



Opening of “Art from the Margins”

(presented by Wesley Mission, Brisbane and Brisbane Festival 08)
Albert Street Uniting Church
Friday, 25 July 2008, 5.30pm

The Hon P de Jersey AC Chief Justice

Three weeks ago, the judges gathered in this church with the other branches of the legal profession, and the public, for the annual service to mark the Opening of the Law Year. The gathering was attended by the usual level of ceremonial tradition. The Superintendent Minister of this church, the Reverend Lyn Burden, helpfully reminded us of the Prophet Micah’s confirmation of what is required of us all: “to do justice and to love kindness and to walk humbly with (our) God”. The alternate offerings, which were discarded, bear mention – thousands of rams: they’d have been worth a fortune when I lived in the ‘50’s’ as a child in the Central West of Queensland, but no longer; then ten thousand rivers of oil – as we know always and certainly now a precious commodity; and unimaginably, offering up the life of our first born: no, none of that is needed: justice, kindness and humility with God will suffice.

The challenge, of course, is to respond actually to that admonition, on the basis it is more than a piece of comfortably sounding rhetoric.

When newly-qualified legal practitioners are, eight times a year, admitted before overflow audiences in the Banco Court at the Supreme Courthouse, I urge them to work pro bono for the weak, marginalized and friendless in our community. I am pleased to confirm that the legal profession in Queensland shows an exceptional commitment to pro bono work, through a wide range of importantly beneficial facilities.

In the unfortunate situation where a person without means or other privilege must come before the courts of law, those persons are ultimately protected by the judicial oath, which assures equal treatment “without fear, favour or affection”. But judges are human beings, and we know we need to be helped in dealing with the increasingly diverse range of



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humanity coming before us. The Supreme and District Courts therefore maintain what we call an “Equal Treatment Benchbook”, where we comprehensively acknowledge the aspects which significantly differentiate court users, and how we judges can appropriately accommodate those differences.

The charter of the courts nevertheless remains locked, and rightly locked, into the law. Contrary to a common misconception, a judge’s oath requires the judge not to do justice, but to do justice “according to law” – that is, for the most part, subject to the law as ordained by the people’s elected representatives in the parliament. Were it otherwise, judges would inevitably bring idiosyncratic, or subjective notions of justice into their determinations, which would plainly be undesirable. That said, there are many situations in which judges must make evaluative or discretionary determinations, informed by their own innate perceptions of fairness. But overall, courts operate reasonably predictably, in assuring equality of treatment regardless of one’s personal circumstances.

Yet, it may be said, equal treatment in the courts is one thing, equality of opportunity is another, and equality of opportunity simply does not exist.

For a start, in relation to the court process, the cost of legal services means great limitation on access to the civil courts. That is where the legal profession’s pro bono work to some degree alleviates problems. The inaccessibility of civil justice will nevertheless always plague our system. That is because we are ultimately subject to the limited availability of legal aid. But of course it is not only impecuniosity which limits opportunity.

In the Court of Appeal recently, we were presented with mind-numbing evidence of the lack of opportunity plaguing young indigenous people in the Aurukun community. There is no question that executive government strives to identify beneficial responses to that lack of opportunity. So also do private citizens. I am very pleased currently to be associated with a foundation established at BBC to offer educational scholarships to boys from remote indigenous communities.



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This evening we focus on an absence of opportunity. One reflection is very close at hand, in our 9,000 or so fellow citizens nightly constrained to live and sleep in the streets and parks of Brisbane, simply for want of alternate accommodation. They are part of a much larger band – all those who lack more generally available resources and advantages. How can we empathise and work with these our deprived and vulnerable fellow citizens – consistently with our genuine, not just nominal, embrace of justice, kindness and Christian humility?

Oftentimes, the response regrettably does stop with the rhetorical flourish. On the other hand and most commendably, the Wesley Mission here in Brisbane is demonstrating an actual, hands-on commitment to understand and assist. An example is the Street Ministry in Kemp Place. The suggestion for this exhibition emerged from that very Ministry.

When recently I met some of those bright-eyed indigenous students at BBC, young men bristling with previously untapped talent, I was struck by the appalling prospect that such childhood talent and opportunity is very often forsaken for want of means, for want of a medium for development and expression. This exhibition throws up a comparable concern, that the exceptional talent evident in these works of art may never have been expressed, in form for appreciation by the artist and many others.

The exhibition comprises 140 works from 64 artists. All of the works have been created by people whose lives are sadly limited by disadvantage. Helping these talented people to express their creativity, by providing the boards the brushes and the paints; by giving them the opportunity to exhibit their work in a forum which many will enter; by giving them the opportunity to sell their work, to accumulate some, if even only a few, of the resources they really need; to recognize a probably more important off-shoot, the promotion of self-esteem: these are some of the potential achievements, the fine achievements, of the Wesley Mission’s initiative.



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The Brisbane Festival generally takes on board what are assessed as “big ideas”. Its express embrace of this exhibition provides good confirmation of the potential significance of the Mission’s initiative.

People become “marginalized” for a variety of reasons, often having little to do with their own capacity for traditionally useful living. No man is an island, as John Donne was wont to remind us, and also recalling Micah’s advice, all compassionate members of our community should be anxious to support an initiative like this. I hope those of us who are comparatively well off will recognize its potential and generously pledge support.

That said, and I assure you I said it with expectation, I suggest this exhibition has an ultimately more idealistic significance.

“Art” is a manifestation of creative human endeavour. The contradistinction is with nature, with which human art could never even begin to compete. Yet human art inspires in ways beyond rational explanation.

Most art is produced by people endowed with at least basic ordinary resources. The art we see in this exhibition has added distinction, and we know why.

Its idealistic significance rests in its confirmation of the grandeur of the human condition. Creativity is not quelled by disadvantage. It may go through a latent phase, but it will not be stifled by worldly constraints. Its revival comes with a medium for expression, as this exhibition demonstrates.

May I finally make three points?

First, I applaud the artists for the inspiration of their creations. Your talent, ladies and gentlemen, is substantial, and your displaying it, in a way challenges us all.



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Second, I commend the Wesley Mission, Brisbane for its compassionate and far-sighted embrace of the Micah admonition.

And third, I encourage all of us, and citizens beyond, to support the initiative generously, remembering vividly that 9,000 homeless people sleep in our streets and parks every night, summer and winter.

Many of our fellow human beings have a capacity to create and thereby inspire. They have that capacity, but regrettably not all of them presently have the opportunity to be active community contributors.

Our kind, just and humble contribution and support will I hope advance their situation, so that what is sometimes condemned, and rightly condemned, as privileged rhetoric, may one day be seen to have contributed to a much more socially acceptable reality: where not only is justice according to law assumed, but also that anterior right, equal opportunity.

With great pleasure, I formally open this wonderful exhibition, “Art from the Margins”.