobiography by John Kerr, former governor general, and '**The Money Men: Australia's 12 Most Notable Treasurers (2015)**, by Chris Bowen, shadow treasurer.

I am a former NSW public servant in the NSW Department of Industrial Relations and Employment and the WorkCover Authority, who then became a lecturer in sociology in the Faculty of Health Sciences at Sydney University before retiring at sixty, in 2007. I have long been concerned about the socially dysfunctional effects of any so-called right or duty of silence, and the related necessity to resort to lawyers before the police and/or court in any arena of dispute in civil or criminal matters. In WorkCover, for example, it was common for matters for conciliation to end up in court because lawyers were in possession of the documents which would otherwise have allowed earlier dispute settlement. In the hands of lawyers, mediation and conciliation may soon become mere speed-bumps on the way to court. I also speak as an author in the book **Family Violence in Australia** (eds. O'Donnell and Craney) Longman Cheshire, 1982. Among other things it showed continuing family violence was associated with presence of young children in a relationship. It also showed a tendency for people to copy their parents. On ABC TV program 'Four Corners' on 15/2/2015, Sarah Ferguson produced the statistic that in the US a gun in the home is 42 times more likely to kill a family member than an intruder. The freedom to bear arms and the right to self-defence is enshrined in the US Constitution and entrenched in related state and commercial practice. It should be clear that gun proliferation does not lead to self-defence but to murdering the family. I guess the only decent statistics the US has on killing is the deaths of US soldiers. Australians would have to be mad to be following where these folks are pushing us with no respect for statistics. Help.

See more at www.Carolodonnell.com.au. For a personal film see 'Carol' on https://youtu.be/MOrlfEC1dWQ

In this global, regional, local and personal context I alert you to problems in 'Defend Yourself: Facing a Charge in Court' (2008?), by Tim Anderson, Federation Press. Besides LIAC and the State Library, the booklet has support from Redfern Legal Centre, Justice Action, the Law Foundation and others. LIAC has sent it to local libraries. Supporters of 'Defend Yourself' include Tim Game, SC, currently at Forbes Chambers according to Google. He stands out because the law appears so obnoxious and he is so well connected. His relative, former NSW Governor Sir Philip Game, cancelled the commission of Premier Jack Lang, in NSW in 1932. Lang had issued a circular directive to officers of the State receiving revenue of a certain character, to deal with it in a way other than directed by the federal treasurer. Sir Philip Game was an Air Vice-Marshall not a lawyer. After his term in NSW he was Metropolitan Commissioner of Police in London. This information is important in contrasting his behaviour with that of Sir John Kerr, in the case of his dismissal of the Whitlam Labor government on 11th November, 1975, discussed later. This is done to make the key point of this submission, which is the need for open rather than legally privileged operation for most scientific and professional advance in any related state considered democratic – i.e. inclusive.

Governor Game wrote to Premier Lang on May 12th 1932 requesting him '*either to furnish me with proof that the instructions in the circular are within the law, or alternatively, to*

withdraw them at once'. The Premier did not comply and refused to withdraw it (Kerr, 1978, p. 70). On 13th May the Governor, by letter to Mr Lang, made the point that the Premier did not dispute the illegality of the circular. On the same day he wrote to Mr Lang saying that as he saw it '*while you did not admit this, you did not deny it'* (p.71). The Governor then told the Premier he should resign so that he could get ministers who would obey the law. Lang refused and on 13th May the Governor dismissed him. Later, as Governor General, Sir John Kerr dismissed the Whitlam government when a hostile Senate held up the supply of money for its operations. He did this after consulting many lawyers in secret. This is also discussed later in regard to the comparative actions of Treasurer Jim Cairns on the matter of loans policy. It is however noted here that refusal to respond to questions was taken by Sir Phillip Game as a sign of guilt whereas in 'Defend Yourself: Facing a Charge in Court', refusal to respond to police questions is advised, and the police appear to be regarded as corrupt. See evidence for this later. The point is that lawyers always drag their betters back under control.

Tim Anderson is an interesting author for Tim Game and others to choose to support as he is not a lawyer but has a mysterious past. Since I retired in 2007 I read Anderson's book **'Take Two: The Criminal Justice System Revisited'(1992)** about claims and counter claims in the court cases he was involved in after the Hilton bombing in 1978 in which three people died. Two were garbage workers who came to pick up a rubbish bin in which there was a bomb, and a third was a nearby police officer, on duty for the Commonwealth Heads of Regional Government meeting. From an academic perspective I find the book lacks any institutional or related theoretical analysis. It starts instead from an initial position of loyalty to an ideal chosen group – Ananda Marga, in this case. For example, when Anderson was first contacted by media about the bombing he '*acted as the spokesperson for the group, denying any involvement and eventually issuing a press release which attempted to counter attack the Indian officials who accused us'* (p. 33). Such an initial denial can only be based on ignorance, surely? If he were innocent, how would he know about others? Trust?

One starts instead from the risk managers' common position which is that in God and love we trust – all others bring data. From this view, born in the scientific enlightenment which produced the common dictionary, as distinct from the feudal court interpretation of some feudally administered law, a 'right to silence' is the last thing we need, ditto lawyers. Secrecy is just the compulsion of ignorance under another name, which then requires bringing the matter to the court and its lawyers. 'Defend Yourself: Facing a Charge in Court', is discussed in related civil and criminal contexts later, with the Australian Law Reform Commission (ALRC 2005; 2007) views of privilege also presented in order to support more openly and broadly grounded administration and services rather than the lawyers' dictations. The latter seldom need be, or are seen to be corrupt, as they write the usually incomprehensible rules commanding the silence and speech of others. These rulings enhance the interests of lawyers even when they pretend to promote alternative practices. This is shown in later discussion of 'Defend Yourself: Facing a Charge in Court" for example.

A better response is found in the Australian Health Ministers Advisory Council (AHMAC) National Code of Conduct for Health Care Workers, which is discussed later and attached. However, one turns to crime first.

Anderson was imprisoned twice in regard to the 1978 Hilton Hotel bombing. Altogether he spent seven and a half years in prison but has no criminal convictions, according to his book. The clear desire of the state to put Anderson away in jail, as recounted in 'Take Two: The Criminal Justice System Revisited' contrasts markedly with the situation described by Debi Marshall in **'The Family Court Murders: Four Murders. Five Bombings. No Convictions (2014)'**. The period 1980-85, with which this later book deals, was characterised by a horrific series of shootings and bombings in Sydney in which four people were killed, dozens seriously injured and others miraculously escaped death. Yet despite overwhelming circumstantial evidence against the prime suspect, Leonard Warwick, police failed to find the crucial piece of evidence needed to charge him or anyone else with the crimes (p. x) **One wonders why** the police approaches to Tim Anderson in regard to 'the Hilton bombing' when Commonwealth Heads of Regional Government were in Sydney; and in regard to Leonard Warwick in 'The Family Court Murders', appeared so different. One can only guess the police may have been trying to make a point about the justice systems, in their own oblique way, which appears equally far from straightforward. (One can also only guess that the silence requirements on police for loyalty to the institution and their fellows is more like that of an army than in more open, less commanding and destroying state institutions.) Tim Anderson's chapter 'Postcards from the Secret Police' in the book '**Dirty Secrets: Our ASIO Files' (2014)** edited by Meredith Burgmann, former President of the Legislative Council in NSW, sheds no further light for me on many related matters. I too have an ASIO file, got first as a result of taking part in demonstrations against the US war on Vietnam. See the film 'Carol' on www.Carolodonnell.com.au.

Problems with legal privilege

Tim Anderson is currently a senior lecturer at the University of Sydney with interests similar to my own in the area of development strategy and rights in development. I therefore wrote to him recently on related land management matters seeking a meeting but have as yet had no reply. Findings of the Australian Law Reform Commission (ALRC (2005) (2007) are discussed below to show many problems arising from the concept of legal privilege in civil and criminal jurisdictions. Later one centrally addresses 'Defend Yourself: Facing a Charge in Court', to show how its concept of legal privilege appears socially dysfunctional. The term appears simply to be privacy for discussions between the lawyer and his clients. According to the first issues paper of the Australian Law Reform Commission (ALRC 2005) review of the uniform Evidence Acts (which are the Evidence Act 1995 (Cwth) and the mirror statutes of New South Wales, Tasmania and Norfolk Island):

'A privilege is essentially a right to resist disclosing information that would otherwise be ordered to be disclosed…… 'Client legal privilege is premised on the principle that it is desirable for the administration of justice for clients to make full disclosure to their legal representatives so they can receive the right legal advice' (ALRC 2005, p. 151).

The paper states later that:

On balance, this freedom — is considered to outweigh the alternative benefit of having all information available to facilitate the trial process (p. 155)

According to the Australian Law Reform Commission discussion paper on Client Legal Privilege and Federal Investigatory Bodies (ALRC 2007), '*a privilege is a right to resist disclosing information that would otherwise be ordered to be disclosed. It commonly covers the confidential communications passing between a client and his lawyer in civil or criminal courts, but is applied far more widely throughout Australian society*. In chapter 2, the ALRC presents the underlying rationale for client legal privilege, which is *'the protection of the confidentiality of communications between a lawyer and a client facilitates compliance with the law and access to a fair hearing in curial and non-curial contexts, thereby serving the broad public interest in the effective administration of justice'*.

This first premise appears to be highly contested in the ALRC discussion of to and fro legal opinion. This is not a good sign for advance. Views about whether the requirements of client legal privilege are protective or destructive for society and the individual appear split and do not appear to be testable, because of the privilege itself and all the attached and related feudal behaviours of the court and those who follow it. The existence of client legal privilege gives lawyers the duty and authority to hide key truths from the court and all beyond it. Rational judgment does not happen like this.

One therefore assumes the reverse of the ALRC position, and believes that '*the protection of the confidentiality of communications between a lawyer and a client mainly facilitates non-compliance with law, thereby undermining the public interest in effective administration to obtain the goals of society and individuals, while instead increasing complexity, inconsistency, opacity, tardiness, opportunity for wrongdoing, and all related costs'.* The most obvious indication of this is that almost none of the supposed experts predicted the global financial crisis of 2008, including the international ratings agencies, and if they did they certainly weren't admitting it. (See 'The Big Short'.) This is a legal but hopelessly corrupt situation from which to address corruption, in order to gain the stable and cost-effective conduct of any business, let alone scientific advance or democratic fairness. Australia always risks being dragged in the US wake to follow a nation which is increasingly more violent, risky and unequal than here, and which is driven thus by its legal and financial privilege. The latter also drives by far the largest state and commercial gun and related armaments production in the

world. Stop following these guys they are totally nuts. They start with guns and think black is white. These savage and stupid forces kill silent and diverse majorities. Vital re-design of Australian attitudes to intellectual property in the form of thoughts, words and writing, will be discussed later which are also relevant to any production group which can never beat Americans by valuing life in their terms. Think laterally or the US will drive us anywhere its combined forces want. UNESCO and Cambodian film pirates appear to be leading streets ahead of us so far. This is the right direction because it ideally produces an educational conversation about the past and future which meets all the people in a democratic and productive form through tourist dollars. This is a key point in regard to any Catholic Reformation following the Pope and in any related institutional responses. These matters are discussed later in charitable and tertiary institutions. (See the related discussion advanced through the Sydney University Vice-Chancellor's Morning Tea attached. (Ich bin a multiple alumni.)

In the ALRC Review of Privacy Issues Paper (ALRC 06), however, a central legal assumption also seems to be that the lawyer should rightfully conceal or mould what his client believes is true, in order to maximise his interest in revenge or escape from any guilty judgment and its results. I find this feudal moral framework to be anti-democratic and stupid from the point of view of any community which seeks to develop effectively, fairly, scientifically and sustainably, in cooperation with its neighbours. It is a view of the world which promotes ignorance, suspicion, spying, corruption, the pre-emptive strike and a continuing and escalating punitive response which necessarily produces communities of victims, even if one is highly protected. These charges are made later in consideration of 'Defend Yourself: Facing a Charge in Court' as well as information from the ALRC and from others in regard to the ideal behaviour to be expected from spouses in regard to lawyers' questions. The non-payment of money against debt at the highest levels is dealt with later in a way which also educates the public rather than keeping them in the dark and voting.

Like the economist, one assumes individuals are normally driven to maximise their pecuniary interest which is often related to their satisfaction through enjoyment and social status. Like the economist (?), one believes perfect information is necessary for perfect competition, and assumes the legislated secrecy inherent in legal privilege fundamentally hinders this. It also hinders the acquisition of broader knowledge and all related scientific, technological or other advance towards wellbeing, (as distinct from destruction), through opposing parties who are deemed to be acting naturally in court. Openly seeking truth rather than opportunities for secrecy and lies to gain advantage, provides the natural support for regional goals and action. This is the only way to curb the ignorant act or one deemed wicked as far as I can see. One claims this premise is more logical than the ALRC alternative and that those who seek freer markets should logically adopt this premise, rather than the ALRC reverse of it. If one wants to design systems free from corruption, get

rid of lawyers first. This will also save an enormous amount of money. (Land rights my arse?)

Also see 'From the Constitutional Past to the New Educational Ideal' on www.Carolodonnell.com.au about these issues. It appeared in **Public Administration Today**, Issue 12, Oct.-Dec. 2007, published by the Institute of Public Administration Australia. The clear and radical view Hilmer took in National Competition Policy, was **that competition may be for goals besides money** (p. 3). This appears to have been ignored since its clear acceptance by all premiers and heads of states and territories in 1993. The global financial crisis in 2008 should have sharply reinforced such messages but the lawyer always drives practice back to court, with wider pools of cases. One should first prefer openly grounded arbitrations for settlement of disputes in open contracts rather than be lawyers' fodder.

Supporting education and research into the comparative role and effectiveness of dispute resolution systems and courts is necessary as it seems that lawyers will always drive to crush later and more modern and rational administrative processes, such as stories, open inquiries, glossaries and reports. Lawyers adopt privileged (secret) adversarial operations and interpretations which are designed to spread confusion. The article entitled 'A Healthier approach to justice and environment development in Australian communities and beyond', (at www.Carolodonnell.com.au under the Background side bar), also deals with these matters and was also in **Public Administration Today**, Issue 9, Oct.-Dec. 2006, pp.12-19. It shows that health and related environment development are at the centre of a new international governance paradigm which also raises risk management to new importance. It points out, for example, that between 1973 and 1989, ten inquiries concluded the adversarial court system is detrimental to rehabilitation of injured workers (NSW WorkCover Review Committee 1989). Many Australian inquiries have since gathered evidence that the court process hinders rehabilitation, injury prevention and supporting service management. This is partly as courts and other institutions are often slow and do not keep or reveal data to assist injury prevention, rehabilitation, cost containment or economic stability. (National Committee of Inquiry 1974; NSW Government 1986; NSW WorkCover Review Committee 1989; House of Representatives Standing Committee on Transport, Communications and Infrastructure 1992; Review of Professional Indemnity Arrangements for Health Care Professionals 1995; Standing Committee on Law and Justice 1997; Heads of Workers Compensation Authorities, 1997; Industry Commission 1997; Grellman 1997; Senate Economic References Committee 2002; HIH Royal Commission 2003).

The normal state approach, however, is also comparatively closed and dysfunctional in its driving. It is for three levels of government and their particular departments to give out gigantic or tiny grants to selected sectional supporters and related groups at huge and

dysfunctional administrative expense in many comparatively closed and bureaucratic environments. Malcolm Turnbull set the following apparently helpful direction, reported in the Sydney Morning Herald (Oct. 24-25, News Review 29) In 'The Reformer Cometh', he said about construction matters:

> 'I think the Commonwealth should take a more active role.....Why do we keep writing out these big cheques? This is big economic infrastructure. We should be taking a piece of it. We don't need the same internal rate of return as Macquarie Bank would, obviously. But if we have a piece of it, then we're able to invest more, frankly. Then we're much better off being a partner rather than simply being an ATM.'

Lawyers and courts control the terrain, however, standing in the way of opening it up to more effective scrutiny, planning and action to provide better services from environmental, social and commercial perspectives. This is necessary for the triple bottom line accounting made possible, theoretically at least, in Hilmer's National Competition Policy (1993) which was then supposedly adopted for implementation by all states and territories. Treasury, lawyers and the related financial interests appear to have taken little or no notice. If doubting this ask: Why did NSW Treasury use UBS and Gilbert and Tobin in an approach to the sale of WSN Environmental Solutions which is demonstrably wrong, intensely limiting and expensive for respondents and taxpayers alike, and which also seemed determined to keep everybody ignorant on crucial matters for the future of NSW? The appointed Probity Officer, Director of RMS Bird Cameron, did not even bother to reply to my detailed critique of the Expression of Interest. The latter warned potential respondents very severely not to speak to anybody about their interest but to answer a lot of intrusive questions. (What kind of idiots are running this joint?)

The Environmental Planning and Assessment Act (1979) was potentially ground-breaking as it recognised the importance of an openly consultative, integrated understanding of environmental, social and economic issues when land use planning. The sale of the NSW government waste treatment land and business (WSN) decades later, should have been clearly related to this approach to land use planning in the minds of those interested in WSN purchase, as well as in the minds of all those in government and the communities they represent. The Expression of Interest written by Treasury and its lawyers didn't have a comparative clue. The first object of the Waste Avoidance and Resources Recovery Act is '*to encourage the most efficient use of resources and to reduce environmental harm in accordance with the principles of ecologically sustainable development*'. The objects of this act ideally reflect the goals against which the potential purchasers of WSN are competitively judged. The final act object (h) is *'to assist in the achievement of the objectives of the Protection of the Environment Operations Act (1997*). The first object of the latter act is '*to protect, restore and enhance the quality of the environment in NSW, having regard to the*

need to maintain ecologically sustainable development'. Concern for future generations is essential to ecologically sustainable development. Such objects ideally guide WSN sale. They couldn't give a shit. The vital role of open and cheap or free communications in education and development is addressed later in this context, which is also designed to address local problems first, in the light of the bigger ones. Boris Johnson's great speech to Britain 'Be brave, don't run to Nanny in Brussels' (AFR, 21,.2.16, p. 44) is discussed later in related regional development contexts addressing local ground, not legal appeals to the tops.

In regard to Tim Anderson's latest work on the Sydney Uni. site, I find the argument in **'Land and Livelihood in PNG' and 'In Defence of Melanesian Customary Land'** clear, informative and convincing. However I am not at all clear what, if any, solutions are proposed to the current global, regional and related town or village situation in regard to land management. Anybody who has watched the comparative development of Africa and China since 1970 will see that high rates of reproduction are a disaster associated with increasing poverty for women and future generations living off the land. Women in comparatively developed countries have voted with their feet to substantially reduce the number of their offspring. You may recall that a recent mass murder in North Queensland was carried out by a woman responsible for the care of eight children, shortly before Christmas. The Chinese did not introduce a one child policy to be nasty, yet Western academics, like Anderson and his colleagues, commonly ignore its necessary role in poverty reduction and development. The huge improvements in the comparative health of populations influenced by the Chinese planned development route are clear in '**The Global Burden of Disease: Harvard School of Public Health in cooperation with WHO and the World Bank',** 1996. Don't let lawyers ruin it.

Key accusations against the law and its handbook 'Defend Yourself: Facing a Charge in Court'

One now refers for example to key elements of **'Defend Yourself: Facing a Charge in Court'**, in order to encourage open, honest, communication all round instead. Tim Anderson states, 'I have taken advice from many people in an attempt to make this book as accurate as possible but, as convention has it, I am responsible for the final manuscript'. One wonders about the nature of that responsibility alluded to by Anderson, 'as convention has it', in regard to production, dissemination and use of this booklet, which appears to have so much institutional support. Wendy Bacon points out in her chapter, 'A Bacon Family Affair', in 'Dirty Secrets: Our ASIO Files**',** that somebody unknown to her had paid to have her ASIO files digitized and published on the National Archive Register. What a gracious research gesture. Somebody should do that for ASIO files related to Tim Anderson so that we can find out more about the Australian history which appears to have shaped our lots. He currently appears at best to be a lawyers' cat's paw.

Contrary to its title, 'Defend Yourself: Facing a Charge in Court', tells you why you need a lawyer. It treats police as natural adversaries of lawyers who plainly deem it ideally to be a right '***not to be forced to incriminate oneself***', supposedly through answering police questions. The handbook also views police as **dishonest witnesses**. One sees why police might resent such inferences when they are supposed to be the bearers of democratic state institutions, ideally treating all people fairly, whether under the law or not. These automatic assumptions against police are likely to be resented strongly for good reason by a lot of people. At the very least they seem examples of professional rather than ethnic or racial stereotyping related to an occupational grouping whose verbal self-defence may also be quashed as disloyal to the institution. Surely in the context of questioning or arrest, the police should decide what questions are relevant to them, as guardians of the comparatively democratic state. Others may also have questions of their own which may fruitfully be answered to broadly educate and keep the peace. We may naturally also wish to see these questions so as to respond in the way we consider truest and best. From this perspective lawyers are likely to be more of a problem than a help, whatever privilege their law dictates. (The findings in Kerr's Matters of Judgment (1978) and in Bowen's 'The Money Men' (2015) are referred to later to make related points in showing how lawyers seek to return to feudally silenced operation.)

See the relevant passages from 'Defend Yourself: Facing a Charge in Court' below. The court exchange which puts the police at the level of the suspected or alleged offender, to set up a battle between lawyers and police is offensive to the concept of policing as a vital profession in an ideally democratic state, which we may ideally think of as fairly inclusive. The answer is more open exchange and better data, not the lawyers' multiple appeals to the desirability of guessing what happened while calling the other fellows corrupt liars on a case by case basis. A bill of rights is fodder for lawyers. They are very expensive and their 'services' stink. Try honest plain language and write it down instead. When this is done, as it has been in 'Defend Yourself: Facing a Charge in Court', one sees how this is the feudal law of savagely controlling men who prefer silence as it allows them to exploit future generations more easily. Tim Anderson and his mates should give it up. (Did you get this Larissa? I guess you know a lot of lawyers. What are you going to do with them?)

Key passages from Defend Yourself: Facing a Charge in Court which show it as a key example of the law of savage men led by lawyers

> ***It is usually not in your interests to answer police questions, if you are a suspect. Any answers you give are taken down and are often used in evidence against you. You may like to say something like: 'I need independent legal advice before I answer any questions'.***

The general right to NOT be forced to incriminate yourself has been undermined (in the absence of a Bill of Rights) by recent federal and State law. Federal anti-terrorist law (2003) has made it an offence to not answer questions by anti-terrorist investigators. New South Wales criminal assets recovery law can force you to incriminate yourself, or rather, penalise you if they do not ask relevant questions.

A New South Wales 'evidence of silence' law (2013) allows courts to draw an 'adverse inference' from silence, in the investigation of serious offences. In each case you will have to consider your options. It is probably best to seek legal advice, in your particular circumstances.

There is usually not much value in extended confrontations with a dishonest witness, as she or he will almost invariably deny lying and may use the opportunity to make additional false accusations. Try to limit such opportunities by demanding specific answers to very specific questions. For example, a police officer whom you believe has planted drugs could be cross-examined in quite different ways:

Right:
Question: Did you carry a bag when you came to my house?

Answer: [Yes or No]

Question: Was anyone with you when you claim to have found the drugs?

Answer: [Yes or No]

Wrong:
Question: Why did you search my house for drugs?

Answer: I had information that you were a major drug dealer.

Question (comment): That's ridiculous, there was no reason to suspect me of that?

Answer: A reliable informant told me that you were dealing in drugs.

Notice the dangers of the second approach: the use of broad questions that invite a hostile and experienced witness to justify the reasons for prejudice against you. None of this would be admissible in examination-in-chief, but you have let it in by careless questions. Such responses may create prejudice in the minds of a jury.

The first approach, on the other hand, restricts even a hostile and experienced witness to specific responses. Witnesses may not be required to give yes or no answers, but they are required to respond directly to the questions you ask. So try to develop your cross-examination with a succession of short, specific questions. Plan your questions so they will lead up to the response you are seeking. (This is

plainly an appeal to gain the advantage, rather than truth. It champions a pre-scientific method which is narrowly driven, ignorant, expensive, professional rule of the plot and what goes down upon it.)

Rules of visual identification are usually contained in the Evidence Act. Visual identification is inadmissible if there was no identification parade, unless it was unreasonable to hold such a parade or the defendant refused to participate. Notice that you are not obliged to participate in an identification parade.

Privilege

A witness may also claim one of several grounds of privilege against giving evidence, or producing documents. For example, the witness might claim the privilege against self-incrimination – that is, that the answer may leave her or him open to prosecution for an offence. This is based on the principle that people should not be forced to incriminate themselves. Alternatively, a witness can claim legal professional privilege against disclosing any communication with (or document passed between) her or his lawyer, which was made to obtain legal advice. This is based on the principle that people have a right to confidential legal advice.

The message of 'Defend Yourself: Facing a Charge in Court' is that you need a lawyer and the police are wrong and corrupt. The law is a lawyers' game they have sewn up through the power of ruling on others' speech. They prefer silence, guessing, blame and general confusion to information as they want to win the case and to make as much money as possible even if they lose it. They have set themselves up against the concept of the democratic state through top application of the law of savage and ignorant men used to ruling by the gun, the purse and the lawyer in the feudal and related colonial state which privileges the potential killer against current and future victims. The stupid bastards who want us to be polite should listen to what we have to say for a change. Kill Breivik for a related example of our position and spend the money saved elsewhere, to provide more reliable and better information systems for everybody. God knows a lot of people need them.

Mental Illness, Disability and Privileges against Self-Incrimination appear designed to help lawyers most (Doctors and others often also rely on them unfortunately)

National surveys show around 18% of the Australian population experienced symptoms of a mental disorder at some time during the previous year. Approximately 19% of the population report a disability, of which 12% percent are intellectual, mental or psychiatric. Approximately 3% of Australians live in households where someone has a long-term mental disorder not related to developmental delay. It is estimated that about half such people receive treatment from public mental health services, private psychiatrists or general practitioners. Low socio-economic status, unemployment and aboriginality are linked to higher risk of poor health, disability, and crime (Australian Institute of Health and Welfare (AIHW 2000; Butler 1997). The Department of Corrective Services reported that 12% of

prisoners in NSW had been diagnosed with some form of psychiatric disorder, including depression, anxiety, schizophrenia or bipolar disorder. Thirty percent of male prisoners and 50% of female prisoners had contact with public mental health services in the twelve months prior to incarceration. The Disability Council of NSW sees it as inappropriate for a person with a disability to be in the corrective services system, particularly if they have committed a non-violent offence (Select Committee on the Increase in Prisoner Population 2001). This seems a sensible approach to the extent that prison is a highly expensive institution with programs which do not appear to work well in terms of preventing return to prison. What are other options?

Many people who find themselves in the hands of police may have mental illness or disability problems of a variety of kinds. One might also fruitfully see them instead as angry and unhappy for some reason best known to themselves rather than 'experts'. A lot of people who don't appear very bright in one way or another end up in jail and a lot are young. I choose my words carefully to avoid the diagnostic and professional approaches which yield so easily and gratefully to state subsidised drugs to explain and shut down troubling symptoms. It can be hard, for example, being a teacher in a state where youth often may appear uncontrollable and unemployable unless they have spent many long, expensive and successfully biddable years in tertiary education before seeking work, paid or unpaid. One recommends more broadly and thoughtfully evidence based approaches to injury prevention, rehabilitation and cost containment in the regional and local world, (e.g. river bank regeneration and other programs for those without useful things to do. Protestants of the world unite and get your gear on. (I admire Julie Bishop's Chinese calisthenics every morning in bed.)

The National Expert Advisory Group on Safety and Quality in Australian Health Care (1999), for example, advised health ministers to support national actions for safety and quality related to strengthening the consumer voice and learning from incidents, adverse events and complaints. From this perspective, dispute resolution should logically be managed as a service, like health care or education provision, which aims to improve community health and related social or environmental outcomes. Yet Strang and Braithwaite (2001) and many others have argued that the way the legal system punishes apparent breaches of the law seldom leads to outcomes that aid rehabilitation of offenders and is more likely to result in social exclusion and development of subcultures beyond the reach of moral education. They and others called for restorative justice approaches to conflict between individuals or within communities. The UN has defined restorative justice as any process in which victims, offenders and other stakeholders participate actively in the resolution of matters arising from crime, often with the help of a fair and impartial third party. The Australian Health Ministers Advisory Council (AHMAC) National Code of Conduct for Health Care Workers, is discussed later and attached in related regions, hoping to promote choice, stability and cost containment. No doubt questions on suit against individuals, the institutions they inhabit or represent, and insurance will arise. Related land, housing, work, personal and other insurances are discussed later.

Under the Uniform Evidence Acts, the right to object to giving evidence apparently applies not only to the spouse of an accused, but also to a de facto spouse (as well as a parent or child) of the accused. Apparently this is justified by the legal view that having all relevant evidence available to the courts is less important than '*the undesirability, in the public interest, that:*

- *The procedure for enforcing the criminal law should be allowed to disrupt marital and family relationships to a greater extent than the interests of the community really require, and,*
- *The community should make unduly harsh demands on its members by compelling them, where the general interest does not require it, to give the evidence that will bring punishment upon those they love, betray their confidences, or entail economic and social hardship. (ALRC, 2005 p. 98)*

If a person is questioned or accused in relation to breaking the criminal or civil law this may be a very serious matter. There is a strong possibility that those accused do not live in the happily united families and communities conveniently conceptualised above by the lawyers who wrote the ALRC Discussion Paper. I believe that requiring adult family members to give a true account of how they see their spouses and their actions would often be in the immediate family interest as well as in the interests of the wider society. One might expect that many such views would be sympathetic to those accused. However, a social expectation, enshrined in law, that any view clearly relevant to a matter would naturally be expected to be heard, would be more likely to protect more vulnerable members of any family and society, rather than imperil them. If all vulnerable people were required to speak the truth as they see it, they would also have an excuse for their action before any potential dominators' wrath and would also be more likely to be protected from it. This is particularly the case if community education and development were allowed to emerge from their perceptions, rather than being quashed, whatever the common verdict. The general encouragement of secrecy by calling it necessary for protection of the weak often just silences everybody but provides expensive, monopoly control over adversarial situations by lawyers and other professionals whose interests are tied to theirs. The alternative is to assist community empowerment through encouraging greater public knowledge, discussion and debate of all contentious issues, which is what post-war feminists generally believed, before so many of them joined forces with lawyers.

Legal privilege logically appears to be an aspect of privacy. However, the Review of Privacy Issues Paper produced by the Australian Law Reform Commission (ALRC 06) claimed in chapter one, the introduction, that scholars cannot define privacy or state why it is important. I am no professor, but doing that seems easy to me. My pocket dictionary offers that **privacy** is: **Not open; not public; secret; personal, concerning an individual.** I also looked up **confidential**, which I regard as a synonym for **private**, and confirmed that it does indeed mean **private** or **secret**. How come lawyers found it so hard? In general, it seems to me that privacy and confidentiality are both the same as secrecy and that people want privacy in order to be able to:

- obtain a commercial advantage
- commit a crime or other breach of law without detection
- avoid public embarrassment, censure or harassment by others (e.g. the OECD Guidelines on Privacy are presumably established primarily to avoid this)
- stop intimates or others (e.g. wives, telemarketers) making calls upon them which they do not wish to know about or meet.

In spite of being unable to define privacy or state why it is necessary, the ALRC paper ask scores of questions and invite responses, presumably from lawyers. Question 1-2 asks whether a cause of action for breach of privacy should be recognized by the courts or the legislature. The ALRC, however, will not meet the terms of reference of the review, which asks about changing community perceptions of privacy, without going beyond the boundaries of the act itself. Chapter one is like promising a review of the Bible without seeing the book as a historical product of a broader social environment. Undertaking an inquiry whilst being blinkered by the act which is supposedly under inquiry is not an intelligent approach to problem identification and solving. Until one knows why a person or organization may seek privacy (secrecy) in regard to something, one cannot judge the consequences of their actions in moral and all related public interest based terms. Therefore, neither can one sensibly discuss what should or should not be in legislation. The issues paper does not meet the terms of reference of the Commonwealth Attorney General and should be condemned.

Some judges have apparently supported the privilege against self-incrimination as exercisable on the grounds of '*human rights which protect personal freedom, privacy and human dignity' (ALRC 2005 p.174).* Personally, I find it dangerous and obnoxious to see the privilege of silence on the basis of self-incrimination linked with human rights. I would have thought that if anyone is ever to find genuine justice the concept of human rights must be tied essentially to a sensible search for the truth rather than to an adversarial striving for narrower forms of personal advantage. Surely this is how good parents would behave, for example? I am relieved that judges have found it is '*a less than convincing argument that corporations should enjoy the privilege* against self-incrimination *(p. 174),* but wonder why corporations should be treated differently in judicial opinion. The legal system normally defends privacy to the hilt. This benefits lawyers but makes law increasingly fragmented, unclear, inconsistent, long and irrational over time. Since the 1980s key attempts have been made to provide key legal aims, rather than prescriptions. Lawyers destroy this approach.

For example, the Human Rights and Equal Opportunity Commission (HREOC) took the lawyer's perspective in calling for more specialist commissioners and rejecting more holistic approaches to treating personal and related social problems in its submission to the Senate Legal and Constitutional Committee Inquiry into the Australian Human Rights Commission Legislation Bill. HREOC also pointed out that according to the High Court (Brandy v HREOC, 1995) the supreme and unique decision making powers of judges and the related role of lawyers and the courts have been entrenched in the Australian Constitution. The desire of

courts and lawyers to maintain their occupational monopoly and the desire of lesser judicial activists to please their more prestigious brethren, tend to drive all related decision making practices towards the feudal, authoritarian and anti-intellectual practices of courts. For example, although HREOC is a tribunal, its argument on the HREOC Bill compared its brief and powers to those of the higher courts and totally ignored any relationship of its operations to other tribunals which deal with similar matters, such as Commonwealth and State Industrial Commissions or Administrative Review Tribunals. These people are thus encouraged to always have their eyes on the career prize, not truth on the ground. One has seen it occur so often.

In general, the court practice often appears to equate ignorance with objectivity. No doctor, for example, would ideally draw a veil over the findings of other medical or related examinations of a subject, preferring to conduct all her investigations about a client's apparent illness without such information, while regarding this investigative practice as freedom from bias, instead of comparative ignorance. The legally trained, on the other hand, often find value in equating ignorance with objectivity, to the detriment of any more thoughtfully coordinated, and therefore more informed approaches to treating problems which may be historically and/or currently linked in real life, as distinct from separated in various pieces of legislation. Lawyers may treat separate legal concepts increasingly disparately, as a result of practices they apparently think result in protection of the investigation from outside contamination by lesser mortals. However, what is seen by lawyers as 'objectivity' may more credibly he seen as a refusal to investigate a problem holistically or to consider all readily available information and perspectives about an issue more openly and sensibly.

Perhaps like the economist, I believe people usually do what they perceive to be in their own interests and that perfect information (perfect transparency), is necessary for perfect competition. Perfect information is also a logical necessity for perfect identification and control of risk, perfect democracy and perfect accountability. These occur in Keyne's long run, when we are dead. It is not surprising if frightened or resentful people lie or say what any perceived tormentor may wish to hear, whether or not they have anything to hide or be ashamed about, from the perspective of the broader public interest. Equally, if police are perceived by some as potential tormentors, it is important that police questioning is open to scrutiny. It is obviously insufficient to state in legislation that a person being taken into custody '*must be treated with humanity and with respect for human dignity and must not be subjected to cruel, inhuman or degrading treatment*'. One hopes this is obvious to all, but if it is not, writing the words down on paper is no guarantee of execution. Open scrutiny is vital where there is secrecy and lack of trust. Only in God or love we trust, all others ideally communicate better in words, on paper, in pictures, etc. and bring related data. (Sing or bring a movie by all means. This often explains so much about a culture.)

There is a danger that legal drugs will increasingly be the socially approved answers to mental health problems indicated by medical statistics. The worried well or angry may be treated in a similarly pharmaceutical fashion for behaviour which may mask many social concerns,

broadly shared or not. A wider range of remedies for improving mental wellbeing and crime prevention should be tried, and their comparative outcomes researched. The United Nations (UN) Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care were adopted in 1991 and state that every patient has the right to treatment in the least restrictive environment and in the least restrictive manner, and that every patient shall have the right, so far as is practicable, to live, work and receive treatment in the community (Singh 2001). Australian health ministers endorsed this in the national health policy and plan of 1992 but the principles were not formally adopted into Australian legislation nor scheduled to the Human Rights and Equal Opportunity Commission Act. This apparent lack of government confidence in the traditional legislative and related adversarial court process, at least in regard to claims of discrimination on the basis of mental disability, is noteworthy. The Universal Declaration of Human Rights does not address responsibilities (e.g. for community safety) so it is also noteworthy that ministers think rights should be balanced by responsibilities for all. This is the context for relevant community service.

Regional community and industry-led approaches to development depend on reliable and accessible information about the place and persons in it to help everybody achieve their goals. From this perspective many diverse actions may be supported as long as they appear to be within reason, rather than with the old plea to the American man on the Clapham omnibus, so as to advance him.

In 'Be brave, don't run to Nanny in Brussels' (AFR, 23.2.16, p. 44), Boris Johnson points out that the European Union (EU) acquires supremacy in any field it touches because it is one of the planks of Britain's membership, agreed in 1972, that any question involving the EU must go to Luxembourg to be adjudicated by the European Court of Justice. The 'Charter of Fundamental Human Rights' apparently includes such peculiar entitlements as 'the right to found a school' or the 'right to pursue a freely chosen occupation' anywhere in the EU. As Johnson says, the mind boggles as to how they will be enforced. He also points out that it is not clear why the EU Commission should know the needs of UK business and industry better than the officials at UK Trade and Investment or the Department for Business, Innovation and Skills. The drift towards the legal fat at the centre may be a drift to comparatively ignorant mass confusion, driven by the legal word, not grounded reality.

Australian Lawyers on High: Land, Loans and Related Development Matters

It is highly instructive to follow a reading of Kerr's autobiography 'Matters of Judgment' (1978) with a perusal of Jim Cairns position as treasurer in the Whitlam government in 'The Money Men' (Bowen, 2015). It was seen earlier that for NSW Governor, Sir Phillip Game, silence by the Premier in regard to Sir Phillip's question about the apparent illegality of withholding monetary supply in contravention of a direction by the federal treasurer, was taken in 1932 as a reason for the Premier's immediate dismissal by the Governor. On the other hand, in 'Defend Yourself: Facing a Charge in Court' silence is seen as a reasonable response to questioning by the constituted authorities of the state, ideally supported by lawyers. Game's descendant, Tim Game, approves the latter stance.

According to former Governor General Kerr's summary of events which led to his dismissal of the Whitlam government, it occurred when the Senate, in which the government did not have a majority in October 1975, denied the supply of money for its programs to the government. Instead of yielding, as he had done eighteen months previously when denial of money supply had been threatened, the Prime Minister embarked on a course of attempting to govern without supply. He did this, according to Kerr, '*with the aid of financial arrangements which I believe would have been makeshift, precarious and probably illegal even if obtainable, and further destructive of public stability and confidence'* (p.3). What made him an expert on this? If he had survived as Premier in 1932, Lang would have passed a Mortgage Taxation Bill (p.69). One guesses development of national and industry superannuation funds became the chosen way forward for more stable development instead.

On 11th November 1975, having consulted fellow lawyers, Kerr acted to end the funding deadlock between the Whitlam Government and the Senate by withdrawing the commission of the PM and appointing the leader of the opposition, Malcolm Fraser, as the leader of a caretaker government until the next election. This was held one month later, before the Whitlam government had run its full term. The Australian Senate supposedly represents 'state' interests and to some extent mimics the House of Lords, where the Law Lords traditionally also ruled the Privy Council. Former PM Keating called the Senate 'unrepresentative swill'. Many believe that the Whitlam government should have been allowed to run its full term before elections were held and I do too. Kerr states,

> *'Despite all the suggestions in the press, including editorials that I should mediate or even adjudicate, there was no way in which, of my own initiative, I could assume such a role. The two leaders were set upon their courses and unless one or other party weakened, the clash would come constitutionally within quite a short time, by early November.'* (p. 269)

The lawyer thus again avoids the obvious course of action, where those who elect governments are looking on and thus being informed before the next election. These legal arseholes always prefer getting multiple secret legal opinions to democracy at work. They are very expensively feudal useless propositions. I hate their dysfunctional lying guts but so what? Here they are. You tell them. One deals with Kim Williams' talk at Sydney University on 'Cultural renewal in modern Australia: Philanthropy, public discourse and the role of the 'public academy' later on related terms.

Since 2008 more Australians have been made strongly aware of the role that US land, housing, mortgages, loans, debt, insurance and related market and tax treatments played in bringing about the global financial crisis. The trajectory was more marketing of more debt dressed up as opportunity more broadly, with the related increasing and legal development of perfect ignorance for all involved in markets, rather than perfect information. It appears from reading Bowen's account of Jim Cairns' stint as Treasurer during the Whitlam years, recounted in 'The Money Men', that the Government may have been testing the potential

for gaining cheaper development loans than those available from the traditional powerful allies, i.e. Britain and the US after WWII. These colonial and neo-colonial nations have traditionally expected Australian governments to help fight their colonial and neo-colonial wars in return. In 1931, Premier Lang had been looking towards a Mortgage Taxation Bill, which never passed, to solve the state's revenue problems. This may be compared with the Whitlam government course of action popularly called the 'Loans Affair'. It may also have had vital cross party support. The development of industry superannuation and related non-profit and profit-based funds since the 1980s appears to have solved part of the funds problem.

Bowen states that in 1972 Whitlam had talked vaguely about 'buying back Australia' and 'buying back the farm' was a slogan beloved of the Country Party. Rex Connor had carriage of plans for massive government investment in uranium mines, a petrochemical plant, gas pipes and oil enterprises. Cairns first heard of efforts to finance this investment in resources through borrowing in October 1974 when he was Acting PM (p. 218). At this meeting a man called Karidas told senior ministers he could arrange an introduction to intermediaries in the Middle East who had access to some of the vast financial reserves that petroleum producing countries had amassed over recent years due to the explosion in oil prices. Cairns was sceptical of the claim that the money could be accessed at favourable interest rates but did nothing to stop the venture or to inform or seek the advice of treasury. The PM and Rex Connor told him later they had agreed to take authority to borrow $US4000 million. The PM said that Connor wanted to handle the loan and Cairns agreed but said that 'sooner or later the Premiers would have to be brought in' (p.219). He commented it might be wise to get the money tied up first.

Bowen recounts that years before, Sir Robert Menzies had introduced Cairns to George Harris, a doyen of the Melbourne establishment and president of the Carlton football club. Harris now wrote to Cairns to ask him if Treasury would facilitate the necessary arrangements if he and business partners were able to source loans from state governments. Cairns appropriately referred the letter to Treasury, which noted that the treasurer had expressed caution about approaches such as this (p. 220). Cairns did not refer any further inquiry to Treasury but entered into direct discussions with Harris. He left Cairn's office with a letter stating that the government would be prepared to pay him a commission of 2.5% if he secured the stipulated loan. The giant loan from the Middle East that was offered via an intermediary called Khemlani fell through. Wheeler sought advice from the Attorney-General's Department about the status of his letter from Cairns. The ongoing saga of the Loans Affair gave opposition leader Malcolm Fraser the justification he had been looking for to block supply via the Senate to force an election. Cairns was sacked for misleading parliament about signing a letter offering 2.5% commission to Wheeler. His denial is made stranger by the fact that journalists had told him the letter was in the possession of the Liberal Party (p. 222). What did Whitlam, who appointed Kerr, a lawyer, as the first Australian, rather than British, Governor General, expect him to do? (I dunno.)

Looking back on history it seems that Kerr's actions were wrongly designed to increase the power of lawyers and secrecy at the centre of Australian life. On the other hand, the development of increasing government and industry consensus has occurred since 1975 about the way towards better management of services and costs via design of Medicare, workers' compensation insurance and industry superannuation funds. This evidence based approach has meant that Australia has built larger, more stable and less costly investment funds than were available to it before 1990. Australia was shown in 2008 to be comparatively well provisioned for the future. Lawyers invariably encourage the trajectory back to court, however, and thus to a judge guided by lawyers deciding according to the words of some particular law, rather than examining the real world and the contentious spot upon it in more logical and obvious ways. Today there is an increasing danger that elite universities will follow market trends to increasingly oppress the young with debt and higher expectations of more stable, highly paid and otherwise rewarding work. Such aspirations appear to be increasingly unrealistic for the masses unless the traditional professional ideologies that institutions like the universities increasingly champion can be challenged better, than has been done so far. One also must realize the limitations of the concepts 'growth' and 'productivity', commonly used in Business Council of Australia (BCA) and other economic and political discourse. These terms implicitly assume all wellbeing comes only from the market. This is a brutal and wrong view. Wellbeing comes from the balance of land and people, in all their actions and interactions, as they become stronger in exercise and knowledge. As Catherine Livingstone, BCA president pointed out in a speech to the National Press Club in April 2015, the concepts of '*productivity, participation and population*' must come to terms with the fact that *health, education and retirement incomes policy* require a different mind- set. It is more open regional and local approaches to development.

Land, housing, health, communication, intellectual property and related development and insurance treatments

One recently reminded the Innovation Australia Board of the regional digital dividend direction based on the Digital Dividend Green Paper (2009), so as to create better innovations in regional communications, tertiary education and research across the board, instead of handing out grants to a few of those prepared or invited to do the paper work. This is also to support rather than to undermine the landmark agreement on climate change reached by 200 countries for the first time in Paris in December 2015, to take action to curb greenhouse gas emissions. Tom Arup's article, 'It's over to Australia to act now' and his quick guide to key elements of the Paris agreement seem a clear and helpful summary of events (Sydney Morning Herald (SMH 14.12.15, p. 3). In the same edition, the International Monetary Fund Chief, Christine Lagarde, states: '*Governments must now put words into actions, in particular by implementing policies that make effective progress on the mitigation pledges they have made.* (p.4). The former PM, Kevin Rudd, put forward the following key

challenges for the Digital Dividend Direction and I do too, with related regional management innovations put at www.Carolodonnell.com.au under the Background side bar. One wonders if the former PM's directions outlined below are still being followed and how:

- Delivering an education revolution to build the skills that Australia will need as the economy recovers *(More reliable, cheap, valuable and productive education is necessarily more open)*
- Ensuring that every Australian can get the health care they need when and where they need it *(I guess the historical and unified patient record is a key recording vehicle for this)*
- Building a lower carbon economy and creating the low pollution jobs of the future *(The Paris agreement on greenhouse gas reduction is addressed on site)*
- Securing water supplies for our cities, towns and farmers, and acting to restore the health of our rivers; and
- Implementing a new way of governing that is more open, accountable and in touch with the community. *(The principles of quality management are addressed on site)*

All the above directions are ideally openly shared regionally and on site in regard to communications and related innovation. With regard to river health restoration I recommend my daughter's PhD thesis undertaken at Macquarie University and entitled 'Riparian Seed Banks: A Potential Tool for Regeneration to Support Riparian Management and Restoration'. However, one needs a glossary to garner regional support effectively. Otherwise lawyers and academics rule while often being unwilling or finding it difficult to touch ground effectively. Related innovations are ideally addressed in regard to the City of Sydney plan *'Adapting for Climate Change: A long term strategy for the City of Sydney'.* This is part of the Sydney 2030 Green/Global/Connected vision.

A duty of care approach to protecting workers, consumers, communities and their supporting environments is necessary to attain sustainable development in Australia and internationally. This requires coordinated, broadly scientific and open approaches to all problem solving, not narrowly discipline driven and secretive, bureaucratic, professional or adversarial approaches, separated by multiple walls of legal privilege, so nobody really knows what anyone else is doing. Superficially, however, the National Code of Conduct for Health Care Workers appears part of a promising new approach to professional indemnity and fund management consistent with NSW government views of ideal planning directions related to living and working in particular places. Many of us may reasonably consider ourselves health care workers, sick or disabled or well; paid or unpaid. This quality management model was begun with state workers compensation and Medicare schemes which Whitlam first tried to get before his government was dismissed and lost the next election. He also failed to gain national accident insurance. Wilenski drove the equal opportunity culture in the bureaucracy in NSW to help it happen later. There is no intelligent alternative to planning, with competition to assist it as openly and broadly as possible. We wish to move beyond a blaming culture, without being told to shut up. This has many data implications for the improvement of related planning, development, research and fund management which should be better understood.

Hilmer followed Keynes and Galbraith in extending Weber's perception that bureaucracy requires the progressive extension of more rationally planned, inclusive and competitive approaches to governance, which must also reform law, under the increasing pressures of democratic demand. From this perspective openness is vital for support. Taxation, mandated insurance or other common funds should also support national community goals and openly competitive administration to achieve community subsistence, health and related protection of natural environments fairly. Australia is now embarked upon this new, international governance approach, which is ideally based on national standards for health and sustainable development and better education, service delivery and research to achieve related regional goals. This is currently hindered by the courts, which prevent effective implementation of scientific, transparent and democratic approaches to management. The latter require regional health and sustainable development needs to be consultatively identified and met using services which also provide data to assist injury prevention, rehabilitation and related budgeting on a continuing basis. Through starting the establishment of open education modules, Australian vocational education systems could be better linked to other higher education and secondary systems to meet the requirements of the communities which should logically support them. More open education and program budgeting are both vital. We need local content to recover from effects of US driving. In Glebe one remains as dumb about the movements of any rubbish and tri-generation technology as ever. This makes me so angry I could spit.

Historically, insurance schemes were developed to protect people whose ventures may end in catastrophe on some grounds (e.g. storm and tempest, rising water and flood, fire, theft, malpractice, etc. etc. etc.). The fact that court is expensively adversarial and slow with unintended consequences for rehabilitation and re- injury is often recognized but seems unable to be fixed because of lawyers. In a court case, catastrophe is often approached long after the event, to affirm or deny fault. This entails denial of early help for rehabilitation, related data gathering for injury prevention or for containing the increasingly runaway costs driven by insurers competing or premium price on one hand, and by lawyers and their selected duelling experts on the other. The point of codes or by-laws is not to treat them like law or the Ten Commandments, but more like the Ten Suggestions as the product of opinion which may also be denied for good reason, during processes of data gathering and development of related knowledge. Codes of practice, by-laws, guidance notes, etc. always seem driven back by lawyers to the increasingly irrational rule of some narrowly supposed ideal standard (i.e. prescriptive law), rather than intelligent action upon a particular plot. (This is also Boris Johnson's complaint about the effects of Britain's EU membership discussed earlier.)

The operations of insurance underwriting in the private sector and the use of the court greatly increase financial instability, repeated catastrophes and related cost-shifting in general. We saw what this could do in 2008. This market driven trajectory also makes rehabilitation more difficult and penalises good management. In 1994 the UN, supported by the International Labour Organization, the World Health Organization and the UN Educational, Scientific and

Cultural Organization, defined community-based rehabilitation. This offers a better way forward to the extent that its practitioners are willing to be openly questioned and also willing to question and respond on performance questions. The UN direction also appeared to offer a means of providing more immediate and cheaper support after catastrophes or for real or apparent threats more broadly, when it defined community based rehabilitation as:

> A strategy within community development for the rehabilitation (CBR), equalization of opportunities and social integration of all people with disabilities. CBR is implemented through the combined efforts of disabled people themselves, their families and communities, and the appropriate health, education, vocational and social services (UN Social Development Division 2001: 1).

In 2000, Australia began a coordinated health and disability management process with the development of regional health plans based on population profiles, including socio-economic indicators and a focus on the needs of the aged (NSW Health 2000). This is a health service context in which all related service provision, (e.g. for crime prevention) may be addressed, or not, for good or bad reasons. Australian governments recognize that reducing the supply of motivated offenders requires reduction in the general level of community stress. In NSW, coordinated place management, community housing and crime prevention strategies are ideally implemented to achieve this (Standing Committee on Law and Justice 1998 2002). Dispute management and insurance are linked.

The aging of the population is also highly related to increasing disability. It is vital to clarify the ideal aims and design of insurances applied to the home, its surroundings and to any related services provided to persons and places. The ideal is for clearly related and equitable service designs to meet individual and community need as effectively as possible. The first NSW Government Strata and Community Title Law Reform Position Paper entitled 'Strata Title Law Reform' appeared to be good direction which I guess is now in law. The NSW Fair Trading pamphlet 'Responsibilities of the owners' corporation in a strata scheme' (Nov. 2013), appears related. It states the insurances that strata housing and related place based community schemes should now have are: **Building insurance; Public liability insurance; workers' compensation insurance and voluntary workers insurance.** These four replace 8 types of insurance formerly required of owners of property under strata title. (These were building; common contents; loss of rent; legal liability; personal accident; fidelity guarantee; office bearers and catastrophe insurance). It is impossible to justify this as insurances are managed secretly and supposed ideally to benefit insurance stockholders. Neither is it clear how professional liability insurance is ideally related. We must know more about the plot.

The Senate Economic References Committee report '**Out of reach? The Australian housing affordability challenge' (2015)** is a key report making the housing situation known. This direction is ideally discussed in regard to land and housing in related global and local contexts. Wellbeing comes, however, from the balance of land and people, in all their

actions and interactions, as they become stronger in exercise and knowledge. The practices in state treasuries will require substantial open reform to open markets up better than is traditional. The National Competition Policy (1993) had the provision of a level playing field for private and public sector service providers as a goal, but secrecy is championed in the private sector and by lawyers and their ilk for bad reasons. It is the maintenance of privilege, which is just a lot of nasty extra fatty cost to us. Don't tell me the public sector creates no value. The charitable sector should also stand up and be counted. Their operations may be the worst of the lot yet charity is promoted following the US.

New state views of insurances necessary for owners or managers of places where people live and work are ideally part of transition to funding regional plans and schemes driven by people and related evidence, rather than mainly designed to put profit first. The profit motive driving public or private funds alone, has been linked with increasingly ignorant, costly and high risk practices for all related businesses, in comparison with more open and stable fund design. From any perspective, the type of professional indemnity insurance required and who pays the premium usually depends on whether the health care or other worker is a subcontractor, employee or engaged in another type of practice. The questions of whether or how anybody should be covered by an insurance or levy are complex and should not normally be used to bring closure of service and the denial of broader consumer choice. The related concepts of protection of the consumer and the public from the unintended consequences of practice on no-fault and fault based insurance grounds are difficult to decide upon. However, broad coverage is usually best to the extent that it increases the range of key data or evidence capture which can also reduce cost through economies of scale as well as provide more reliable and diverse information on any question. The clear and radical view Hilmer took in 'National Competition Policy', was that competition may be for goals besides money (p. 3). This appears to have been ignored since its clear acceptance by all premiers and heads of states and territories in 1993. The political dogs may bark but it seems the old bureaucratic and related lawyers' caravans always move on, privileged as usual by their secret information, reliable or not.

One must point this out memorably, which is often considered rude or worse, or who else will? At Sydney University, for example, Kim Williams' recent talk on '**Cultural renewal in modern Australia: Philanthropy, public discourse and the role of the 'public academy'** showed him to be the usual craven US market and lawyers' lackey rather than an independent intellectual, as he eschewed any discussion of intellectual property, let alone in the context of the Asian Century. It seems as if he thought any critique should be left to lesser dills writing in **'Copyfight'** (2015). I expect people like Tim Game and his mates encouraged him in this view that nobody with genuine pretence to living above the herd should ever dare to grasp the obvious nettle, outside the court. The article entitled 'Academia at odds over copyright law' (AFR 22.2.16, p. 11) suggests copyright is a terrible nuisance to teachers, students and others, while bringing in tiny amounts of money. Australian policy makers should not let the US market pitch and related occupational forces

swamp Australia because the national and regional accounting experiences provide better forward direction in health care and investment. This is ideally now extended to land, housing and related matters of cultural communication. A key question is how much one should embrace the medical and related disability diagnoses to develop better jobs regionally. Lawyers rule where it counts, through their command of silence for all but through their actions. Call in more reputable media instead as their operations are better and cheaper.

The common apologists for feudal law and US markets often appear happy to make stirring speeches without apparently having the intelligence or courage to recognise the key issues in them which are economic and political. Local media content is vital to address strong economic and cultural drift to US legal and social assumptions and practices which are more supportive of the gun and all its greater forms of silencing fear and promoting more abuse than in Australia. From the OECD evidence, which shows that Americans kill each other in far greater numbers than people do in other OECD countries, it is seen that people don't kill people, guns do. Guns don't protect people; they massively increase their risk of injury and death. The alternative is to view the US as containing more crazy, evil and violent people than elsewhere in the developed world. The encouragement of silence without lawyers and the ideal reduction of the police to corrupt targets for lawyers and others in speech, as shown in 'Defend Yourself: Facing a Charge in Court' is an alarming combination for a future in which Australia should be trying harder to understand the perceptions of its Asian neighbours, not just following US lead. Don't call us angry and wrong just because we are not being polite because we hate your words and power over us mightily and regard it as evil. Ask our reasons before recording and checking back with us to comment. There are people who seem never to have heard a question in life – only herd command. The practice of law is the embodiment of the authoritarian frame of mind, as distinct from more broadly inclusive and open practice based on evidence and the spot. They invariably seek to kill this and drag us all back to court instead.

In contrast with Kim Williams, the book **Copyfight** (2015) provides more thoughtful views of work in the region. From the regional planning perspective which ideally uses broader institutional cooperation and competition to achieve broader and more specific social goals, the private sector has been wildly successful in informing and entertaining a hugely increased range of people globally through digital innovation. Wikipedia is a wonderful model for showing how reliable information access may be improved with remarkable speed for many more people. However, when it comes to the cultural, historical, political and scientific record of Australian urban and regional communities today, the public sector needs to play a leading role because commercial operations, of which copyright is normally part, rely on limiting knowledge rather than opening it up for analytical critique and spread or pure enjoyment. For many years, regional and strategic planning perspectives have been comparatively successfully pioneered in Australian radio and TV provision, education, health care, superannuation and in pension or other service provisions to provide better quality of

life to all through stable growth. One can only agree with producer and writer Imogen Banks in 'Piracy and illegal downloading' that copyright is not the main point for creators because quotas are what underpin the TV industry. She states the free to air networks have to broadcast 55% Australian content with specific requirements for drama, documentary and children's programs. This appears to be the primary guarantee of Australian jobs and culture in the face of the historic and gigantic output of cheap US media product. Copyright often makes a bad situation for Australian product competition far worse.

In 'TechChrunch' Elmo Keep states culture does not exist in a vacuum and its creation does not come into the world without cost. However, the production of life is the ultimate form of creation and in the global and predominantly peasant societies and businesses from which we mainly sprang, children are typically nurtured in the expectation that they will work for and nurture their parents in sickness and old age, as well as keep children. In Australia these family expectations have been modified by wealth development and more equal expectations of female and male participation in paid work. This has been accompanied by a reduced number of offspring, by higher expectations of paid work and a growing welfare state. Since the 1980s, the responsibility for financial upkeep of the young, unemployed, sick, disabled, single parent or old person in Australia, is often that of taxpayers through government and related investment funds. This is a huge transfer of responsibility from private to public hands which should be managed better in community interests, including at all ages and stages of life, whether they are long term community members or passing through. It appears vital to support more open regional policy directions to achieve personal wellbeing more broadly and to support private business by assisting provision of more paid and unpaid opportunities for all. Cultural direction is ideally addressed in related regional development contexts. Make it a learning place.

Hunter and Suzor state in 'Claiming the moral high ground in the copyright wars' that the vast majority of creators get paid nothing or next to nothing for their work and there is no reason to believe that making the copyright system more draconian will improve the situation. That is also my experience of being an author and observing the situation for writers over many years. Publishing is normally a required part of academic advance, rather than being remotely self-sustaining. Keep's occupational and industrial analysis in 'TechCrunch' would benefit from being constructed within a regional approach to communications which seeks to satisfy common institutional and personal interests openly. This challenges the traditional occupational closed shop models, where we are expected to mingle with people like us. Academic and collegiate circles, where those who share perceptions talk to others like themselves, won't deliver enough jobs outside their charmed circles for the widening numbers of people who want them on other terms. Hunter and Suzor state the public devotion to copyright and publishers is a version of Stockholm syndrome, where abductees start identifying with the captors who have held them to ransom over such a long time. Artists who support copyright are also likely to be working

against their own interests by bottling their product up for a small circle who aren't buying enough. University students who support the National Tertiary Education Union position of a fixed proportion of part-time and casual tutorial positions to tenured ones at universities appear in a similar situation, narrowly and blindly fighting over too few positions. They should explore broader potential for service and support through better regional organization, which is broader than the normal closed professional and commercial approaches to communities of interest. They should take an interest in supporting better connection of regional and organizational strategic planning directions. Pursuit by collegiate cultures is ideally a linked part of broader regional plans. The people at Bush Heritage look as if they know very well what they are doing to me. How can we direct funds towards this route of regional repair while providing other services like education and entertainment?

In 'Asking better questions', Tim Sherratt makes the related practical and moral point on copyright that when considering the historic indigenous photographic records in Australia there appear to be better questions to consider than who owns it. Let's share. Last year I went to Cambodia as a tourist. Today many Cambodians make a living from pirating films and books about the history of their country and people in it or who have fled. As a tourist, one learns about some of the effects of constant and indiscriminate mass bombing of peasants who were starved, wounded and killed to the point of ignorant rebellion as a result of the US war on neighbouring Vietnam. Good luck to Cambodians and others making a living pirating old US, French and other films of any kind and selling them to tourists, etc. This is the time when many are also most receptive to education, as they are young or passing through. Cambodian copyright pirates appear to be providing tourists, locals and the world, with fantastic educational, entertainment and employment services. Tell them to stop? Are you crazy? Ask instead how Australia might help regional and related UNESCO direction for the broader benefit of all rather than bottling advantages up in towers and telling the rest they should try to get in and buy the secrets. That is a comparative losing strategy for those still living mainly on the land and already burdened with far too many children who appear too likely to become future burdens on the rest without intervention.

One looks forward to hearing about this submission with your direction keeping us abreast. Cheers Carol O'Donnell, St James Court, 10/11 Rosebank St., Glebe, Sydney 2037.

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