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ARTICLES

GAINING PUBLIC CONFIDENCE IN THE JUDICIARY: SIR WILLIAM PORTUS CULLEN, CHIEF JUSTICE OF NEW SOUTH WALES, 1910-1925

Tony Cunneen

Sir William Portus Cullen was Chief Justice of New South Wales between 1910 and 1925. He was the first Australian born Chief Justice wholly educated in Australia. His career covered academic, political and legal realms. He was involved in the establishment of the Sydney University Law School. He campaigned for the Federation of Australia. He supported the admission of women as lawyers. His extended term as Acting Governor of New South Wales coincided with one of the worst periods experienced by Australians in the First World War. The sense of public duty he inherited from his family was fostered by his educational experiences, producing a lawyer of the highest calibre, with a powerful social conscience, actively involved in shaping the character of the modern Australian legal profession. 477

THE NEGATION OF VENTING IN AUSTRALIAN SENTENCING: DENOUNCING DENUNCIATION AND RETRIBUTION

Professor Mirko Bagaric

Sentencing in Australia has been criticised for being too indeterminate and unpredictable. This is attributable in large part to the number of discrete sentencing objectives which, at times, overlap and at other times conflict. Moreover, there is no clear ranking of the objectives, meaning that sentencing courts have a considerable degree of latitude in imposing a sentence. The key sentencing aims are community protection, general deterrence, specific deterrence, rehabilitation, denunciation and retribution. Sentencing would be simplified and, in all likelihood, more consistent if these objectives were prioritised or reduced. This article argues that two of the objectives are superfluous to a properly constructed system of sentencing. In pragmatic terms, the main imperative of sentencing is to impose proportionate sentences: broadly, “the punishment should fit the crime”. If this goal is satisfied, the objectives of denunciation and retribution are obsolete. There is no residual meaning (or purpose) to denunciation and retribution in the sentencing sense beyond the need to ensure that proportionate penalties are set. The need for retribution or denunciation can never justify the imposition of a sanction which is

disproportionate to the severity of the crime. It follows, therefore, that denunciation and retribution should be abolished as sentencing objectives. 502

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