



27 March 2009

Senator Guy Barnett
Chair
Legal and Constitutional Affairs References Committee
Parliament House
Canberra ACT 2600

By email to: peter.hallahan@aph.gov.au

Access to Justice Inquiry Report

Dear Senator Barnett

I refer to the above report released on 8 December 2009 and in particular to paragraphs 2.85 - 2.87.

With respect, it appears that I have been misquoted and a recommendation of the Committee has been based on that misquote.

It states at para 2.85

..., the NPBRC suggested that the number of legal practitioners undertaking pro bono legal assistance could be improved by:

- All classes of practising certificate having a mandatory pro bono legal work requirement; or ...

Footnote 69 references page 62 of the transcript of my appearance before the Committee in Sydney on Friday 11 September 2009.

This flows through into the recommendation of the Committee at para 2.87 which states:

The Committee recommends that state/territory governments and legal professional associations throughout Australia take such steps as are necessary to: ...

- Mandate a pro bono legal work requirement for all classes of practising certificate, including those issued to government employees; and ...

Unfortunately, as the transcript confirms this was not the suggestion of the NPBRC. The NPBRC is opposed to government imposing any mandatory requirement for lawyers to undertake pro bono and would not want the legal community to think that NPBRC has advocated such a position. It is damaging to the NPBRC's standing in the legal community to leave this suggestion on the record.

The NPBRC's position is accurately stated at page 62 of the transcript (5th paragraph from the top) of my evidence as follows:

One issue is the need for all classes of practising certificate **to authorise the holder of that certificate** to undertake pro bono legal work. At the moment that is inconsistent across jurisdictions ...

For example, the practising certificates now held by some corporate lawyers only authorise them to undertake legal work on behalf of their corporate employer.

To address this misunderstanding, the Centre intends to put out a media release to clarify its position stating that there appears to have been a mistake made in the writing of the Committee's report.

It is suggested that the correct interpretation of our evidence would lead to a recommendation as follows:

2.87 The Committee recommends that state/territory governments and legal professional associations throughout Australia take such steps as are necessary to: ...

- Ensure that all classes of practising certificate authorize the holder to undertake pro bono legal work, including those issued to government employees;

Otherwise may I congratulate you, fellow committee members and staff on an excellent report.

Yours sincerely

.....
John Corker
Executive Director