



PRIME MINISTER

FOR PRESS

4 JULY 1977

PRIME MINISTER'S ADDRESS AT THE 19th AUSTRALIAN LEGAL CONVENTION SYDNEY

It is a great pleasure to attend the official opening of this, the 19th Australian Legal Convention.

This morning I wish to say a few words about what I believe to be the unprecedented programme of law reform which is now being pursued by the Commonwealth Government.

In the last 18 months, there have been: a restructuring of the Federal Court system; a fundamental revision of Federal Administrative law; the introduction of important human rights legislation; a thoroughgoing review of legislation on trade practices and consumer protection; references on a wide range of issues to the Australian Law Reform Commission; and of course three Constitutional amendments.

Perhaps we should ponder why it is only now that concerted moves towards law reform have occurred - particularly when one considers that past Parliaments and Cabinets have been dominated by lawyers, the very people, one might have thought, who would have been most conscious of deficiencies in the law. Clearly, it required a Cabinet in which the lawyers are for once outnumbered by the humble primary producer to give the necessary impetus for law reform. Perhaps the temptation for the farmer to be his own bush lawyer has again proved irresistible.

But I am pleased to assure you that the guiding hand for this programme of reform has come from a most distinguished lawyer, the Attorney General, Bob Ellicott. I believe it is already clear that in Bob Ellicott we are fortunate to have one of the finest and most far-sighted attorneys in our history. Under Bob Ellicott, we have taken quite a new direction in law reform in Australia, a direction entirely in keeping with our traditions.

We have deliberately set about promoting what I might term "participatory law reform". If the law is to be updated, if the advances of science and technology are to be acknowledged and accommodated, and if our traditional liberties are to be protected, it is vital that the community governed by the law should take part in helping to frame reforms in that law.

I for one reject the notion that important reforms should just be left to the "experts". On many important items of legislation, the Government has adopted the practice of allowing Bills to lie on the table of Parliament for a substantial period of time, to encourage

/informed

informed public debate and comment, aimed at improving the legislation. This process can only be to the advantage of the nation, and the Government has shown its readiness to amend such Bills in the light of constructive criticisms received.

The Australian Law Reform Commission has also actively sought to engender public interest in the tasks assigned to it by the Government. The Commission has held public sittings and seminars in all parts of the country. It has distributed widely tentative proposals for reform, and it has stimulated much informed discussion in the media. This process has amply shown that the Australian community will respond to an invitation to participate in the process of legal renewal. Public acceptance of the need for reform in many areas which have long remained untouched is now widespread.

Perhaps no better example could be provided of the prevailing mood for reform than the recent amendments to our Constitution. In the 76 years before the recent referendums, 32 proposed amendments had been submitted to the people but only 5 had been accepted. On May 21 as you all know, 3 of the 4 proposals that were put to the vote were passed, and the fourth proposal only failed narrowly. An essential prerequisite for the success of the three Constitutional changes was the endorsement given to them, in principle, at the Hobart session of the Constitutional Convention last year. I am pleased to be able to inform you that, at the Premiers Conference a few days ago, the Commonwealth and all six states agreed that the valuable work of the Convention should proceed, and a further session will be held in Perth early next year.

Perhaps the most important of the reforming measures which we have introduced are those which bear directly or indirectly upon the subject of human rights. I am delighted to see that among your distinguished guests at this Convention, there are many to whom this subject is very close to the heart, and I would particularly mention your next speaker, the Chief Justice of Canada, the Chief Justice of Nigeria, and the Lord President of the Courts of Malaysia. We are living in times when there is an increasing recognition of the need to respect human rights. This recognition transcends national boundaries, and is, or should be, the active concern of all liberal democracies. For too long there has been a tendency for democratic leaders to be on the defensive; to assume that the values we cherish such as individual liberty, parliamentary democracy and the rule of law are too obvious to require active promotion. There is a clear need for all of us, and this need certainly extends to the legal community, to proclaim and uphold the virtues and values of our system of government and liberal traditions.

Today, the 4th of July, seems a most appropriate day to affirm that the renewed emphasis placed on human rights in international affairs, and the role played by President Carter in this, are to be welcomed wholeheartedly. The Commonwealth Government is firmly committed to the cause of promoting human rights. Accordingly we were particularly pleased at the recent election of Australia to the United Nations Human Rights Commission. The

elections for this Commission were strongly contested and it was a signal honour for Australia to be selected.

The Commonwealth Government is determined to play its part in enhancing human rights in this country. In the last sittings of the Commonwealth Parliament, the Government introduced a Human Rights Commission Bill. The purpose of this Bill is to ensure that Commonwealth and Territory laws, acts and practices conform with the international covenant on civil and political rights. Significantly, the Bill will give individuals a specific right to complain to the Commission. The Bill has deliberately been left to lie on the table of the House during the present Parliamentary recess to encourage public comment. In the light of comments received, amendments may be made to the Bill, and I hope that discussions with state governments will establish a foundation for Commonwealth-State co-operation in this important field.

Another current Bill of great importance is relation to human rights is the Criminal Investigation Bill. The basic purpose of this Bill which is based on a report of the Australian Law Reform Commission, is to codify and clarify the rights and duties of citizens and Commonwealth Police when involved in the process of criminal investigation. This is an area in which there has been much dissatisfaction, considerable writing, many proposals for reform, but not much legislative action. With this Bill, as with the Human Rights Commission Bill, the Government is proceeding in a way that will ensure adequate opportunity for the views of all interested persons to be presented and duly considered.

Apart from the Human Rights Commission Bill and the Criminal Investigation Bill, the Government has been active in a number of areas which relate to human rights. Some matters have been referred by it to the Australian Law Reform Commission for consideration and report. Others have been the subject of direct legislative action by the Government.

The matters which the Government has referred to the Law Reform Commission include - a reference for a major review of the laws to protect privacy in the Australian community: a reference to reform the laws of defamation, so vital for striking the right balance between freedom of speech and the maintenance of honour and reputation: a reference relating to the issue of aboriginal customary laws and whether it is possible and desirable to incorporate aboriginal tribal laws into the domestic law of Australia: and finally, perhaps of particular interest to many present here today, a reference concerning the question of the standing to sue in Federal Courts and Courts exercising Federal jurisdiction.

It is appropriate that at this point of time, following the establishment of the Federal Court of Australia, we should reconsider the rules which govern the rights of persons to open the doors to the Courts. These rules fundamentally affect the relevance and capacity of the courts and the legal system in providing solutions to the problems and tensions of our society.

In a number of other matters, the Government is proceeding without prior references to the Law Reform Commission. In particular I draw attention here to a wide range of measures that are designed to make public administration more responsive to the needs of the citizen. These measures when completed will give the Commonwealth a system of administrative law as comprehensive and as well attuned to the protection of human rights as exists in any other common law country.

May I refer briefly to some of these measures: The Administrative Appeals Tribunal was brought into being on 1 July 1976. The jurisdiction of the Tribunal has been expanded since then and the Government is taking steps to give the Tribunal jurisdiction in social security and repatriation matters: The Administrative Review Council has been appointed. It has already provided advice to the Attorney-General on a number of aspects of administrative law and procedures, and will be of considerable value as a "watch-dog" to ensure that administrative procedures provide proper protection for the rights of individuals: The Ombudsman Act has been enacted and the first Commonwealth Ombudsman, Professor Jack Richardson, took up duty last Friday: Parliament recently passed the Administrative Decisions (Judicial Review) Act. When it comes into force it will supercede the old prerogative writs and introduce simplified procedures for judicial review of administrative decisions and actions. The Act also gives a person for the first time a general right to obtain the reasons for administrative decisions and actions which adversely affect him: The Government proposes to introduce a Freedom of Information Bill in the budget sittings of the Parliament: The Attorney-General is preparing legislation to establish standard procedures for Commonwealth Administrative Tribunals along the lines of the recommendations made by the Kerr Committee in 1971. All of these measures taken together will form a system intended to provide individuals with adequate means of obtaining information about decisions of government that affect them, and effective and impartial investigation of their grievance.

In 1980, Australia will be hosting the sixth United Nations Congress on the prevention of crime and the treatment of offenders. The Congress which will be held in this magnificent building, the Sydney Opera House, will be attended by over 1500 delegates, and will, I understand, be the largest United Nations meeting to have been held in this country. The Congress will focus world attention on Australian criminal justice, laws and practices. A comprehensive programme for the congress has been launched, involving the Commonwealth and State Attorneys-General and other Ministers. Governmental and private agencies have been asked to revise and update relevant laws and practices and to bring Australian programmes and achievements in this field to the attention of Congress participants. I am sure that Australian lawyers will wish to contribute to the success of the Congress.

Finally, may I mention a recent initiative taken by the Government which could have a significant impact on the profession's management techniques. The complexity of the law and increasing volume of legal business require a search for new methods to enable existing resources to be deployed with greater efficiency. The Commonwealth Government has been conscious of the need to meet this challenge for some time, and has recently decided to establish a computer-based legal information retrieval system. Commonwealth Statutes passed to the end of 1973 have been placed on magnetic tape and are

held in a computer data base. It is now possible for the Attorney-General's Department to obtain virtually any factual information about those Statutes by operating a visual display unit which is connected to the data base. The Statutes passed since 1973 will be included in the data base as soon as practicable and attention can then be turned to other fields such as case law, and as opportunity offers, State Statutes. The system is to be demonstrated later during this Convention, and I am sure you will find it of interest.

Mr. Chairman, this Convention is in a position to make a substantive contribution to a number of matters to which I have referred. All the items you are to discuss involve matters of considerable significance to the community as well as to the legal profession. A thoughtful and realistic response of the profession to these issues is of vital importance if our social and legal institutions are to keep pace with our constantly changing society. I wish the Convention well in its deliberation.
