

Criminal Lawyers' Association

President's Column

Ned Kelly at the Hard Rock Hotel

Sir Redmond Barry's attitude was very plain. As the Herald had reported two weeks before. "The trial of Ned Kelly will be disposed of as soon as possible, arrangements having been made for lighting the court with gas after dusk." On the day of the trial the Herald claimed that Barry was willing to sit on till midnight. He was keen to wrap up the wretched business in a single day's sitting.

Sixteen witnesses were called. The most embarrassing to the prosecution being Jerilderie Bank Manager, John Tarleton. He quoted Ned as saying; 'It is all very well to say that we shot the police in cold blood. We had to do it in self defence.'

Unfortunately his Honour was unable to finish the trial that day. At 6.05pm Barry asked the prosecutor, Smyth, if the case could be completed that night. He was told that there were eight more witnesses to give evidence. Reluctantly Barry adjourned the case to 9.00am the following morning. Case management is obviously not a modern phenomenon.

In his rambling charge to the jury Barry, with true judicial rectitude (of the time naturally), removed a very sound defence of self defence from the jury. He told the hanging dozen that the police party "had a double protection: that of the ordinary citizen and that of being ministers of the law charged with the administration of the country." The fact that they were shooting at Kelly before he raised his weapon was neither here nor there. Barry fulminated, "What right had four other armed men to stop them and ask them to surrender, to put up their hands? I repeat, they were executive officers of the law and no person had any right to stop them or question them". I mean, who was this character Barry? What was Kelly to do with a bunch of mad, glory hunting incompetent coppers who were trying to shoot him? Yell out, "Hold on blokes, you look a little crazy. Why don't we sit down and talk this over while we boil the billy?"

At 5.10pm the jury retired. Their deliberations were obviously embroidered with a determination to arrive at the right decision for they returned after only half an hour. Funny you don't ever hear of people nowadays saying "You know I'm related to a member of the jury that convicted Ned Kelly" But you often see claims made by people that they are related to some character who was held up by Ned Kelly.

The newspaper, the Telegraph, is regarded as providing the most accurate account of what took place as Kelly journeyed to the scaffold:

"On leaving the cell, and before stepping upon the drop, an expression, with a sigh, escaped Kelly's lips, which the warders and the Governor interpreted to this effect - "Ah well, I suppose" - probably meaning to say he supposed this was the last of it, or this is what it had come to, but the expression was never concluded".

The Yarralin Aboriginal people of north-western Australia have taken Ned into their dreaming. They tell the stories of his exploits. The Aborigines affirm that Captain Cook is long dead while Ned Kelly - because he is concerned with freedom, dignity and justice - lives on.

When you read "Ned Kelly A Short Life" by Ian Jones (from which most of the above potted history was plagiarised) you get the idea that Ned was the sort of bloke who would

island in the middle of the most jaw dropping swimming pool you ever saw. The conference room looks over the surf at Kuta Beach. The rooms are great and so is the food.

The Hotel is the first of its kind in the world. Ah yes, you say, but what of the American influence? To which I reply; "So what? There is plenty of Bali to be had inside and outside of the hotel. Is "Casablanca" a bad movie because Humphry Bogart was an American?

Members of the Committee were joined by Julian Lennon to watch the Melbourne Cup. According to Lyn Wild, our Conference Organiser, a world famous rock artist will be performing at the hotel during the conference. We will let you in on the secret of who that is when you register as a delegate.

The Victorian Law Institute will, as I said last month, be co-hosting the event. It has agreed to provide a number of speakers from a gaggle of judges and silks it believes are interested in delivering a paper. At present forty aircraft seats are being held to accommodate the Victorians. We also hope to have groups from Malaysia and Hong Kong. Lyn Wild informs me that the Conference is well known to practitioners in those parts of the world.

The main thing is that the event is particularly for Territory lawyers. That means lots of Territory lawyers should come along. Ring up Lyn Wild and get in for your chop (or bop) quickly.

So why Ned Kelly?

At the last conference Rex Wild QC put on a play entitled, "The Trial of Ned Kelly". It was an event to remind all lawyers of how perverse and cruel our system of justice can be once it becomes the bedfellow of politicians baying for blood. It is a lesson to lawyers that they must not only understand the important principles upon which the system operates but also be prepared to defend them. For one thing is certain few other bastards will.

Henry Bindon, Kelly's counsel, was retained two days before the trial with an 85 page brief. He told the court that he was ignorant of the case. Indeed it was said of Bindon that "he knew less about the Kelly case than almost every man, woman and child in the colony".

Yours in memory of the Big Bopper.

Jon Tippet
President

CRIMINAL LAWYERS ASSOCIATION NORTHERN TERRITORY

BALI CONFERENCE
26 JUNE - 2 JULY 1999
at the
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have thoroughly enjoyed a stay at the Hard Rock Hotel in Bali which coincidentally is where the next Criminal Lawyers Association NT Conference will be held.

UPDATE BALI 1999

A weary band of executive members of the CLANT Committee returned recently from an exhaustive tour of a large number of hotels in an effort to find a new and exciting place to hold the 1999 Conference. Boy have they succeeded in spades!

No engaging frog dance or the wind chime tones of the traditional gammalan. This joint is pure rocket fuel. Of course those delegates who want culture can still find it. But not at the Hard Rock Hotel.

The Conference will open with a beach party (at which cocktails will be served) on a sand