

OH BEGGAR MAN WHERE YOU GOING TO RUN TO

In 1783 William Pitt told the House of Commons; *Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.*

On 6 February 1788 the Captain-General and Governor-in-Chief of the territory of New South Wales harangued a gathered group of convicts at Sydney cove on the evils of promiscuity and social disorder. Within a few weeks convicts had stolen food so shamelessly Arthur Phillip decided to have them flogged as a warning to both European and Aborigine of his determination to defend property. When the floggings failed to deter he agreed to use the last sanction of the law and launched one of the thieves into eternity. The white man had come to Australia.

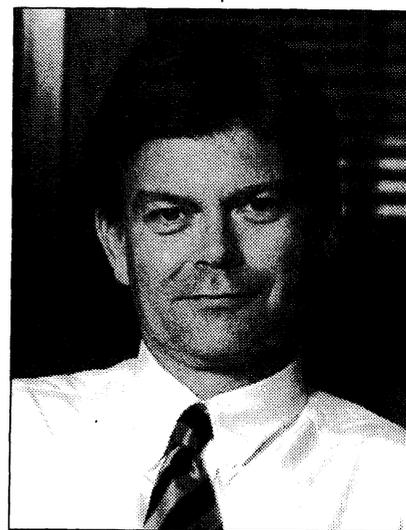
In April 2001 Police Minister Reed of the Northern Territory revealed the contents of his proposed *Public Order and Anti-Social Conduct Act*. In a shrill and characteristically incoherent attack upon lawyer opponents of this proposed new weapon of social control he described them as "a clique of lawyers who's (sic) very existence is based upon helping offenders to escape the law". In the Minister's own words "the government is determined to ensure that police have sufficient powers to apprehend those people who are causing un(sic) anti-social behaviour... apprehending those people who are accosting law-abiding citizens in the streets, asking for money or even worse". In other words the power to lock up beggars. The reason, because the rest of us find being confronted by a beggar embarrassing or a cause of anxiety. The motive is apparently *necessity*. The Minister has not gone on to tell us what he has in mind as being "worse" that is not already a crime for which people can be apprehended.

In the Northern Territory we know who the beggars are. They are the "blacks"

who approach us in Darwin or Alice Springs or Katherine stinking of liquor and the smoke of camp fires, dressed in filthy clothes, whose faces are scarred and beaten, who look sixty when in truth they are in their thirties and who we know will die long before their time. What more could we do for such people but lock them up. We have already stripped them of their dignity. Herded them into settlements where poor diet has lead to disease and the proliferation of renal dialysis units and where a productive future is to work for CDEP. Against almost impossible odds many Aboriginal people refuse to drink liquor and fight to hold their families together. They are the ones who deal with violence fueled by the consumption of alcohol and the sniffing of petrol that is born of a hopelessness the rest of us have trouble grasping.

Of course we "Territorians" are familiar with such complaints. They are usually described as just another bleeding heart diatribe. The sort that you might expect from a "southern do gooder" who doesn't have to deal with the indignity of being approached by beggars when the wind is blowing in the wrong direction. The fact that it is still true in the twenty first century ought to send a shiver up our collective spine. In many respects it is an old story. Rich versus the poor. Power over the powerless. How comfortable this community has become with it.

The response of the Minister for Police should be a warning that as a community we continue our billing and cooing with the benighted side of human nature and seek answers by repression rather than reason. My initial reaction to the comments made by Minister Reed about lawyers was to cast my eyes skyward and exclaim, "Beam me up Scotty"! The proposed legislation later arrived on my desk and after a first reading it was apparent that the content was clumsy, even laughable and



Jon Tippett, Law Society President

more characteristic of a Norman Gunston parody than an Bill. However while the whole thing is a joke it is also a dangerous joke.

Anti-social behaviour is defined in the Bill as, amongst other things, conduct by or involving a person who by their presence or behaviour at a place (which includes a railway station!) "is or has been causing anxiety, harassment, alarm or distress to a reasonable person entering, at, passing or leaving the place". It is worth observing that mere presence can amount to anti-social behaviour. Any area can be declared a "notified area" upon application by a member of the Police Force, local government or a government to the Minister. If a person is found within a "notified area" a member of the Police Force may require the person to leave the area and not return within a stated reasonable time of not more than 24 hours. The penalty for not complying is a \$2000 fine or imprisonment for 6 months. A member of the Police Force must not give a direction unless it is reasonably necessary in the interests of public safety, public order or the protection of the rights and freedoms of other persons (what ever that may mean).

If an area is designated a *notified area* then it must be signposted so that people entering the area are "reasonably notified" of that fact provided they see the signs and they are able to read. The literacy levels amongst the beggar class are not known to be very high so the

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possibility of such signs being read, even if they are noticed, is remote. The whole idea has an unhappy acquaintance with the measures taken to ensure people knew their place under the old regime in South Africa. Soon, if the Minister for Police is to be believed, the town centres of the Northern Territory will be bristling with signs in these or similar terms: *WARNING - You are about to enter an area that has been declared a NOTIFIED AREA under the provisions of the PUBLIC ORDER and ANTI-SOCIAL CONDUCT ACT. Your mere presence may result in a breach of the Act which carries a penalty of \$2000 or imprisonment of up to 6 months.* As you pass by them you may wonder how did it come to this. The answer may be that nobody really tried to stop the crackbrained scheme including you. So perhaps it is time to register your objection to this dangerous nonsense with your local member.

One thing is sure. Legislation of this type is pitched at the lowest common denominator in our society. It is born of the artifice of populist politics. It is designed to work on prejudice and ignorance. It contains a language that has as its subtext the approval of views that denigrate and isolate social minorities. It is sported as necessary for the safety of the community when in reality it is only a political statement to the effect of "we don't like them, we agree with you, they ought to be removed from our midst". It is also contrived to divert the community's

attention away from the hard fact that the government does not have an answer for the socially destitute which cannot be found in the cabinet of its own wilful neglect. Then there is that most bereft and most distasteful stratagem of all the one that blames the victim no matter how sick or indigent or dislocated that person may be. But if you wait, and it should not take long, you will hear the Minister for Police telling you that we, the well to do of the Northern Territory, are really the victims not them. So we can relax in the knowledge that the idea of freedom in the Northern Territory is divisible and by good fortune we stand on the right side of the line.

The threat in the proposed legislation to gaol people for anti-social behaviour does not come without the heavy irony that prison would provide most of the offenders targeted by it with a higher standard of living. Then there are the consequences for the real estate market. Consider trying to sell your house with a sign up nearby warning that the area is a notified area. It would certainly not give the purchaser every confidence that he or she was buying into a salubrious part of town.

I do not pretend that the legal community will be successful in resisting this latest wrongheaded approach to the application of legislative power. Our objections are likely to be met with further invective and attacks upon the profession itself. That should not persuade us to be quiet. Only the calumnies are best answered with silence.

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CLE TIMETABLE 2001

Monday 14 May 2001

Expert evidence.

NT Young Lawyers CLE
presented by Michael Grant.

5.15pm

9th Floor Conference Room,
NT House

Tuesday 15 May 2001

*Current practice and
procedure of the Anti*

*Discrimination Commission
for Lawyers.* Presented by the
Anti Discrimination

Commission. 5 - 6pm 9th
Floor Conference Room, NT
House

Location

Practitioners will be notified of the location of CLEs via fax bulletins distributed to all firms in the week prior to the session. If you are not receiving these bulletins please let the Law Society staff know.

Payment

Practitioners will now be invoiced for the CLE directly after the CLE session is held. *Please sign in when you arrive at the CLE on the booking sheet provided. Do not send your payment with your booking.*

Attendance rates (including GST) for CLE's is as follows:

\$22 for Law Society members

\$27.50 for non-members

\$5.50 for students

Cheques should be made payable to the Law Society Northern Territory.