

We The People
Program 167
Justice Denied



Good day to you. Listeners may recall in 2009 a development and investment company called Great Southern went bust. The company was to develop blue gum, grape vine and olive tree plantations and while many small investors lost their life savings the courts have cleared the company of any wrong doing. However before Christmas the Bendigo bank which bought mortgages used as collateral for investors loans, announced it would begin foreclosing on those loans. This is their right of course but its unpleasant stuff. Around two billion dollars was raised through shareholders and so a lot of average Australians were involved. As you would expect the matter went to court and the court agreed to a settlement of around \$23 million compensation once the company's assets were sold. **Now to the point** and that is, the good folk who lost so much perhaps through bad advice or bad judgment get back just \$16 for every \$10,000 invested. Why so little you ask.....well that's because the legal fees consumed \$20 million of the \$23 million raised. Can you imagine how many lives have been ruined but the culprit is not the development company or the bank, rather it's the justice system. How on earth can nearly all the settlement be consumed by the legal fraternity so my ***narrative today is about justice denied.***

Justice should be for all and the courts and the legal system be fairly available to all especially in Australia. I understand that we have become a litigious society which has been in part generated by ambulance chasing lawyers and chook raffle class actions generating huge sums of money for those who practice the law. I am not saying all lawyers are shady but I am demonstrating with this example just how ridiculous the justice system has become. We spend well over \$100 million looking for a Malaysian Airlines plane we think has crashed into the sea off Western Australia but we can't run an affordable justice system which is truly available for *we the people*. We spend billions fighting other people's wars and letting big business send profits off shore without paying tax but we can't run an affordable truly accessible justice system for our own people. We fly the flag at half mast because some Arab king dies but we should fly the nation's flags at half mast for the Australian people facing courts where, because of the colossal expense it represents justice denied.

This happens every day and quietly, almost imperceptibly people lives are ruined because the price of justice is beyond the reach of the average Australian. Cheque book justice, is justice denied and isn't it an inalienable right in this democracy that we have justice guaranteed. When the cost of going to court is so very expensive it really means we must take a dreadful risk financially if we step inside a courtroom. I must admit to a degree of cynicism here where I cringe when I see the robes of the judges and QCs and the silly wigs they wear. That pomp and ceremony betrays a dark trade in the law which is sometimes more about personal wealth and power than it is about the people and justice. The tailored and unique enclave of the judges and magistrates and upper legal fraternity is a special club of spectacle and pageantry totally out of step with today's world. If all that represents a people's justice system how come it costs so much.

In 2012 the NSW Chief Justice Tom Bathurst said "middle-income earners were often unable to afford legal advice and appeared as unrepresented litigants in vitally important cases, which meant it was arguable they may be denied justice". In my view this also means the law is an ass when the proceedings in a court room are so complex that the average person cannot represent themselves. Mind you Tom Bathurst referred to the middle income earners but clearly he must have meant **low** and middle income earners, didn't he? The lower income folk like pensioners have no prospect of justice in Australia.

Now at this time it's important I make note of the excellent pro-bono work many solicitors carry out thus making a level of justice available but that's a privilege they bestow and not a right we can claim. In this regard their efforts are charitable and therefore not predictable. Unless something changes and soon, society will begin to collapse as justice is denied because that loss of a basic human right builds immense social pressure. Fifty years from now the seeds of destruction will blossom on a number of fronts including the loss of justice and then revolution will bear fruit. Not in Australia you say.....oh yes it will if we don't guard against it. Taking leave from Shakespeare your honour, *this is the autumn of our discontent.*

Courts adjourned now for tea and scones so until next time this is Kent Bayley.