



Herald Sun (Melbourne)

Wednesday 5/12/2018

Page: 6
Section: General News
Region: Melbourne, AU
Circulation: 303140
Type: Capital City Daily
Size: 260.00 sq.cms.



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'Ends justify means' position profoundly wrong



MATT COLLINS

VICTORIANS will rightly be shocked at yesterday's revelations involving Lawyer X. So, too, are the lawyers of this state.

Lawyer X became a police informer many years ago, providing information to Victoria Police.

At the same time, she was acting for a number of defendants in criminal proceedings arising out of Melbourne's gangland wars.

As the High Court said, Lawyer X's actions "were fundamental and appalling breaches" of her obligations to her clients and to the court.

The conduct of Victoria Police was also condemned by the High Court, which said it had sanctioned "atrocious

breaches of the sworn duty of every police officer to discharge all duties imposed on them faithfully and according to law without favour or affection, malice or ill will."

Over the 135-year history of the Victorian Bar, the barristers of this state have earned a reputation for upholding the highest ethical standards in furtherance of the administration of justice and the interests of their clients.

Lawyer X's conduct is, I believe, wholly unprecedented.

The royal commission announced yesterday by the government is to be welcomed. The community needs to understand how Lawyer X came to be a police informer and how information provided by her was used by

Victoria Police.

It has been reported that hundreds of convictions might be tainted by information provided by Lawyer X to Victoria Police, and then used in prosecutions. All of these matters need to be explored by a body with the coercive powers of a royal commission.

Some have asked why this matters. Some have argued that the ends — convictions of

those responsible for unforgivable criminal conduct — justify the means. That view is understandable but, in my view, profoundly wrong.

All Australians are entitled to know that, when they seek legal advice, the information they provide to their lawyer will be treated in the strictest confidence. There are circumstances where legal professional privilege does not apply, such as where information is provided to a lawyer in furtherance of a crime or fraud, or where information is not provided for the purpose of obtaining legal advice or in connection with legal proceedings. But such situations aside, the public interest in free and frank

communications between lawyers and their clients has always prevailed over other interests in Australian law.

Allied to legal privilege are other fundamental rights enjoyed by all Australians, such as the presumption of innocence, the privilege against self-incrimination and the right to a fair trial. These are the bedrock rules to which our justice system is anchored.

Adherence to the highest standards is more important than ever in desperate circumstances, such as those that prevailed during the gangland era. In a civilised democracy, justice should

never be secured by cutting corners or breaking rules. Because our remarkable

society is governed by the rule of law, enforced by an incorruptible judiciary, Australia's justice system has deservedly earned a worldwide reputation for scrupulous fairness.

To understand why a fair justice system is among the most important of our birthrights, look no further than those places in the world where there is no independent judiciary, no separation between the judiciary and the prosecution, no fearless legal profession to stand between the might of the state and the individual, and no respect for the rule of law.

DR MATT COLLINS, QC, IS THE PRESIDENT OF THE VICTORIAN BAR