

NT Criminal Law Reform: 'Speed's the watchword'

By John B Lawrence, CLANT President

Lets start off and end with a couple of movie quotes.

"Loud Noises!" Steve Carrell as Brick Tamlin the weatherman from Anchorman.

2008 has commenced, and we are off and running. For criminal lawyers, it's back on the saddle, or perhaps better put a return to the trenches of the forensic killing fields. A genuine note of sympathy as well as encouragement to the hapless defence lawyers (I'm supposed to be one of that elite crew of stalwarts). Their environment is ever-increasingly joyless. As our politicians incrementally dismantle the rule of law, the defence lawyer's task becomes even more thankless (not to mention the predicament of the poor punter who's charged with alleged indecent assault while drunk upon a minor in the Lost Ark, committed in the wee small hours).

All I can say to you one and all is tool up, get back out there, dig in and don't give a bloody inch.

The murmurs are that the next cab off the rank is the dismantling of the committal proceeding. Don't be distracted by that event. The chipping away of the judicial system through *Bail Act* amendments, *Youth Justice Act* amendments and new legislation are the ones that lurch the Territory into a jail built economic boom. At present, Berrimah is bursting at the seams. The grim reality is that more and more Territorians are going to jail, and for longer periods. That will continue. The ostensible "design" of that is to reduce Territory crime. It is not working, but then that is because the real design is to win politicians favour and votes. It has

been going on for well on 10 years plus.

It goes like this: Party one says "throw the key away."

Party two responds with, "hanging's too good for them."

Party one says "stitch their legs together".....Blah Blah Blah.

Talking about movies, that real political dialectic which has altered dramatically the structure and substance of our criminal justice system can be fairly, indeed accurately, described as "Dumb and Dumber". In 2008, it will get worse. Little intelligence, consideration, debate, reflection, consultation with relevant and expert stakeholders is resorted to in our political law and order auction. It is time this negative and destructive dialectic is exposed and seriously challenged. Slow down, please.

The volume of criminal law reform in the last decade has been enormous. Of course, some of it is neutral, and to be expected. But much of it is not. A lot of our criminal law reform is basically poll driven. The process has been seen most recently with the new laws proposed to address "the gang question" and parents of juvenile offenders; *Youth Justice (Family Responsibility) Act*.

The criminal law reform process in the Territory is turning into this: the genesis of such reform is often the front page of our local comic, the *NT News*. For the last few weeks, if not months, the front page of the *NT News* has consistently reported the hullabaloo concerning 'The Caz Boys' and other delinquent gangs. You read some of these reports and you'd swear you were living in Stalingrad in 1943. Inside the



John B Lawrence

body of this august publication are things called "Letters to the Editor", and another thing called "Text Messages to the Editor". To your dinosaur columnist, and unashamed luddite, the latter section appears to be some form of 16th century European dialect which I certainly do not understand.

What happens next is the pollies respond. No discussion papers here, or standing committee examinations. Oh, and don't consider consulting our own Northern Territory Law Reform Commission.

With much speed and little consideration, legislation is drafted and introduced into Parliament. And then passed. CLANT has pointed out to the present and previous Attorney-General, that these methods of changing the law can often create bad law. Because of the haste and lack of appropriate consideration, the intentions of the proposed laws are often not achieved. A good example of this was the amendments to the *Justices and Evidence Acts*, which purported to assist children adducing evidence. They came onto the statute book, but

NT Criminal Law Reform: 'Speed's the watchword'...cont.

when applied in court were seen to be seriously wanting. Back to the drawing board they went, followed by amendments to amendments. Not a good look for the Territory Justice System. We can expect more of the same.

There is talk of an election. Party two has got itself a new leader. He talks a lot about law and order issues. He doesn't just talk: he actually raises his voice when he talks about "getting tough". It doesn't auger well.

Let's end with Denzel Washington playing Frank Lucas in American Gangster:

"You're too loud, you're making too much noise. Listen to me, the loudest man in the room is the weakest in the room".

Recent admissions

Congratulations to Anna Ryan, Kirsty Smith, Fiona Justin and Rosemary Jacob on their admission into the legal profession on 5 February 2008.

The boy from Bruce Rock turns 60

Justice Trevor Riley celebrated his 60th birthday recently. Happy Birthday Judge!

Only in America

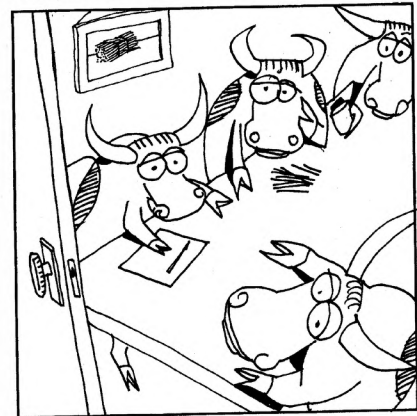
A US lawyer has been charged with assault for allegedly shaking a prosecutor's hand so hard it, "nearly ripped the prosecutors arm out of its socket".

AAP reported that the lawyer was arrested after attending a court hearing in which her husband was sentenced to 90 days of house arrest for violating probation.

Following the hearing, Brewer Rentas allegedly asked to shake hands with Assistant US Attorney-General, Jennifer Keene, and she shook it so forcefully it caused injury to her shoulder.

The lawyer spent a night in jail before bail was posted. If convicted, she faces up to a year in prison.

The Muster Room



Grandma in court

Lawyers should never ask a Mississippi grandma a question if they aren't prepared for the answer. In a trial, a Southern small-town prosecuting attorney called his first witness, a grand-motherly, elderly woman to the stand.

He approached her and asked, "Mrs. Jones, do you know me?"

She responded, "Why, yes, I do know you, Mr. Williams. I've known you since you were a young boy, and frankly, you've been a big disappointment to me. You lie, you cheat on your wife, and you manipulate people and talk about them behind their backs. You think you're a big shot when you haven't the brains to realise you never will amount to anything more than a two-bit paper pusher. Yes, I know you."

The lawyer was stunned! Not knowing what else to do, he pointed across the room and asked, "Mrs. Jones, do you know the defense attorney?"

She again replied, "Why, yes, I do. I've known Mr. Bradley since he was a youngster, too. He's lazy, bigoted, and he has a drinking problem. He can't build a normal relationship with anyone, and his law practice is one of the worst in the entire state. Not to mention he cheated on his wife with three different women. One of them was your wife. Yes, I know him."

The defence attorney almost died, the judge asked both counsellors to approach the bench and, in a very quiet voice, said,

"If either of you idiots asks her if she knows me, I'll send you to the electric chair."