

## **BAIL REFORM AND CIVIL LIBERTIES**

The Council for Civil Liberties has initiated a campaign to restore rights which were provided for in the past by the Bail Act but which have been gradually eroded over the past thirty years. The public should be deeply concerned at this decline in their civil liberties.

The presumption in favour of bail, when a person enters a courtroom to seek bail, has been lost for many serious crimes. This is a challenge to a fundamental belief in liberty which we associate with a democratic society. The right to make a bail application when an earlier one has been rejected has been undermined by amendments that restrict the circumstances in which such applications can be made. This means that some people, including juveniles, spend more time in custody before trial than they would have in the past. Bail has also been limited in a number of alleged crimes by a requirement for “special circumstances” before it can be provided. All of these limitations interfere with the discretion of the judiciary to provide bail where appropriate.

An alliance has been formed between the N.S.W Law Society, N.S.W Public Service Association, N.S.W Young Lawyers, the Welfare Rights Centre and the Council for Civil Liberties.

The Bail Reform Alliance seeks the restoration of the presumption in favour of bail, removal of section 22A which restricts the number of applications for bail and removal of the limitation on bail set out in the “special circumstances” clause. These changes are needed if the presumption of innocence is to have its full meaning and overcrowding in gaols and juvenile justice centres is to be reduced.

The alliance has held a meeting with a representative of the Attorney General and has also met the Shadow Attorney General. Having put our primary position, as set out above, we explained a secondary alternative of conducting a public inquiry along the lines of the one in 1976.

The government has announced that the Bail Act will be reviewed and put before the Parliament before the end of the year. While public input will occur the process will not be a public inquiry of the type that occurred in 1976 before the Act was first introduced in 1978. That inquiry resulted in the background reasoning and recommendations being made public before any legislation was introduced.

There has been considerable media debate about the issues in April and May. Much of it has been favourable to the Alliance position.

The campaign will continue – further activities are being planned.

Max Taylor.

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Convener of the Bail Reform Alliance