

3 December 2013

DANGEROUS PRISONERS AND EXECUTIVE DETENTION

Dear Colleague

As members are perhaps already aware, at the Annual General Meeting last week resolutions were passed concerning, inter alia, the Association's response to recent measures adopted by the State Parliament namely the Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013, the Vicious Lawless Association Disestablishment Act 2013 and various anti-association laws, and the need to correct the impression created by statements made on ABC television by the Attorney-General, The Honourable Jarrod Bleijie MP. In the course of that interview, Mr Bleijie said in effect he was working with the Bar Association to strengthen the Dangerous Prisoners (Sexual Offenders) Act 2003 and "make it harder for the courts to release" dangerous prisoners.

The Bar Association had made a submission to the Attorney-General about the Dangerous Prisoners (Sexual Offenders) Act 2003 and the Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013 (though it is understood that at the time of his television interview the Attorney-General would not have seen it). The core approach advocated in the submission was to suggest a review of the dangerous prisoners legislation and an abandonment of the Executive imprisonment regime within the Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013. It was hoped that if such a review was undertaken, the Bar Association could play a role.

I attach a copy of the submission which was sent to the Attorney-General.

It was not, and was not intended to be seen as, the Bar Association working with the Government to strengthen the existing legislation (other than to urge its review).

The controversy created by the submission has led me to conclude that the Association review the way in which we deal with, and ought to deal with government.

I am setting up a consultation group which will be representative of the views of the Bar on the topic. I intend to chair the committee and I will give as much input as I can. However, I will not vote on any resolutions. I will regard my role as facilitative.

I shall advise the makeup of the consultation group as soon as possible.

It may be that the committee may be unable to reach a resolution of these things. I am convinced though that the committee will achieve a thorough

investigation of the issues and hopefully a helpful report to Bar Council to then consider the next step.

One thing that is clear is that Executive detention, and the passage of the Criminal Law Amendment (Public Interest Declarations) Amendment Act 2013 raises the interests of many stakeholder groups. To my knowledge, the Bar Association is the only stakeholder in active negotiation with the Government attempting to have that Act repealed.

Peter J Davis QC
President