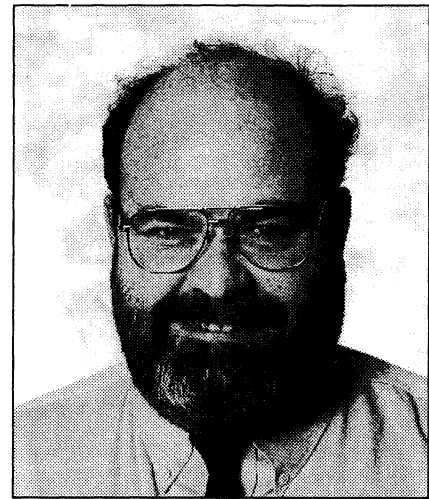


Beware the (bright) Ideas of May



Ian Morris, President

The Dry supposed to have cometh and really didn't cometh, but probably the most successful Law Week we have had for some time has come and gone.

I have to admit that following Law Week the thoughts are not shooting through the typing fingers like St Elmo's fire, and said fingers are jumping around so inaccurately I might as well have had St Vitus dance.

I wouldn't like to have to bet on when the Dry gets here, as my performance in the Law Society Football Tipping competition shows my talent in that regard, but I have got a couple of matters to raise about the bright (sic) ideas of May.

There have been several bright ideas, some local and some national. A quick round up includes; drugs, fences, parking meters, public liability, medical negligence, Telstra, and lesson in crocodile catching, or how not to.

The theme of Law Week was *Taking it to the streets*, taken no doubt from a song by the Doobey Brothers. What it is supposed to mean is safety in the streets for the public.

For us, there is a local flavour to the theme.

That worthy watchdog of public morals, the *NT News*, has spent a lot of trees lately on the vilification of drug houses identified them and encouraged the police to close them down.

I don't know how smart that is: I am not a criminologist, but I thought that evil identified was likely evil controllable, and at least the existence of known drug houses gave the police some measure of controlling the problem with the resources they have.

Now, the "drug houses" will be reduced to "drug street corners" or "drug panel vans", or the like and will be impossible to track, at least with the resources the police currently have.

Of course, having the fact of "drug houses" splashed all over the papers gave the police and the Government few places to go.

The police had to move, and the

Government will have to legislate, and neither of them will be able to control the more mobile way in which drugs will be sold in the future, certainly not without considerable increases in the resources of the police.

However, like the other barking dogs of Darwin, as soon as the threat walked past, the barking stopped.

With the threat was no longer in view, it was no longer a threat.

But the closure has taken it to the streets and has resulted in legislation that will be with us for some time.

Not to be denied further exercising its watchdog role, *The News* also belted away at pool fencing.

A child's life was needlessly lost: it was, in the view of *The News*, clearly the sole fault of the missing isolation pool fence.

It is interesting to note that *The News* actually hasn't suggested an answer to this problem, but has been in there howling about the fact someone should do something about it.

To recommend that nothing is done is to condone the obvious dangers of unfenced spas and pools, to recommend that there be compulsory isolation fencing is to risk the ire of their readers who will be then forced to pay large lots of money to install the required level of fencing.

Now there is an unsolved imbroglio between the new Council and the Government.

Who will tell everyone the bad news? Who will lose the votes of the free rangers and maybe gain the votes of the child carers?

Mercifully, the Opposition has not leapt in to further muddy the waters.

All we have to worry about, apparently, is how it is to be done at the least cost to the public, but it is pointless pontificating about what should happen in a perfect world.

The real world says compulsory fencing will cost a lot of money; the fear is that it will cost a lot of votes.

Then we have had the great parking meter fight.

As I understand it, so far the DCC has said it will put the meters in but someone is collecting signatures to get rid of the Council and the parking meters.

I can understand that there might be two diametrically opposed views.

I guess to some it is a question of lifestyle and the possible demise of the free and easy way of life in the Territory, while others think more of the cost of providing those wide open parking ranges.

I suppose that is the problem.

But I do think that the sacking of the DCC is a little extreme for such a problem.

The people, if asked, would by a majority say they did not want parking meters, but that is what you would expect.

Perhaps I could suggest a middle course and have the Councillors do something useful and be pretend parking meters for a day or so.

That way they can survey the public and make some money at the same time.

Anyway, it was another bright idea for May.

For the next bright idea we have to leave the Territory.

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Frankly I hope it stays outside the Territory forever, but there are discomfoting signs that our Government is at least looking at it.

I am speaking of the Carr Amendment to the common law, *The Civil Law Liability Act*.

Picture the scene, the Senate in New South Wales and other places (I might say that I am fortunate to have read the original *Hansardus* tablets) *:

Hockus Jokus (Minister for Small Minds) "Oh noble Carrionus, the shysters and malingerers are causing the noble class of Insurers much pain. They prey on their reserves and make them revise their estimates. The publius that claim make then pay too much. What will you do?"

Pattus Headus Treasurus (member for Cloaca): "Yes Carrionus, what will you do? The insured towers fall around us and make Insurus raise premiums to the sky instead."

Helpus Phelpus (member for Medicos): "What will we do? Hippocrates has sworn an oath not to operate uninsured!"

Carrionus (Pre-caesar): " Friends (sic), Insurers and Campaign Contributoriuouses, I come to bury common law and to save you, er me, er one of us, or someone, anyway."

Recently Injurious (Publicus Gallery): " But noble Carrionus, what about my broken back? Who will pay me for my pain and my suffering?"

Potentially Malingerus (Publicus Gallery): "Yes Carrionus, who will pay for my hydrotherapy at the baths?"

Carrionus (Pre-caesar): "Silencus! You in the gallery must suffer for the health of the noble class of Insurus!"

(There is then quite a rumble, the sound of slapping sandals, and the sound of numerous High Court Writs being drawn and then inserted into the body of Carrionus by the members of the gallery.....)

Carrionus (Pre-caesar): "I am dead! I am killed by my very own who have stabbed me with the sharp end of the writs and pummelled me with written submissions until I lie bleeding before them.

"But wait! It must be a Plot! Who are the Communists anyway, and why did they have a party?" Gurgle, clunk.

Well, that is not the half of it.

The Act seeks to interfere with the relationship between solicitors and clients and places a threat of unprofessional conduct at the feet of any lawyer who dares to institute proceedings without believing that the client is more likely than not to succeed.

It threatens them with costs orders if their initial assessment changes for the worse and they continue to offer legal services to the client. It is, without doubt, the worst of the anti-lawyer legislation that I have seen.

too critical

I suppose that I shouldn't be too critical of the position without suggesting something to fix the problem of Mr Carr.

There is an easy solution that will diminish damages, rid the world of the plague of plaintiff litigation and salve the hurt of high premiums and it is one that will operate fairly to all.

I wonder if Mr Carr can be brave enough to suggest it?

That solution is to simply change the standard of care that we all owe each other to **gross negligence**.

The down side is that almost no-one will get damages, the upside is that it will fairly apply to everyone: business, government and the public.

The jewel in the crown is that we won't need insurance.

There is of course another solution to reduce premiums.

If they really cared Governments could cut stamp duty. ①

**The excerpt is historically inaccurate and provided by the catfish. Hansard was not available until much later.*

TAX OFFICE HELP

The Australian Tax Office has produced a publication specifically for lawyers.

The booklet outlines common things lawyers need to know when claiming work-related expenses.

It also contains other useful tips to help complete your tax return and ensure you claim all your entitlements.

Go to www.ato.gov.au for more info.



Have a drink with us...and some fun!!!

Come down to Shenanigans on the second Friday of every month and meet the NT Young Lawyers.

Become a member and receive a complimentary beer, wine, basic spirit or soft drink.

There's also some nibbles to line the stomach! You'll find us in the top corner next to the stage - look for the members with the orange stickers.

Hope to see you there soon