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Charity however often deals with symptoms instead of causes. The criminal justice system has to deal with both. If lawyers are to continue to advance their services on a pro bono basis it is the obligation of governments to be prepared to act in an effort to fix the causes. That is not presently being done certainly in the context of indigenous Australians. Courts are understaffed, legal resources are constantly being undercut or reprioritised and the criminal justice system is left to be the garbage bin of numerous areas of social disadvantage.

I have often reflected upon the fact that for a profession of rampant egotists we lawyers are so easily prepared to hide the value of the pro bono work daily carried out under such a modest bush. I agree with the Attorney General for the Commonwealth, it is about time we started yelling, "Hey you mob look what I just did!".

For relatively small organisations such as the Law Society Northern Territory there are crucial financial and personal considerations to be accounted for before a support scheme for legal practitioners prepared to undertake pro bono work could be developed and implemented. But the profession must ask itself, does it want such a scheme to be implemented? Hitherto the decision to undertake pro bono work has been the individual practitioner's or firm's prerogative. The legal profession as a whole has a proud tradition of encouraging its members to make themselves available for such work. Indeed the practice of criminal law was once almost entirely carried out on a pro bono basis. Unfortunately it didn't do much for equality before the law. Ned Kelly would probably have had a few words to say about the efficacy of that system.

Pro bono work usually requires a fair degree of legal skill. It is not an area of work to cut one's jurisprudential teeth upon. The very recent decision of the House of Lords in *Arthur JS Hall and Co v Simons* [2000] UKHL 38 removing a barrister's immunity from suit for negligence in court is a portent of things to come. It underscores the need for the profession to offer skilled pro bono services not just work that gives the doer a warm inner glow and the receiver the product of an amateur.

The legal profession should be careful to apply the definition of *pro bono publico* to describe such work in the strictest of terms. Outside the definition lies the responsibility of government to provide adequate and appropriate legal services. The legal profession should be slow to accept an obligation to perform any function that in effect sets it up as a whipping boy for the lack of effective government policy. In the area of the criminal law practitioners have generally seen the provision of pro bono services as a necessity rather than a prerogative. That should not be so.

I congratulate Daryl Williams, the Commonwealth Attorney-General for having the foresight and initiative to host a gathering such as this. For those in the legal profession committed to pro bono work it provides much needed encouragement to continue to find ways to serve the community and improve the effectiveness and dignity of our system of justice.

Maria Ceresa, Executive Officer

FERAE NATURAE

The decision by Justice O'Loughlin to permit a live broadcast of the ruling in the case of Gunner and Cubillo ruling says a lot about changes in the way justice is delivered to the public — and the background to how it went down is reported in this issue of *Balance*. But it brings to mind the fact that it was the Northern Territory that pioneered the televising of court decisions. On the 20th anniversary of the Chamberlain case, we shouldn't forget Dinnie Barritt's groundbreaking decision to broadcast his coronial decision on the Azaria case.

The fabulous thing about Dinnie's decision to broadcast was that he realised the importance of what he was about to say, and the importance of speaking directly to the public from the bench. While it took the Morling inquiry, perhaps, to vindicate his views, the real value of the episode was in bringing an explication of the justice system directly to the public.

O'Loughlin's decision to agree to the broadcast of his summary was a powerful extension of Barritt's brave move. It allowed the timely and accurate dissemination of the gist of an almost 700 page legal judgement to the person in the street. Many, perhaps, initially interpreted the judge's consent to broadcast as a sign that he would come down in favour of the plaintiffs. But neither was that to be, nor should it have been a motivation. Justice O'Loughlin's decision to broadcast was impeccable because of the public interest involved, not because of the result.

It was a result that involved considerable emotion. But it acknowledged, unequivocally, the existence and validity of the Stolen Generation. In so doing, his honour's decision delineated limits to the adversarial system of justice. What can we do to resolve historical issues where records no longer exist?

I am constantly inspired by the influence — far beyond the mere 400 local practitioners — of the NT profession. How the issue of the Stolen Generation is resolved is uncertain, but it seems to me that the local profession, in all its variety, is perfectly placed to be key players in reaching a solution.