

Balance is pleased to introduce a new column in the form of comment on current legal issues of concern from the Northern Territory Criminal Lawyers Association. It is intended to make this a regular feature, allowing practitioners access to the in-depth views of this interest group.

It is also to be hoped that other groups within the profession will take up an invitation to write a regular or guest column on issues pertinent to their areas of interest, with the aim of promoting informed discussion within the legal community of the NT.

Mandatory Sentencing and Other Matters

Mandatory sentencing is wrong and dangerous. The reasons are many. Not the least of them being that it exposes members of this community to immediate imprisonment upon a first offence for any property crime, no matter how trivial. No second chance. No reasonable explanation considered. No consideration of the fact that compensation has been paid. No escape because of immediate admissions and a clear display of remorse. No acknowledgement of good character and the absence of prior convictions.

By now these things and the many other I have not taken the time to set out here should be well known to all members of the Northern Territory legal community whether they practise in the criminal jurisdiction or not. The regime of mandatory sentencing is an anathema to the fair and decent administration of justice. The fact that it will discriminate heavily against Aboriginal Territorians who are already over-represented in our prison system should be of significant concern to all lawyers who believe that the idea of justice has real meaning.

The maintenance of mandatory sentencing so far has rested upon the proposition put about by some politicians that the community is in favour of its introduction. To date there may be some truth in that assertion. However, it is hardly surprising that there is a degree of community support for the regime when politicians of both political parties assiduously avoid explaining to the general population the extent and reach of its application. In particular, the need for mandatory sentencing has been sold solely on the basis that it is designed to punish and deter offenders from breaking into people's homes. House breaking



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understandably draws forth strong emotions. The truth that our courts routinely sent such offenders to prison prior to the regime's introduction is never adverted to.

Lawyers have an obligation, wherever possible, to explain to lay members of the community the real harm that such a system can and will do to a broad spectrum of people in our society. We cannot afford to sit back and decline to take responsibility as a group for the fact that mandatory sentencing will hurt a lot of people who should not be hurt and who only a short time ago were protected by the sentencing discretion of our courts.

It is not a jurisdictional argument. Lawyers who practise entirely within the civil jurisdiction are not immune from a duty to assist in maintaining the principles enshrined in our criminal justice system. Many of those principles are critical to our democracy and all of them are important to the dignity of the individual.

Unfortunately, mandatory sentencing is not the only issue that the Criminal Lawyers Association has had to grapple with of late.

There is the looming debate in

relation to the "right to silence" which should also be of considerable interest to all legal practitioners.

It is important that lawyers who may not practise often or at all in criminal law feel free to join in the activities of the Association. You are welcome and you will enjoy yourselves.

Upon that note, I should mention the Criminal Lawyers Association end of year dinner to be held at the *Roma Bar* on 28 November 1997. The special guest of the evening will be Michael Adams, QC, Chief Magistrate of Victoria. Michael is a colourful personality, famous for his penchant for wearing Mickey Mouse watches, although at the time of securing him for this engagement, he was wearing his Phantom watch. Michael is an extremely entertaining speaker who will address the gathered throng on aspects of justice and advocacy in the Magistrates' Court. Entertainment will follow. Unfortunately, space at the venue is limited to about 70 or 80 people and all Criminal Lawyers Association dinners are booked out two or three days beforehand. Diary note the date and don't be disappointed. If the dinner is anything like past dinners, it will be a wild night.

Finally, the Criminal Lawyers Association looks forward to working with the Law Society of the Northern Territory upon matters of mutual interest in the year ahead. In that regard the Association is grateful to the editorial staff of *Balance* for making space available to keep the broader legal community abreast of issues that particularly concern members of the Association.

Ciao,

Jon Tippett, President

Criminal Lawyers Association NT