

## **Norma Parker Address**

Delivered by Grace Vaughan in 1981 at the 17<sup>th</sup> National AASW Conference

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### **The role of legislation in social change**

The mark of your ignorance is in the depth of your belief in injustice and tragedy.  
(Richard Bach)

Where we are free to act, we are also free to refrain from acting, and where we are able to say no, we are also able to say yes. (Aristotle)

The first of these quotations introduces a note of impatience and the second, a degree of tolerance towards those who are dissatisfied with, but not doing much about, social injustice: injustice brought about, in part, by the perpetuation of outmoded laws and the failure to introduce new, relevant laws.

Many will agree, the 'law is an ass' but we cannot use this as a definition—so 'the law is a set of rules which, in the long run, may be enforced in the courts'. Whence comes the law? Parliament is the primary source in that it creates statutes. The court is a secondary source in that decisions on particular cases are used as precedents, later courts using them as analagous with cases brought before them, that is the 'common law'. Thus the law is made by legislation and by common law. Who then makes the law? Apparently the legislature and the judicature. Even the most politically and legally ignorant among us will recognise that lawmaking is less simple than that.

In looking at the part legislation plays, in social change and social policy, we will look at the three arms of government and at how an understanding of their functions, tasks and roles may facilitate the social reformer in pursuit of a just welfare system. Keep in mind that social policies emerge as a result of decisions made in the politico-cultural milieu of present and past, with little or no thought of the future. Social legislation is subject to change, seldom to eradication or complete substitution or innovation—it is modified by succeeding governments according, inter alia, to their party philosophy, individual members

of parliament lobbying and pressure groups and the proximity of the next election. Patricia Tulloch<sup>1</sup>, echoes Bertrand Russell when she says 'social policy is geared to maintain equilibrium', that is, alterations occur only as are necessary to keep the masses quiet. The legislature, the judicature and the executive; the three arms of government are all concerned with the law and if we are to bring about any social change, we need to understand what they do in the process, how they do it, and why?

Let us look first at the arm of government most concerned with the genesis of laws—the legislature. Here statutes are created by bills being brought before parliament, being passed in amended form or untouched, becoming acts by being endorsed by the Queen's representative and, having been proclaimed, placed on the statute books. Once the bill is brought by the government, represented by a minister, before the parliament, the time for intervention by the electorate is all but past. There are notable exceptions to this, but speeches from the Opposition, the picketing of Parliament House, the writing of indignant letters to the press and members, are bound to achieve little. The period before party-room discussion of the bill is the time for specific action to have the particular bill altered or rejected and general moves to have the whole area of policy that affects the content of the bill changed.

The basic policies of the party in government will affect social welfare legislation as it does all other legislation (and taking a broad definition of welfare, any business that comes before the legislature affects the welfare of the people). Most bills are instigated by government departments, public servants putting them to the minister who takes them to cabinet as necessary alterations for the practical purposes of administering the departments in the face of changing conditions.

Interest groups, mainly those who have affinity with the policies of the government, have influence on the making of bills. The RSL representative was actually given observer status in the Cabinet Room itself during several parliaments in the 50s and 60s. Other interest groups, either enduring or special issue types, by effective lobbying can be instrumental in inducing the government to introduce bills or alter those existing as acts or ministers' intended bills.

The information media, through press barons' whims or by insistent and sometimes objective reporting of issues, can worry cabinets or backbenchers about public opinion and thus influence the presentation of bills. There are few private members' bills introduced and a minute number of those are ever passed. By definition they challenge the government, so

a government member is seen as a group deviant and an opposition member is almost automatically resisted. A private member occupying time which colleagues feel should be spent on other parliamentary duties, such as committees and electorate work, is thus set apart. As well, little assistance is obtainable from the public service, while a minister has the assistance of both his own department and the crown law parliamentary draftsmen. Even though almost doomed to failure, the private member's bill has value, in that it often breaks new ground, and both government and opposition use it as a sounding board to gauge its popularity for their future guidance.

The use of backbenchers, by the reformer, needs careful attention as to energy expenditure weighed against return. Some members have more power than others, either because of personality, position, or knowing where the body is hidden. Generally, though, we need to acknowledge that we are living under a system of cabinet government in which government back-benchers have as little or less power than the opposition, where party policies must be at least seen to be observed, but where for the most part the personal philosophies of the members of cabinet dominate.

These philosophies, those of other members, and the consensus reached by parliamentary parties, tempered by the authority vested in individual members by virtue of legal election (as apart from party pre-selection) do not always coincide exactly or even roughly with party philosophy or even policies. The cabinet system of government—although in Australia, the parliaments are grossly overpopulated—reduces the number of real decision-makers to a handful, and in my home State and this one in which I am a guest, permit decisions to be made by Premiers. It also permits great power to fall into the hands of the media and interest groups which support that cabinet and/or premier. Their aims dominate the decisions, although they are seldom consonant with, nor do they attempt to ascertain the wishes of, the whole society.

Further, the disrepute into which politics has fallen in Australia has led to a general lowering of the calibre of those offering for election to parliaments and to an electorate which, as Max Harris describes it,

boasts it neither knows nor cares about the Governments, it accidentally gets and invariably deserves and goes zombying through all the political performances either in a state of indifference or inarticulate contempt!<sup>2</sup>

The social reformer will need to pursue many paths to introduce new, or change old, laws in the statute making stage. Parties can be influenced to modify, scrap, or introduce policies; pressure can be brought to bear on the media, interest groups and individual members of parliament. More importantly, unless he wants merely to substitute his influence for that of the political decision-maker, and thus be open to the same accusation of elitism, he must create awareness among those who are disadvantaged under the system. He must facilitate and encourage the formation of groups united in a new hopefulness of their potential to bring about change, demystify the impressions about structures and systems that have reduced their confidence and allowed a legacy of powerlessness to invade them from birth. The greatest injustice in welfare is the making of social legislation on the basis of values of those who are advantaged.

We turn now to the arm of government which is taking a central part in this conference, the judicature. Apart from its function as the instigator of the common law, it is responsible for interpreting the statutes. John Rawls in *A Theory of Justice* [1971], says that the courts exist to protect the people's rights and it is peculiarly the business of the courts to make sure that the people get their rights. Few people in our society would see the judicature in this light. More likely, its image is that of rigid interpreter of words read literally no matter how unfair. The intent of the legislators is always the prime consideration and they may not have had the rights of the people in mind. It is necessary to look for an explanation of the 'establishment-oriented' reputation of the legal profession in Australia, to the socioeconomic background of most judges and lawyers.

Despite the abolition of tertiary fees, recent studies show that there has been little improvement in the disproportionately large percentage of students in universities and colleges of advanced education with professional, executive, or managerial fathers relative to the whole population, since the exhaustive studies of the 60s by the Australian Council of Educational Research and Professor Schonell, synthesised and widely publicised by Craig McGregor, and done when fees and Commonwealth Scholarships were the order of the day. Blind Freddy knew the abolition of fees would only encourage outstanding lower income strata students and not change the statistical lopsidedness of enrolments because other earlier in life measures have not been taken.

Faculties of Law are no exception in the trend to draw tertiary students in this disproportionate way, so your average judge comes from a profession dominated by the socio-economically advantaged, is appointed by governments that are conservative in their policies (the numbers of government years of the Labor Party in all Australian parliaments

over the last thirty years is embarrassingly small), and lobbied for, prior to appointment by the establishment and defensive, oligarchical bar associations. There are notable and remarkable exceptions to the conclusions that may be drawn from the circumstances surrounding the training of lawyers and appointments to the bench. But notable and remarkable are adjectives produced by the brilliance, perspicacity and compassion of those individual lawyers, not by a system that allows the levels of aspiration of those from less than advantaged groups to be lowered, and which actively forbids equal access to opportunity for all Australians. This system deprives individuals of their capacity to achieve, and lowers the standards of the society by robbing it of its potential. We should be looking at the qualities and orientations of those nominating and lobbying, as well as those nominated for the bench.

Like social workers, lawyers in training for their profession need to have more interdisciplinary exposure in their social sciences. Ralph Nader<sup>3</sup> says that when he attended Harvard Law School, faculty assumed that 'there was no poverty in America, that tenants needed very little assistance, and that there was no pollution'. He asked his professors:

'Why aren't there courses on such mundane subjects as food and the law, while there are a number of courses entitled Closed Corporations, or Security Regulations?'

A simple reply is that the Law School reflected the power system outside. The power system wanted law school graduates to represent corporations and businesses. The impoverished people were knocking on the doors of the Harvard Law School demanding that lawyers be trained in helping poor people. They didn't have the retainers. The definition of violence in the Law School curriculum was the corporate definition, the elite, the establishment definition. The course on criminal law dealt with street crime, burglary, homicide, arson. It had a little bit on embezzlement and sort of nibbled at the white collar area. Ninety per cent of the course was on crime in the streets and less than ten per cent on crime in the suites—the executive suites. And yet, the overwhelming source of crime comes from business! Pollution crimes—the violence which gives people emphysema and cancer, depreciates and destroys their property and affects the agricultural land adversely; bribing of government—over 500 have admitted in writing that

they have been bribing, overseas and in our country. They call it questionable payments. Put that down in your dictionary of hypocrisy, along with defoliation. The nuclear industry, by the way, has a great series of phrases to describe things that aren't very pleasurable to contemplate. An accident is an 'incident'. An explosion is 'an energetic disassembly'.

If faculties of law are persuaded to train their graduates to be more welfare-orientated, they may find that the law can gain respect in its own right rather than having to depend so much on 'awe' as George Bernard Shaw<sup>4</sup> describes it.

'Awe'... is a powerful control which operates through discouragement, and for those who do not naturally inspire 'awe' it can be exploited by giving it to ordinary yahoos who can be made to produce an illusion of superiority by unusual robes, retinues and escorts, magnificent liveries and uniforms; in short, by making animated idols of them. Uniforms, vestments, robes, maces, diadems, retinues, pageants, processions, cannon salutes and codes of etiquette are artificial 'awe' producers to give authority to persons who are not natural 'awe' producers ... Someday an intelligent bio-physicist will perhaps find out how to measure this force ... Meanwhile there is no denying that it exists and must be recognised and even exploited by every practical ruler.

There is no doubt that the 'awe' of the law suffered a dint when citizens discovered that there was not a law against their appearing in the court or even approaching certain government departments without legal representation and many now handle their own divorces and do their own land conveyancing, among other things. Further dints have been made by eminent socially conscious lawyers such as Sackville and Kirby, so that ordinary people are seeing the law as that which is made by man, not legal demigods.

The higher courts are more likely to have widespread effects on social welfare than the lower, and in those higher courts we find groups of justices. Here the internal interrelationships are not to be underestimated in their influence on rulings and decisions. Bargaining, reciprocity and equilibrium abound in an effort to produce a finding that will satisfy all justices. A dissenting opinion is often as important as a majority ruling in influencing legislature and executive in law reform. Walter Murphy<sup>5</sup> says a reputation for writing a competent dissenting opinion may give a justice influence in making the majority

accommodate their opinion to the dissenter's satisfaction so that he will not feel it necessary to write one. Further, a justice with a particular policy bent may have as his reference group those in law practice or academic life who could assist by writing papers supporting him, thus giving him courage to write dissents although risking his identification with the court or leaving himself open to allegations of overexposure to outsiders. So defeats may be turned into mini-victories for the judge with a welfare bent. His impatience with present systems and tolerance of his fellow judges may happily combine to allow him to win the final battle for social justice.

The judicature in its secondary lawmaking function through the courts could, by the decision-making of the bench, hand down rulings that effect social reform; but, like other professions including social work, has few practitioners prepared to move from the safety of established practice into the wider arena where they feel vulnerable. The layman, therefore, may need to be the initiator using the courts to test the law. For this the performer needs funds, sympathetic lawyers and support from groups and the media. Even after such lay initiative, frustration may follow, for example, the case of Karen Green who received a favourable decision from the court concerning the payment by Social Security of unemployment benefit when a school leaver, only to find that a precedent was not set, the Director-General ruling that each case must be contested. The court had interpreted the law as they thought the legislators intended it but the government of Karen Green's time had different intentions and these were expressed by the executive. Which brings us to this third arm of government ...

Bureaucrats—the word is used in the Weberian not derogatory sense—are responsible for the production of regulations that govern every statute placed on the books, as they were mainly responsible for the wording of the bill before it was enacted. The regulations as prepared by the departments need to be ratified by the parliament—in the parlance of the House they are 'laid on the table' for a statutory number of days, but are rarely even scanned by parliamentarians unless their attention has been drawn to them by interest groups.

The chief function of the public service in regard to the law is the implementation of the statutes. Like all the others involved in the processing of laws, they are subject to personal pressures, their own conditioning, family and friends' opinions, work group solidarity and dissension, public pressures from those citizens with which their departments deal, and from the media. Mostly they are influenced by the government of the day, being answerable to the minister who, in theory, is responsible for their actions to the parliament—a tradition

rather easily overlooked these days. Laws introduced by governments of a different complexion to those presently in power, the regulations for which were placed before those legislators for approval as explications of the intent of the statute, are now to be administered by members of a cabinet with opposite or at least different views. The bureaucrat makes an effort to preserve the status quo, because this causes least disruption to the business of the department by preserving the relative harmony of the work team and the relative satisfaction of the customers.

In most instances, the new minister will discuss with the departmental chief, and perhaps senior officers, his government's policies, particularly and perhaps solely to do with that department. The model public servant will shift his orientation in implementing statutes and devising and altering regulations to that of the reigning government. The extent to which that shift occurs will depend on the degree of insistence of the minister, the bureaucrat's own intensity of political belief and the relevance of the department's operations to the philosophy and emphasised policies of the new government and its party, which, as, mentioned before, need not be congruent.

In recent years, in the federal sphere especially, the transition for the public service from one parliament to the next has not been tranquil, to say the least. The 1972 election saw the Labor Party with a majority in the House of Representatives for the first time in 23 years.

The Whitlam Government had been preparing sweeping changes, not only through its party's conference decisions on policy, but its parliamentary party had prepared a manifesto on what it would do in each department and produced a book, *Towards a new Australia*, in which the shadow ministers of the then opposition propounded solutions to the problems confronting the nation. Public servants knew they were in for a busy time, especially in the welfare field because the Labor Party had a lifelong commitment to improving the lot of the disadvantaged and a record for introducing measures of reform. Social Security was asked to make radical changes in its approach to income maintenance, less inspection and more social work, a gentler and more experienced reception desk team for the clients and so on. Then in 1975 came the reaction and though, historically, reforms gained during radical governments' terms have not usually been altered by conservative successors, a reactionary government is a different kettle of fish.

For the reformer the executive arm of government would appear to be the most preferable on which to concentrate for short term changes: leading as it does to the cabinet through each minister; peopled as it is by more cosmopolitan personnel than the other two arms; subject as it is to face-to-face relationships with those affected by government decisions; listening as it does and heeding as it sometimes does the complaints and suggestions of customers and reformers; and having as it does the major task of wording bills designed for its own operational needs or at the behest of ministers; making regulations to implement statutes and implementing all statutes, regulations, departmental and ministerial directives in its administrative tasks day after day. It presents more points of intervention, than do the legislature and the judicature. The legislators are limited by survival needs, by party philosophy that is difficult to change, even within the party, and by the relatively small number of individuals concerned even in its most party-free voting form, that of local government. In the judicature also, we can only hope for radical changes in the long term as already suggested by the inclusion of all socio-economic strata and more behavioural science exposure in the profession.

However, we may take heart from the increasing number of lawyers who also have social work degrees and may become judges. An important factor, too, is the relatively high percentage of lawyers who become members of parliament. Their profession shows social work a clean pair of heels, it appears that I am the only professionally trained social worker ever to have entered a parliament in Australia. The commitment by lawyers to giving parliamentary service has an interesting aetiology into which I must not digress, but it includes the propensity of Catholic teachers to encourage their brightest boys to take up the law with the aim of getting into parliament and giving the Irish a fair go, this was so successful that forty or so years ago the Cahill Government cabinet in New SouthWales was nearly all Catholic and the majority were lawyers! The present day trend is for more lawyers to take up politics and hopefully our co-operation with them will have a twofold blessing of reform in the judicature and the legislature.

This outline of processes and people to do with the law in government may seem obvious and elementary but has been sketched as a background to confronting the major task of reassessing values and personal philosophies as a means of bringing about a just welfare system in which legislation plays a major part, being ideally rules for societal order embodying the common will for the common good.

Australians are inhibited in their ability to have a voice in the planning of society's future by their inherited suspicion and sometimes contempt for things political. Often, those with

potentially the greatest opportunities to have access to political resources, to develop the skills of political influence, and to present issues of vital importance, such as social welfare, are at the most, cynical, or at least are lacking in confidence. Francis Bacon said 'knowledge is power'. Intelligence and intellectual attainments in specific areas may be marginally helpful, but knowledge of the political system is the weapon to use if concerned persons want to take part in determining the direction and purpose of our society. Interest and awareness are the essential ingredients for being prepared to use political power for the extraordinary changes which must result from the demographic vagaries associated with an ageing population, technological wonders and, hopefully, the anti-economic growth revolution. If we are to help society to adapt to rapidly changing demands, and, at the same time, to eliminate from just welfare 'just' as the adverb meaning 'merely' and so often attached in a derogatory way to 'welfare', and substitute the adjective 'just' as a fair and upright description of a welfare system of which we can be proud, then we need to participate to our fullest capacity. We have the issue, the skills may be obtained and the resources are there.

For purposes of long range reform, the judicature is the most likely resource to be used, given the present political climate—with the law we associate justice, that's a good start. Its personnel are appointed with almost inviolable tenure (a mixed blessing, but one we can turn to good account) and despite its bias of origins from the privileged strata of society, it may be able to escape from the party-political and survival restraints of the legislature and the executive.

The last Norma Parker address warned that economists advising legislators needed to be influenced if the plight of the underprivileged was to be mitigated. Now we need to influence and work with our colleagues in the legal profession to bring about our goal of a just welfare system. If they will look after the justice with its Oxford Dictionary definition of justness and fairness, we can get on with the welfare, defined by the same dictionary as happiness, good fortune, wellbeing of person, community.

A threat to just welfare is the tendency for legislation to be exclusive rather than inclusive. We may say that 19th century legislation for social reform was more inclusive than that passed in most of our century. Once hours and conditions of work, health, hygiene and child labour levels had reached subsistence grade, laws started downhill from inclusion to exclusion. We have the concept here of 'in' and 'out' groups—the 'we' and 'they'—as the 'advantaged,' with increasing appetites for available resources, see the 'disadvantaged' as the cause of their taxation problems and thus the barrier to the satisfaction of their

hedonistic wants. Craig Mcgregor<sup>6</sup> in *Profile of Australia* calls the tendency to non-altruistic individualism among Australians 'purposeful hedonism'. 'In the end', he says, 'Australians prefer having a good time to anything else. It's the pleasures of life which count—not the responsibilities'. He is joined by Manning Clark who suggests Australians are engaged in a wholehearted pursuit of happiness without guilt. The solution is a simpler lifestyle, but acceptance of this needs a philosophy of sharing and leads to the age-old argument of individualism versus collectivism which should no longer be debated. Rather we should accept the concept of the 'individual in society'.

Since the 1977 and 1979 Norma Parker addresses when your attention was drawn to the divisions in our society, they have become exacerbated. Evidence of this can be seen in the widespread practice of 'blaming the victim' exemplified by cultural and political and legal attitudes supporting the exclusion of the resourceless from participation in the society because of their deviant behaviour in needing a few crumbs from the affluent Australian table. The magnitude of their deviance is often unjustly estimated as shown in a recent Expert meeting held by the European Centre for Social Welfare, Training and Research on the 'Use and abuse of social services and benefits' in Switzerland, at which it was agreed that in the countries for which the meeting had statistics, only 1%–3% of those receiving benefits were involved in fraud and abuse, while non-use of social services and social assistance by those entitled reached up to 50% of persons concerned. Also, 'mistargeting' of resources due to administrative errors was found to be more frequent than client fraud or abuse.

Warnings by distinguished and respected social scientists have been ignored while the monetarists and economic-growth advocates are accepted as 'Solomons'. Titmuss in 1959 saw the 'Irresponsible Society' emerging; Coombs in the 1970 Boyer Lectures, and since, has advocated welfare being accepted as a societal necessity and given high priority as an autonomous institutional area; Schumacher, until his death in 1977, repeated adamantly that without human and social development, technology can achieve nothing, and that our present way of life will destroy itself by its own contradictions within half a century<sup>7</sup> (an echo of Bertrand Russell's advice that science without love is useless). The list goes on, including John Galbraith and others of great stature.

As demonstrated in relation to the exclusion of lower socio-economic students, efforts must be aimed at including, not just for humane reasons but for societal standards, those groups who appear to have little to offer. We need reform of basic philosophy and values behind present attitudes and legislation, or a rather frightening picture of future society

<sup>7</sup> Norma Parker Address delivered by Grace Vaughan in 1981 at the 17<sup>th</sup> National AASW Conference  
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emerges. Elitism has a history of association with deteriorating societies. It is too late for gentle admonitions to be effective, the smug satisfaction of the elites needs a jackhammer to crack its peanut indifference.

Pressures are heavy on the relatively advantaged, even those who genuinely seek social justice, to look up, not down, when assessing their lifestyle 'needs'. Ever increasing appetites, whipped up by advertisements creating envy for comfort and luxury, means fighting against higher taxes. Thus we find widespread tolerance of the injustice of health insurance that is crushingly heavy on lower income groups and as we proceed up the income levels become lighter, not just relatively, but absolutely because of tax deductions. Health insurance and the health system in itself could be the topic of a paper on social justice. Suffice it to say that the cynical approach to health of its own federal minister is typified in a recently reported discussion<sup>8</sup> he had with the Treasurer, on whether any changes should be made to foreign investment guidelines in relation to the health care system. It is understood that he will seek a tightening of these because the government's health changes would result in great viability and profit for private hospitals and the Health Department was keen to ensure that those benefits went to Australian investors! Such injustices should appal any concerned human being. We are less humane because we are more and more rigidly socially stratified by residence, occupation and income; more and more socially isolated by the dominance of one-way communication; and more and more politically separated by attitudes of the 'we-they' kind.

Graycar<sup>9</sup> says that social policies are today distinguished by incrementalist administration rather than visionary politics. Here we see 'just' in the sense of 'merely' rather than a ringing call for welfare that is just. To 'create and recreate an evolving social consensus that will protect the weak', as Donnison<sup>10</sup> urges, means putting social before economic goals. That aim is becoming harder to achieve as socialists and private enterprise advocates, social scientists and economists, churchmen and stockbrokers alike, have become conditioned to what is seen by the short-sighted as the essential nature of economic growth and resource development. Even UNESCO, despite protests by the International Federation of Social Workers and others, accepted in 1979 a credo which acknowledges the need for economic achievement in order that social reforms and improvements may ensue. We have fallen prey to the trap predicted by Coombs in *The fragile pattern*<sup>11</sup> that:—

If we raise growth to the pedestal of the absolutely good ... we shall, for the present, at least achieve growth but we will do so at the expense of other

values.

Growth is indeed a jealous god. Galbraith says,

If we continue to believe that the goals of the industrial system—the expansion of output, the companion increase in consumption, technological advance, the public images that sustain it—are co-ordinate with life, then all our lives will be in the service of these goals. What is consistent with these ends we shall have or be allowed; all else will be off limits.

Coombs goes on,

It is well known that the Scandinavian Lemming has a population explosion every few years, when vast herds of lemmings cross the country, swimming river after river, until they reach the sea and then they swim until they drown. This phenomenon has puzzled naturalists for generations and theories of a genetic 'death-wish' have been seriously advanced. The latest hypothesis is that the lemming is merely short-sighted. He has successfully crossed a number of stretches of water, temporarily to solve his problem of survival and he is at the end unable to distinguish the sea from the streams he has successfully crossed so far.

Mankind would be unwise to assume that, because technology has enabled him to cross so many rivers of threatened scarcity to reach survival, he will be able to deal with the oceanic problems which bring him into absolute conflict with the total environment of which he is a part. Indeed, were it possible to take a God-like view of the human species in his environment—physical and social, one could readily conclude the whole species had become itself a disease. Even if the God-like viewer were one with a special covenant with mankind and did not view all his creatures with equal tenderness and concern, he could properly conclude that the human species was like a cancerous growth reproducing itself beyond control and living parasitically on, rather than symbiotically with, the rest of creation and threatening to destroy not merely the environment but itself also.

This picture of the human-at-large destroying more than it creates is reinforced by the knowledge that the 'world armament bill is a million dollars per minute. What immeasurable good is being poured into the sterile waste land of arms'. This expostulation came from the

Conservative Canberra Times.<sup>12</sup> If it makes us feel better that the rest of the world is as bad or worse than we are, take heed that our lack of care for others extends beyond our shores. Our foreign aid is currently 0.45% of gross domestic product, the minimum recommendation by United Nations being 0.7%.

In order to marshal effort, change attitudes and laws, the reformer will have to be well informed so that he may, in turn, inform and argue. This presents a sound reason for a partnership of social workers to inform, and lawyers to argue, as they pursue reform together. The reformer needs to understand the systems of Australian life—to know the structure in which the systems operate and how that operation is affected by individuals and organisations with their differences in needs, goals and methods. As Walter Lippman said, 'looking is not sufficient; first we look then we know, and only then do we see.' Our own propensity to private self-satisfaction, public conviction of powerlessness and economic stupefaction, by the commercial mystifiers are compounded by the flight of many academics, intellectuals and those in all sections of the arts into the safety of esoteric arenas.

We hear academics and others in social work pontificating on aspects of social work as it conflicts with the law and not having the foggiest idea of the statutes under which practitioners in public service and some non-government organisations work; nor of the complications to those statutes caused by regulations attached to them and the interpretation of both by their superiors. Further, they make little or no effort to pursue or teach others how to effect changes to the law itself so that it will give justice to clients. Practitioners and educators alike deliver themselves by such pontifications into the hands of our detractors who unfairly perhaps expect so much and often get so little from us.

Graycar's typology of lobbies as 'direct interest', 'executive' and 'conscience' could well be combined more effectively than at present, and social workers who already are in positions to belong to the last two, and may well belong to all three, should be in the forefront of political lobbying. Social workers must be visible in public life not as ill-informed detractors of 'what is' but as positive, actively involved citizens. Decision-making participation at any level will be effective if there are enough informed individuals committed to the philosophy of sharing. Decision-makers are, for the most part, those in privileged positions. The establishment must be invaded by those with a clear understanding of their own philosophic base and comprehensive knowledge of the structure and function of Australian societal systems; promoting community involvement as a counter to elitism; and attacking the entrenched pessimism towards the solution of social problems with energy, vision and

optimism. The elitist politicians hate community involvement; protests and marches scare the Johs and Charlies of the parliamentary sphere. Why do they race to pass such blatantly repressive measures against peaceful assembly? Because they want to preserve apathy, their greatest ally!

Nader says that 'Cultures world wide ... have not developed a deep set commitment ... of civic involvement'. Present and future high levels of communication technology give us every opportunity for that commitment. Nader sees three prerequisites to social justice—people must be informed, get angry, and increase their level of citizen involvement. We can approach reform through our own special interest but to be effective it must be on a wide front. Legislation to increase welfare service is not complete without a Bill of Rights, Freedom of Information Act or media access. Democracy that keeps telling us that we can trust our elected representatives—and if we can't, tip them out at the next election—is no democracy at all. Maybe, as Nader says, our civil liberties and civil rights are being abused because we don't pursue our civic duties. The relatively resourceless, by definition, are unlikely to achieve much and where they are mobilised are competing with similar groups, as are the concerned privileged few who work for reform and relief.

The reform movement to be effective must reach a consensus and to do that, the philosophic base, for moral and practical purposes, has to be one of sharing. Confidently knowing that we need to achieve a society of reasonable equity and how we are going to pay for it is very different from either ambitiously seeking absolute equality or plaintively asking 'can we afford welfare that is just?' Our record in spending on social welfare is miserly compared to similarly wealthy countries. Kaim-Caudle<sup>13</sup> in his ten-country study showed that public social security spending in Australia was well exceeded by eight of the ten (even by Ireland) and was only in front of the USA—and Mal is over there now learning how to get behind the US, in which position he thinks we belong.

A visionary social policy would have a guaranteed minimum income plus compensatory provision in all institutional areas to facilitate access to equal opportunity—not equal opportunity to sleep under the bridges but to enable those disadvantaged, by whatever criteria, to contribute to their fullest capacity to the society and to develop to the utmost their individual potential. As Adam Graycar supported by Christopher Jenckes<sup>14</sup> suggests, both rewards for competitive success and the costs of failure should be reduced. Until such equal access to opportunity is facilitated, neither those included or those excluded will feel that the society is complete—those 'in' groups will see the 'out' groups as encumbrances, as different in kind, not in degree of privilege—those 'out' groups will be convinced of their

helplessness and be without hope of inclusion.

Divisions between excluded people in their push for inclusion is a great asset to the maintenance of the status quo—priorities are difficult to determine. The government for the most part will respond to pressure that while corresponding roughly to their philosophies, will guarantee the most votes, the greatest financial or media support and satisfy the greatest demand with the least outlay of resources. Looking at Graycar's typology of lobbies, we may see that in terms of a unified approach to bring about a just welfare system, the direct interest lobby is limited by its specific nature; the executive lobby by political constraints; so perhaps the reformers' hopes lie in the conscience lobby; which, motivated by basic philosophy for social justice, can break out of these constraints. Such a lobby or movement must have more than a soul full of hope, it needs among its members, practitioners and educators from all disciplines who can criticise, search and reform the legislation which discriminates, avoids reform and perpetuates inequalities and social injustice—again lawyers are obvious choices to be recruited.

It is heartening to note the observations of Robert Van Krieken<sup>15</sup> that in social science 'radical critiques of welfare theory' are recently being 'supported by ... concrete analyses of welfare practice'. Thus the bluff of social workers and others indulging in a revolutionary stance and emission of brave new words has been called. There is nothing to be gained by grizzling about lack of power and chasing it by seeking prestige; by advocating or denigrating 'professionalism', by seeking public notice; by short-term or even goal-less social activism, unless these efforts to gain power are accompanied by sound knowledge of the structures, functions, processes and relationships of political and economic matters.

For too long we have said what 'ought' to be without knowing what 'is'—we can see and rail against the latter and envisage what ought to be without knowledge about the alternative processes which will reform 'is' to 'ought'.

We are reproaching governments, organisations (including Australian Association of Social Workers and social work schools), and individuals for acting in ways that represent to them primarily, survival, and secondarily, comfort; while we have not tackled in our profession the fundamental tenet of personal philosophy.

Peter Leonard<sup>16</sup> says 'we need to understand the way in which dominant ideologies are psychologically embedded in individual consciousness'. It is a vain hope to wait for revolution or automatic adjustment to equilibrium. In advanced capitalism, he goes on, serious economic crises will not automatically give rise to serious political crises. Rather a

continuous ideological battle against the dominant definitions of the social world which legitimates its structures is a necessary precondition of significant change. The challenge is to change the dominance of economic determinism which has meant the exercise of leadership by the economic growth advocates over the rest of society, through gaining their active consent by convincing them that welfare provisions are completely dependent on such economic dominance. 'The rest' keep on consenting, despite the *reduction* in welfare provisions while sections of society grow fat on profits from economic growth without regard to physical or social environments.

Leonard sees a twofold response by the state to social work at the political level—one is 'the increasing organizational control over the actual work processes of social workers including their exclusion from policy planning or influencing to struggle with massive workloads and the day to day operations of the service'. Second is the response of the state apparatus to redefine 'professionalism so that it fits more neatly into demands for managerial control'. This response is accompanied by directives questioning 'the extent to which individuals can justify the degree of autonomy which was once common to the older professions' and suggesting 'action to change social policy ... is political action and outside the daily responsibility of the social worker but not of their responsibility as members of the profession or as citizens'—directives all too familiar to social workers in this country.

Here knowledge is power—social workers are being bluffed by top management with such directives and many are taking it lying down. Mostly, because they feel alone and powerless—they should, as Leonard says, 'be seeing problems collectively and organizing collectively (with other workers and welfare clients) to confront them. This may begin with the development of team practice in the social work agency'. At the ideological level 'the state response to social work has been to attempt to reinforce pathology models of social problems' ... 'to be utilized for the ideological legitimation of existing structures'. Such pathological approaches to the explanation of 'the contradiction between social work values and aspirations and the brute realities of day to day work' are however unsatisfactory to most social workers who so frequently encounter 'pain, poverty and oppression'. In the short run, they may accept that these theories 'legitimate existing services or 'safe' innovations because social workers desperately need some justification for the conflicts they experience between their oppressive and (at least potentially) progressive activities—but for many they fail even at this level ... they must either get out of social work or move up the organization'. There is disillusionment, despair, confusion, almost unbearable strain, and profound anger.

So, two of Nader's prerequisites for social justice seeking have been covered—anger and being informed. Turning again to the third, increasing the level of citizen involvement, let social workers listen to Shaw:

Law is no respecter of persons or circumstances; otherwise it would not be law. Yet as it deals always with persons and circumstances, it would produce intolerable injustices and outrages if it were inflexibly and inexorably administrated. The law itself must be inflexible; but there must be between the law and the citizen some institution which is elastic and is moved by mercy, compassion, and respect for persons. There must be a covenant of grace as well as a covenant of law.

The conscience lobby can be that 'institution' pro tem working towards the establishment of welfare as an institutional area in its own right. Such a lobby may take no concrete form, but sufficient persons with a basic philosophy of caring and sharing and sufficiently informed to counter the forces of unbridled economic domination, will create a groundswell. This can be just as commanding in its ubiquity of opinion and just as demanding of resources to create a just welfare system, as is the present abounding belief in 'no welfare without economic growth'.

Justice in the sense of legal disinterest is supportable if all other things are equal. Justice in the sense of fairness needs to be pursued in all institutional areas. Compensatory measures will be needed; in education, the cut-backs in all levels of education have been accompanied recently by the astonishing announcement that the federal government's pupil grants are \$625 in private schools, and \$180 in government schools, indicating the savage direction in which approval of personal material success is taking us; in health, where, once beyond the poorest welfare recipient, and those who, cap in hand, have been declared disadvantaged, all are considered equally able to provide for their own physical wellbeing which has been thrown into the market place like any commodity; in leisure and recreation, where few can afford costs involved in music, art or many sports, except the oft-quoted geniuses from underprivileged groups who succeed after incredibly hard work and often miraculous luck; in family support, where we still, unlike many enlightened European nations, place the heaviest burdens on parents when they are starting off with housing, children, continuing education expenses, etc., rather than evening this out over the years; in the law, where a traffic offence fine of \$250 is more than a week's wages for over half the male workforce and three-quarters of working women, but only half of a social worker's salary, and less than a quarter of a magistrate's—fines according to ability to pay are in

order. Equality before the law is rightly questioned—decisions about legal aid have to be made according to funds available. In Western Australia recently an alleged rapist appeared before the court without legal representation because Legal Aid decision-makers judged him likely to be found guilty and therefore funds should be spent elsewhere.

In the economic area, measures will need to be taken to clean up the income tax legislation, which should not only place the burden of direct progressive tax where it belongs, but could relieve the indirect, regressive tax that falls equally on the rich and the poor, when purchasing what each considers necessities.

Economic choices have to be more and more carefully made as we descend the income scale. The victims are mostly less resourceful, and because of an understandable wishful thinking, more gullible in regard to the barrage of advertisements painting a picture of association with buying that product and gaining, co-incidentally the lifestyle of those advertised as using the commodity. Even back in 1944, Bernard Shaw called advertising 'impudent venal lying' and Coombes saw it as the means by which we whip 'our indolent consumers into new and greater wants; we must sternly turn our backs on the sybaritic but unmanly delights of leisure and of idleness and return grimly to the lathe and the office desk'.

If social workers are to play a part in this conscience lobby or Just Welfare movement, research and further studies are indicated. A way of doing this and, at the same time, stimulating interest in the profession and gaining some prestige outside, would be for the Association to pursue the idea that was mooted at the time of the plebiscite which approved the Association becoming a Professional Group and surrendering its industrial tasks to the Australian Social Welfare Union. This was the concept of the academy which has not so far been further developed. Co-operation between tertiary institutions and the profession could result in the Association awarding Associateships, Memberships and Fellowships. Professional development of a structured nature would be only one aspect—others could be publishing, organising within the Association and research, private and corporate.

National and international co-operation and involvement by the branches and the Australian Association of Social Workers has improved markedly in the past two years. The participation as a national body envisaged in our new constitution has become, for the most part, a reality. The concept of an Australian Social Work Profession has been accepted and most branches see this unity as conducive to the advancement of the profession even given the geographical constraints of our capital—city—intensive, vast

continent.

In conclusion, social justice means different things to different people. Some taxpayers and avoiders contend that social injustice, like sales tax, falls on each citizen relative to their expectations. Some complain that welfare payments represent social injustice to them, but rarely glance at the overall government expenditure or income. Others campaigned ceaselessly to redress what they saw as social injustice until they achieved state aid for independent schools. Many social workers are not committed to social justice for the underprivileged. They do not see the need for compensation, to allow equal access to opportunity, but confine their professional tasks to helping and advising to effect accommodation to the prevailing structures. This may be attributed to admitted or unconscious personal philosophy—a conditioning phenomenon that they have not the strength, motivation or maturity to overcome, or to a genuine conviction (after weighing the pros or cons) that conforming is the better course for them, their clients and the society. These in the last category are few and far between and my rallying call for a 'just welfare' system will fall on deaf ears there.

To the former, who would appear to make up the bulk of the profession, the hope is that they will be stimulated to have a good look at their personal philosophies, the basis for all their decisions, actions and interpretations. To the converted, a growing group, no explanation is needed.

A last word on reform in a world that provides evidence to social workers every day of the screaming need for it; please, recognise the inadequacy of those at present determining social policy so that you cannot use your own inexperience to excuse you from the responsibility of changing the situation and seeking decision-making tasks even in your 'small corner'. Listen to Mary Gilmore—a poem 'These' in eight meaty lines:

Are these our people's leaders! These

whose babbling voices

sound in familiar keys,

Like farmyard noises!

The world churns like a maggot-pit,

turmoiled in strife,

While the mice-minded sit,

Nibbling at life.

Finally, for those who are still resting on Australia's long-lost laurels for welfare progressiveness—let us not, with the current draconian announcements of the Razor Gang and others ringing in our ears, say, as did Voltaire's *Candide* character Dr Pangloss—who, after all his devastating experiences at the hands of villains and others was at last in comparative safety, only to have emptied on his head from an upstairs window, the contents of a pisspot—'We are still living in the best of all possible worlds'.

## Endnotes

<sup>1</sup> P. Tulloch, *Poor policies: Australian income security 1972–1977*, Croom: Helm, London, 1979.

<sup>2</sup> Max Harris, *Weekend Australian*, 20 June 1981.

<sup>3</sup> Ralph Nader, Public address, Perth Town Hall, July 1980.

<sup>4</sup> G. B. Shaw, *Everybody's political what's what*, Constable, London, 1944.

<sup>5</sup> W. Murphy, Marshalling the court: The tactic of judicial bargaining, *The American political arena*, J. R. Fiszman (Ed.), McMillan, 1965.

<sup>6</sup> C. McGregor, *Profile of Australia*, Penguin, London, 1968.

<sup>7</sup> *West Australian*, 17 September 1977.

<sup>8</sup> *Ibid*, 23 June 1981.

<sup>9</sup> A Graycar, Social and political restraints, *The welfare stakes*, R. Henderson (Ed.), IAESR. Melbourne.

<sup>10</sup> *Ibid*.

<sup>11</sup> H. C. Coombs, *The fragile pattern*, ABC Boyer Lectures, 1970.

<sup>12</sup> *Canberra Times*, 12 November 1980.

<sup>13</sup> F. Kaim-Caudle, *Comparative social policy and social security*, Robertson, London, 1973.

<sup>14</sup> C. Jenckes, *Inequality*, Harper and Row, New York, 1972.

<sup>15</sup> R. Van Krieken, The capitalist state and the organization of welfare, an introduction, *Australian and New Zealand Journal of Sociology*, Vol. 16, No. 3, 1980.

<sup>16</sup> P. Leonard, 'State class and welfare', James Seth Memorial Lecture, University of Edinburgh, 1978.