

Criminal Lawyers Association NT

by Jon Tippett, President

Petty Sessions: *n.* a court of summary jurisdiction of two or more justices of the peace, or more usually a stipendiary magistrate, to try less serious criminal offences summarily, or, to hear certain civil matters.

"Twas brillig and the slithy toves
did gyre and gimble in the wabe
all mimsy are the borogoves
and the mome raths out grabe"

Darwin. Friday afternoon. It is approaching 5pm. A storm has passed and the air is saturated. The court rooms have emptied. Restaurants tip the long luncheoners into the street. The town is almost quiet. It is time for a drink. In some law offices, or chambers as we legal characters call them, the fridge is opened and partners and employees stand about engaging in noble chatter. The weeks events are subjected to analysis akin to the dismemberment of a pithed frog. Judicial personalities are psychoanalysed with Freudian enthusiasm. There is much material to consider.

Out on the street an exodus is building. The refugees from the partner's drinks, the lunch partners and sometimes the partners themselves are joining the faces in the street. Mitchell Street. Some go down to the hep bar. Brazilian salsa and studied cool. Others to the continentally displaced Irish pubs or to the pommy watering hole that celebrates the massacre of the Zulu. Polished woodwork, "pints" of Newcastle brown ale and conversations yelled into the listeners ear. Theme parks for the mature imbiber. International passports to drinking pleasure. Their patrons have all come to look for Australia.

At 5pm the crowd at Petty Sessions begins to gather. It joins the luncheon stoics who have been battling bottles of red wine since 1pm. They are tired but not defeated. They are stout men with addled minds coming to the end of a poorly executed escape plan. Their wives know where they are.

Going into Petty Sessions is like putting on yesterdays underwear. Familiar but troubling. The beer is cold, the service good and the surroundings comfortable. It's a straight joint. The patrons? That's another matter. Real estate spruikers, insurance types, journalists, corpulent politicians, working girls, tradesmen, lawyers, magistrates and every equinox a judge. It sounds like the ingredients for an indigestible meal. Not a fresh salad amongst the lot and you can't help bumping into the odd wet lettuce.

They drink to the end of the week or just the end. The difference is not often easy to pick. As the afternoon travels into evening the place develops a whimsical charm like graffiti dedicated to the

rhythmic cycles of biological necessity. It is the ship Narcissus edging its way into the harbour of another Darwin Friday night. The crew argue and laugh and later pick over one another like scavengers after a skirmish. The cigarette smoke clings to the air and that welcome smell of hops lingers well back in the mind. The bare bottomed women are clothed now. A good thing to for it is obvious that their g-strings have moved some of the clientele closer to a cardiac arrest. Darwin to dusk. Charles Bukowski would have loved the joint.

There is mateship here. Not the sort that Johnny Howard is talking about. The people who he calls mates are some of the best knife sharpeners in the business. It's all "et tu Brute" where he comes from. I mean comrades drinking their hearts out on a Friday night. The high minded don't go to Petty Sessions thank god. They're all off somewhere working on the idea of whether, as an intellectual imperative, the word mateship should be removed from the constitutional preamble.

Of course there are the lawyers. Those characters don't need much introduction. They are the mob off at the far table sweating on their egos like a team of men working a threshing machine under the threat of rain. Nothing like sucking the core out of some trivial event in the court room. The cross-examinations are recounted in detail. I said. He said. And then I put to him. The witness staggers in the box. The court is veiled in a lasting hush. The answer, contradictory. Credit has been crushed. The questioning was punishing, deft, full of wisdom. The conversation is the precursor to further war stories that go on until the next round has to be sorted out. Stories of defeat, if they have to be told, are related more carefully. Usually the judge or magistrate has a larger part in the tale of the loss. He or she is described as having a limited understanding of the nice point involved. The objective has been thwarted by the court's confined intellectual capacity and the state of confusion engendered by opposing counsel, who really when all is said and done, didn't know what he or she was talking about. Deeply perceptive are the jurists who grant victory for they shall enter the kingdom of good blokes. Men and women all.

Night pounces on the evening. The good old boys and girls are still at it. Livers are not working efficiently now. The back log is in the eyes and the speech. People who



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ordinarily find one another's company as enjoyable as ferrets and rabbits in the same burrow share in the round. Life has taken on a brilliant hue. Mankind is reunited unto itself. Animosity is not far away. But there is some drinking to do yet.

The magistrates have gone. No midnight choir for them. No goodbyes, just a united movement to the door. It is a quick action as if spurred by some brute farting in the immediate vicinity. The last vestige of dignity in the legal profession has departed. The stayers hold on to give it a proper belting. They are not free. When the beer begins to taste sour it is time for a feed. Small groups wander off to eating houses nearby. Others decide, if they are capable, or not decide if they are incapable which most are, to drink on and be damned. The conversation has lost its dimension due to the complicating feature of logical progression. It is loud. The sentences are short. The laughter raucous. There is much back slapping.

Occasionally there is a fight. Out of the spaces tension rockets to the surface. Eyes meet. Words are spoken. A lawyer is king hit for his wit. Some of Darwin's best legal minds have taken time out to involuntarily examine the weave of the carpet at Petty Sessions. Men of rectitude who have struck down opponents in the courtroom with the dagger of language find the response more agricultural and a tad more direct in this place. They discover that the word summarily isn't

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just a definition in some legal dictionary after all. Intercession is swift. Mates, other lawyers, get about the job of apologising. We're damned good at the word play. Atonement follows. Can we buy you a beer mate? The legal equivalent of a dog tucking its tail between its legs. The complete defence. The professional colleague stands off a distance shaken but defiant. Holding his water. I don't think that the profession has won a round in one of these tournaments yet. Maybe some day.

The lights have been turned way down. The mirror ball scatters shards of light across the walls of the cavern. The band in the corner has commenced its nightly wailing. The joint is pretty full. People move to the dance floor. It is worth the wait. The most extraordinary dance floor gyrations to be seen anywhere on the planet take place just feet from where you are standing. Each human body is displaying a practised antipathy to the beat. The word is out. You will not dance to the music it will dance to you. Gilded youths, one hand in the pocket of their jeans, the other cradling a glass of spirits, search the room. Ah the subtle art of the perv. Women take in the horror and talk frantically in groups.

The band swings into Sweet Home Alabama. It takes me back to the days of After the Gold Rush and Southern Man. Which in turn reminds me of a recent Northern Territory administration. It has taken me this long to understand how my father can pine for the brass of the Glen Miller Big Band. The atmosphere changes. Desperation and resignation wrestle for supremacy. It is time for comrades to lay down their glasses.

The night drifts into a taxi. Legal minds turn to crafting explanations to justify their state of being to husbands and wives. It will prove to be a difficult and uncomfortable end. Calling all angels. We are the unforgiven.

Sweaty Passions. It has and I hope will continue to hold a unique place in Territory legal history. It continues the association that lawyers have had over the centuries with the art of taking a drink. As early as the 1500's barristers at the Inns of Court were described as "nightwalkers" who ate well, drank well, and had no possessions. Its comforting to know that there are some constants in history. Certain traditions should never be allowed to die.

Bali 1999

Deadline 30 April. The time for revelling in vacillation is almost over. Soon you will have to stop telling people that you are going to Bali because you won't be.

The empty seats on the aircraft are dwindling. Everything is in place except you who don't have a ticket. Make a decision. Be brave. You know that bravery is not the sole province of idiots. The world will be a better place I can assure you.

This is the last conference of the century. There are many issues in our legal community to grapple with. The conference is a fantastic opportunity for you to participate. The private profession in particular needs to get in and do a bit of spade work on many of those issues. Your practice might not be in criminal law but the things that are important to the operation of the criminal justice system should be also be important to you. Come for the great time you will have and come to help us bring back a few new ideas in the *dilly bag*.

See the advertisement in this issue of Balance and get hold of Lyn Wild who will help you put your trip together. Bring the kids.

NORTHERN TERRITORY LAW REFORM COMMITTEE

Inquiry into appropriate reform of the laws in relation to the investigation and prosecution of sexual assault

The Northern Territory Law Reform Committee has been asked by the Attorney General, the Hon. Denis Burke, MLA, to inquire into and report on appropriate reform of the laws in relation to the investigation and prosecution of sexual assault in the NT.

The Committee has been asked to have particular regard to:

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| (a) Whether the special procedures for vulnerable witnesses, in Part IIA of the Evidence Act are working effectively; | (e) Whether the Territory should consider further restricting the ability to give corroboration warnings in sexual assault proceedings; |
| (b) Whether the Territory should consider the introduction of video-taping of the evidence-in-chief of victims of sexual assault, particularly children; | (f) The operation of the offence created in section 131A of the Criminal Code, ie. maintaining an unlawful relationship of a sexual nature with a child; |
| (c) Whether the Territory should consider limiting the right to call oral evidence from victims of sexual assault at committal; | (g) The operation of the defence of honest and reasonable mistake of fact in sexual assault proceedings; |
| (d) Whether the Territory should consider the introduction of legislation to protect the confidentiality of counsellor's notes in sexual assault proceedings; | (h) Whether the Territory should consider providing specialist training for prosecutors concerning their role in relation to the victims of sexual assault, particularly children. |

The Committee is to provide its report on or before 1 September 1999. The Committee invites written public submissions on this inquiry, and in particular the issues listed above. The Committee particularly welcomes the views of persons who have been the victims of sexual assault. Submissions may be made on a confidential basis and, if preferred, anonymously. If confidentiality is sought, this should be indicated in the submission. Written submissions should be received by the Committee by Monday, 31 May, 1999.

Submissions may be addressed to:

Ms Zoe Marcham
Executive Officer
Northern Territory Law Reform Committee
G.P.O. Box 1535
Darwin NT 0801
Ph: (08) 8999 6742; Fax: (08) 8999 7095