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THE CANUTE COMPLEX – STEMMING THE TIDE OF DESPAIR

CELLULAR SOLUTIONS

ADDRESSING LARGE PROBLEMS THROUGH SMALL COMMUNITIES

Thank you for the opportunity to deliver this talk as your conference draws to an end in Taranaki. I need to emphasise that what I am about to say represents some personal views. Although I draw on my experience as a judge living in Taranaki for the last 6½ years, my opinions do not represent the views of the Ministry of Justice or the Principal Judges who are my rangatira.

Members of the baby boomers' generation form the worried comfortable class who fret about the decay in societal standards. They search for answers around their dining tables, and their bridge clubs, their Round Table meetings, and most of all as they watch the shallow sensationalist presentation of television news. They feel they are facing a torrential mud slide enveloping their world as they know it. They have only coal scuttles to stem its flow. They feel that society is slowly decaying around them.

This is not new of course. Sir Frances Bacon in the 16th century argued in one of his dialogues on a utopian life that teenagers should be sealed in a barrel and fed through a hole in the lid until they reached adulthood.

During our lifetimes, New Zealand society has changed from one of the most egalitarian in the world to one of the more economically polarised societies in the OECD. After the United States, the United Kingdom, Portugal and Australia - New Zealand features fifth in the OECD scale of greatest in equality between the most wealthy and least wealthy members of society. Japan ranks as the least polarised¹. This change occurred with the economic reforms of the 1980's and still continues. With economic polarisation comes lower health standards, increased criminal behaviour and family violence and disintegration of the family unit.

¹ Wilkinson and Pickett

In New Zealand, as elsewhere, politicians seek simplistic solutions. The adversarial nature of party politics means that processes are driven by fear and the gullibility of an anxious public. Parties in opposition succeed by exaggerating claims of criminal behaviour, social decay and systemic failure of the state. The public are bewildered by the claims of those seeking to reassure them and those seeking to unsettle them. In fact, crime rates overall are reducing. Police rates of apprehension of offenders between the ages of 12 and 17 years are in fact declining².

But we continue to be attracted to simplistic, populist solutions like the car crushing legislation and the three strikes law, impulsive ineffective remedies to satiate public fear. The knee jerk abolition of the defence of provocation to a charge of murder is another example of impulsive law making. Much of this is smoke and mirrors, creating a mirage to persuade the public that serious action is being taken to reduce crime.

So much of this steam venting about crime and punishment assumes that individual deterrence works.

In some cases it can. The death penalty in Singapore and Indonesia no doubt dissuades many tourists from importing drugs into that country. But it does not dissuade all, and the tendency of young people to feel invincible and supernatural drives some to ignore the risks. Shapelle Corby in Indonesia is a sad reminder of this. The young Australian Scott Rush, who hopes to escape the firing squad in Bali is another, although he was driven by his own drug addiction.

The low crime rates in countries like Singapore and Japan are attributable not to the deterrent effect of criminal sanctions but to the shape of their societies. In those countries there is a high level of cultural emphasis on respect for authority and conformity with social control. Dr Samir Heble, Clinician in charge of Mental Health Services in Taranaki Base Hospital once described to me that in his home land, India, there is virtually no diagnosis of a borderline personality disorder. The social structures there are tight. An individuals' personal choices are confined by the expectations of his family and community and for the most part, an individual lives within those confines.

² Principal Family Court Judge Andrew Becroft, YCJ Conference, 10 September 2010

In New Zealand, the social values which we have chosen for ourselves and our children promote freedom of choice. Like other Anglo American societies our code of values prizes individualism and personal freedom over the common good. Personal freedom, however, includes opportunities to choose to commit crime and live anti social lifestyles. As a cultural norm, this has particularly emerged in our society over the last forty years, as my generation began to relish the liberality and comparative anarchy of the seventies.

The exercise of freedom to succeed implies as a counterpoint the freedom to fail. There are casualties of this concept of freedom.

Some of these are deliberate casualties. Under the Muldoonist government, unemployment was seen as a necessary and even desirable economic instrument to ensure the workforce fully appreciated having a job at all. No heed was paid to warnings by the then Prime Minister Bill Rowling of the “trash heap of unemployment”. In the same decade, personal freedom was the catch cry, greed and short sightedness were the fuels for the decision to reverse the Rowling compulsory superannuation scheme. If that had remained in place, New Zealand’s economy would have now been at least as strong as Australia’s.

The pendulum swings over time, from liberal to conservative, from left to right.

But we live in today’s world. We might lament the short sighted funding of ineffective policies. New prisons costing \$500 million dollars apiece are seen as promoting social order. But your salaries and mine, and the salaries of most professionals engaged in promoting the welfare of others are also paid by the State.

The challenge for us individually and as a society is to do what we can to stem the mudslide, to reshape society and make it a better place.

After 32 years in legal practice in Canterbury, I have spent now almost seven years living here in Taranaki as a judge. My work crosses the jurisdictions of the Family Court, Youth Court and the general summary criminal jurisdiction. As a judge, one has an overview which is different from that of the lawyers and the other practitioners engaged in the court process – psychologists, probation officers, police and counsellors. As a judge, one is an observer more than a participant, a listener more than a talker. A judge

should listen and watch before speaking. George Washington Carver, the black American inventor and philosopher of the 19th-20th century once said "If God intended you to speak more than you listen, he would have given you two mouths and one ear".

What I saw, when I thought about it, was a disconnect between the aging, anxious people who are living full lives, and the young people who have no hope and no vision of a good life. I saw the basic humanity of young offenders who have done bad things, but are not bad people. I saw them looking for companionship and guidance from the gangs who were willing to offer it, when they could not get it from their families. I saw the desperation amongst Kaumatua as they saw more and more of their rangatahi paraded before the courts and sent to jail in proportions more than three times their proportion of population.

One of the many blessings of living here is that Taranaki is used to being isolated - 4½ hours drive from Auckland or from Wellington. It is 3 hours from Palmerston North or Hamilton, our nearest provincial cities. People of Taranaki are accustomed to sorting out their own problems. Call it "localisation". When a community can see itself in a context, it can be motivated to create solutions within that context for problems which exist in that community.

Taranaki has a population of around 105,000. Here the community of North and South Taranaki have been able to create some initiatives which are spectacular examples of community responses to heal weeping sores in the community. These are possible because the energy or initiative of one person or a small group can generate real change. Forgive me if I seem parochial as I describe a number of these.

In South Taranaki a youth rehabilitation camp START (South Taranaki At Risk Teenagers) operates from Kaponga and is a model for the current government youth rehabilitation centres. It is the brain child of Neville Phillips who developed the centre and continues to run it. Eight teenagers on referral from the youth court are collected, hung over, still dopey from their last joint, lazy and uninspired. They are delivered straight to the back blocks of Taranaki for a two week experience of tramping, living off the land and facing physical challenges, without any chemical stimulants, in an area so remote there is no escape. They experience three days of individual isolation, a time for reflection, where Neville visits them to talk about their life and their future. Back at the

centre, they have counselling and work experience in the many small industries and businesses in the area. This programme has a non recidivism rate of over 75%, measured over four years after completion of the programme - when globally a rate of anything over 50% is seen as spectacular.

You may have noticed in New Plymouth the high profile given to the “Family Violence is Not Okay” campaign. Outside the Police Station and in many shops in the main street banners proclaim the message, picturing prominent citizens, including the personable showman Mayor Peter Tennant and other ethnic leaders in the community. This is a partnership between Taranaki SAFE Families Trust, the New Plymouth District Council using funding through TeRito to present a message in a local context.

Some of the initiatives I have been lucky enough to share in.

When I arrived in Taranaki in 2004 I noticed a disconnect between the young and needy and the aging and comfortable sectors of the community. A branch of Big Brothers Big Sisters (Tuakana Terei) has been established. This youth mentoring trust matches a needy young person with an adult who is able to provide moral support and guidance, stimulating recreation and provision of a better way of life than their family models might offer. The concept was introduced into Nelson from an American prototype (hence the name). There are demonstrable improvements in truancy, substance abuse, criminal offending for children who have been engaged with a mentor through BBBS. In Taranaki we began operations in 2007, and within three years have now 83 matches in place. It is now the largest branch in the country.

A year ago, the Kaumatua of the Iwi of North Taranaki collectively called for a tikanga based youth court, sitting on the marae, to try and stem the tide of Maori youth offending. This draws on the experiment amongst Ngati Porou in Gisborne, where Judge Hemi Taumaunu instituted the first Rangatahi Court three years ago. It is not a separate justice system. Once a youth's guilt has been decided, usually by admission, and a family group conference has been convened to recommend the penalty and the therapeutic interventions, the plan from the family group conference is monitored not in the traditional courtroom but on the marae. There the youth and his/her family face the expectations of their kaumatua and community. Importantly, a lay advocate is appointed to get alongside the family and identify the issues which might not be apparent to a

social worker or a policeman. It takes time for these initiatives to be realised, but we have already had two sittings of the youth court now on Owae Marae at Waitara. I can say from first hand observation that the experience was impressive. Early reviews of the effectiveness of the Rangatahi Court is promising, and hopes are certainly high.

When I came to New Plymouth I was lucky enough to be here with Judge Louis Bidois, now in Tauranga, who is Arawa, but also affiliated to Te Atiawa. He, with my support, developed a concept of "Remand Contracts", a process now recognised in the 2006 Sentencing Act. When a young man appears on a charge in the District Court, and there are signs he is willing to change his lifestyle, we take the opportunity to use his heightened motivation focussed by his current predicament and we postpone the sentencing process. The offender enters a contract with the judge that he will undertake some tasks, maybe alcohol and drug treatment, anger management counselling, remain in employment, or undertake a course at Limited Service Volunteers and these achievements will be taken into account when a penalty is eventually fixed.

There are local initiatives in other areas of New Zealand. For example, the faith based unit at Rimutaka Prison is creating measurable improvement in the outcomes for inmates who participate. This initiative was inspired by Tim Workman and aims to give inmates a framework of positive values for their lives after release from prison.

In Hamilton Te Hurihanga is a youth justice programme with intensive behaviour modification goals for young people in the youth justice system. It was a partnership between the government and the Church of England. It was aimed at enabling lasting changes in the attitudes and mindsets of young offenders. Its' very name means "to turn around". Sadly, government funding was withdrawn earlier this year and the programme is unable to survive.

I want to refer to one more local initiative. Recently I have been fortunate to be involved in the production of a film "Hiding Behind the Green Screen". This is a short documentary intended to convey to young people the message that heavy cannabis use in their adolescent years carries with it serious health risks. A connection between heavy cannabis use and increased risk of psychosis is now well recognised and recently confirmed scientifically in the Dunedin Child Development study. To me, in my daily work in the Youth Court and in the mental health jurisdiction, it is convincingly evident

that a lifestyle embedded in heavy use of cannabis carries with it increased risk of the development of delusional psychosis, in particular schizophrenia. Other health risks include depression and loss of motivation in life. As any Coroner will be able to tell you, youth suicide and cannabis abuse go hand in hand. The film Hiding Behind the Green Screen is intended for use in schools, youth courts, prisons, youth centres and throughout industries which also have an interest in drug free work places. Forestry, meat industry and oil and gas industries are examples of places which maintain zero tolerance policies in relation to cannabis and other drugs. The film has been made in Taranaki on a comparative shoestring budget, with the support of cameramen, sound engineers, editors, directors and producers and of course the participants either for no charge or without any guarantee of payment. Shell Oil has come to the party as a funding sponsor and that ensures the technical contractors and other production costs will in fact be met.

Where is all this leading to? I mention these examples not to brag about Taranaki – although I am immensely proud of the efforts this community has made.

But these experiences convince me that local solutions are more effective than national ones. Change has to begin in your own sphere, within your own arm's reach. Archbishop David Moxon of Hamilton recently told a conference of Youth Court Judges earlier this month that justice must be local, accessible, responsible, restorative and rehabilitative. Wise words, wise words. It is, I think, a mantra which we can apply in our daily professional lives whenever we wish to make a change for another individual or a community we serve.

I know from my experience in the Family Court that all you RTLB's have the opportunity to influence the lives of the most troubled members of the school communities you serve, with life changing power. In the face of public scepticism, sometimes a feeling of lack of support by your leaders, and a sense of futility at times, be aware that your work is valued by the judiciary. The only way of stemming societal decay is by many people taking small steps changing the lives of people one by one by one. Keep it up.

Judge Rob Murfitt
Family Court Judge, Taranaki