INTRODUCTION

As the first outside editor of an issue of *Current Issues in Criminal Justice* I would like to thank the Institute of Criminology at Sydney University for the opportunity to participate in this way. The journal has certainly moved on from the days of the *Proceedings* series, publishing the proceedings of the various Institute of Criminology seminars. Current Issues maintains that tradition through the Contemporary Comment section of the new look journal, but has opened out into a wider forum for criminological debate. The result has been to give greater academic and scholarly weight to the journal while maintaining an open, pluralist policy which offers space for a range of contributors and contributions. The somewhat reverential, judicial tone of the *Proceedings* series has been transmuted into a more dynamic, less hierarchical mix of voices. Quite how the mix is constructed and perceived (mellifluous, babel, strident, symphonic, muzak) will no doubt be the subject of continuing discussion and interaction between the Institute, and the readers and writers of criminological research and comment. But the current staff of the Institute deserve congratulations for their efforts to significantly improve the quality, range and format of the journal.

In this issue the Contemporary Comment section is based upon an Institute seminar on extra-curial inquiries held in late 1992. The momentum behind this choice of topic was increasing public concern over miscarriages of justice. Cases such as Tim Anderson's conviction and then acquittal on a charge of murder arising out of the Hilton bombing served to crystallise a whole set of issues which had already surfaced in the Chamberlain, Condren, Blackburn, Splatt, McLeod-Lindsay, and other cases, in the spate of police shootings in Victoria and in the New South Wales police shootings of David Gundy and Darren Brennan. At the same time the much vaunted system of "British justice" was taking some severe body blows with the belated acknowledgement of fabrication, manipulation and suppression of evidence in cases such as the Birmingham Six, the Guildford Four, and others. Many of these concerns were given a focus in the Australian context in the publication by the group Academics for Justice of *Travesty! Miscarriages of Justice* (Pluto Press, 1991).

Tim Anderson's paper, "Miscarriages: What is the Problem?", delivered to the seminar, introduces the Contemporary Comment section. It provides a broad introduction to the context outlined above and argues for an expansive definition of miscarriages of justice which includes the "targeting of disadvantaged communities", "organised fabrication of evidence", "official propaganda", "the dragnet of bias: identification and forensic evidence", inequalities in resources between the defendant and the state, and aspects of courtroom theatrics and of the role of judge and jury.

The other contributions to the seminar were within a narrower, more specific compass. One of the issues arising out of the need for scrutiny and reform of the criminal justice system and its procedures is the issue of the conduct of extra-curial inquiries as a backup

to the operations of the appellate system. The main vehicle for such inquiries in New South Wales has been section 475 of the *Crimes Act* 1900, the origins of which go back to the *Criminal Law Amendment Act* 1883, prior to the introduction of a criminal appellate system in New South Wales in 1912. In November 1992 the Criminal Law Review Division of the New South Wales Attorney General's Department produced an Issues Paper, "Review of Section 475 of the Crimes Act 1900" and the Director of the Division, Ms Jillian Orchiston provided a commentary on the paper at the seminar. Permission has been kindly given to reprint a section of the Issues Paper dealing with the current interpretation and operation of section 475, which provides a useful basis for debate over procedural reform of extracurial inquiries.

Sydney solicitor Yvonne Swift who played an important role in both the Rendell and Loveday s475 inquiries contributes her thoughts on the inquiry process. Justice John Nader of the Northern Territory Supreme Court, a distinguished Australian jurist, offers some reflections on s475 in the light of the experience in the Northern Territory following the Chamberlain case. It should be noted with regret that despite invitation no paper was contributed to the seminar by Justice Nader's New South Wales judicial brethren. New South Wales barrister and medical practitioner Ray Burn in a brief comment raises the apparent anomaly that s475, being confined to action "after ... conviction", does not appear to cover people found unfit to plead and thus disadvantages those with mental disabilities.

Another important series of issues concern the appropriate forms of redress to be made in relation to miscarriages of justice. In many cases relevant governments have treated the victims of miscarriages shabbily; denying, delaying or offering desultory compensation. In many cases not even a simple apology has been forthcoming. The ability to secure compensation seems to be contingent on building a substantial media campaign, which in turn is dependant on access to resources and a host of other factors which do not necessarily reflect the degree of injury and injustice suffered. The results are often capricious; one might compare the relatively rapid agreement of the New South Wales government to pay substantial compensation to Harry Blackburn with the response to Darren Brennan, who still awaits compensation, as do others grievously wronged. There is an urgent need for legislation to provide a framework for a proper response to issues of redress. George Zdenkowski usefully sketches out the ground to be covered, providing some signposts for both research and action.

One of the outstanding features of Australian criminology over the last two decades has been the work of John Braithwaite. His *Crime, Shame and Reintegration* has received international acclaim and his work with Philip Pettit, *Not Just Deserts: a Republican Theory of Criminal Justice* has stimulated debate and provided an important alternative to the rise and rise of just deserts theory in sentencing debates. It is a testament to Braithwaite's influence that his work is now being subjected to scrutiny, questioning and debate. In the Articles section leading British and American sentencing scholars Andrew Ashworth and Andrew von Hirsch make a further contribution to a debate continued from previous issues of the journal. Then Institute of Criminology Masters student Peter de Graaff tests the application of shaming theory and republican criminology to the situation of indigenous minorities and Mark Findlay applies it to the structure of police authority in

different national settings and cultures. No doubt these debates will be joined in subsequent issues.

Finally in two articles on issues of topical concern, Susan Dann and Paul Wilson look at "Gun Ownership and Violence in Australia: Strategies for Reduction" and I discuss the "Culture of Prison Informing", prison informing having emerged as one of the issues common to some of the miscarriage cases in recent years. I might just mention that this paper was requested by, submitted to and accepted for publication in the journal long before I was asked to be the guest editor.

*David Brown**

* Associate Professor, Faculty of Law, University of New South Wales.