The Right to Drink?

Wrong...

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When I was only 19, I wasn't allowed to drink in a pub, because in those days the drinking age was 21. But no-one took any notice of that. After work on the first day of my new job in a little WA country town, I went to the pub with a friendly bloke I'd just met, for a beer. I had no trouble getting served, but my new mate did. They wouldn't let him drink in the bar, because he was a blackfella. That night I ended up down at his camp on the reserve with his family, drinking the longnecks I'd bought for him.

I learnt a big lesson that day – which was in 1972, when Whitlam came to power promising land rights and self-determination just a few years after the 1967 referendum: Aboriginal people have rights, but racism stops them exercising those rights. That was 40 years ago.

30 years ago, I was given another lesson. I was by now living in Alice Springs, teaching at the Institute for Aboriginal Development. I sat down with a group of six old ladies. At the time I had no real idea these were senior leaders of some of the most important families in Central Australia. To me back then they were just some lovely old ladies who were learning to read and write. Anyway, they sat me down and told me that things used to be OK, until everything changed when drinking rights came in, with citizenship, and land rights and all the rest of it. Of course, with my university education and vast experience of life – I was almost 30 – I knew better than those old ladies. I knew that we were heading in the right direction – fighting to end racism, for land rights, for the right to be served in pubs, to end the paternalism of missions and reserves. I didn't blame those six old ladies for not understanding this. After all, they were uneducated. Thirty years on that lesson is at long, long last taking root: yes, everyone has the right to equal treatment, but there's something deeply wrong with this idea of 'the right to drink'.

An important thing about the Banned Drinkers Register (BDR) is that it was a step along the road to learning that lesson. It meant that as a community we were formally acknowledging that there is no right to drink. Drinking is a privilege, whatever your race, and if you abuse that privilege by causing harm, you can lose it. Another important step along this road was when six High Court judges recently repeated the six wise old ladies' lesson: "there is no universal human right to possess or consume alcohol".

Apart from getting rid of the Banned Drinkers Register, the Northern Territory Government has put one measure in place, and announced another, which between them in my view will cost us a bomb, achieve little or nothing of value, and effectively criminalise a health problem – alcohol abuse. These radical measures are being enabled by radical laws. Firstly, chronic problem drinkers are being carted off into treatment behind barbed wire for up to three months at a time. Because they are law breakers? No. After three months, they will go back to the environment they came from, and the vast majority of them will go to a pub and buy a drink. There's no Banned Drinkers Register any more, so the pub will serve them, and before long they'll be back in mandatory treatment for another three months. This is the gold plated spin-dry, the jewel-encrusted straw broom. It will cost $100,000,000 over three years. Will it work? There's no real evidence that it will, and the government itself says that they expect only 10% of the anticipated 800 people a year who go through mandatory treatment will be successfully rehabilitated. If so; that works out at nearly half a million bucks per successful participant.

It's a good thing that the government wants to help the

As this issue of *Balance* goes to press, the current CLANT Committee is nearing the end of its biennial term. At our AGM on 23 August 2013 there will be some changing of the guard. I thank the 20 colleagues who have served as Committee members with such enthusiasm, good humour, collective wisdom and common sense. It has been a great privilege for me to have been granted the opportunity to lead the Association, and particularly rewarding to have been guided and supported by such an effective, robust and hard-working Committee.

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The 14th CLANT biennial conference at the Bali Hyatt, Sanur was attended by over 200 delegates representing (a record!) every Australian jurisdiction. The papers, presentations and depictions of assorted frolicking dingoes are available on the CLANT website at www.clant.org.au, which also has a new feature, RSS Feeds, so you can automatically receive alerts of the frequent articles, notices and items we post on our News page.

unfortunate people who are stuck in the grip of grog. We all hope that everyone who goes through mandatory treatment will come out dry and stay dry, and that they and their families will benefit. CLANT welcomed the opportunity to participate in the consultations which resulted in some significant improvements to the *Alcohol Mandatory Treatment Bill* as originally drafted.

However, there are still some very serious concerns. Here are three:

Firstly, there is no effective right to legal representation for people who get picked up and locked up, for as long as three months, under this law.

Secondly, the mandatory treatment law predominantly affects Aboriginal people, because they constitute the great majority of people who are drunk in public. The stated purpose of the AMT scheme is "to assist and protect from harm misusers of alcohol, and other persons, by providing for the mandatory assessment, treatment and management of those misusers…". In light of the decision in *R v Maloney*, that should qualify the scheme as a legitimate 'special measure', pursuant to s8 of the *Racial Discrimination Act 1975* (Cth). But although the scheme is on its face designed to help people who are losing the battle with grog, there have been numerous statements by members of the government to the effect that this law is going to clean up the streets. If that is actually another purpose of this law, it is not a special measure, but racially discriminatory and liable to be struck down.

Thirdly, this law brands some people with a health problem, alcoholism, as criminals. That's because it has been made an offence to abscond from a residential treatment facility three times. It is trite criminology that to reduce the over-incarceration rate of Indigenous people, we should narrow, not widen, the criminal net.

The next measure the government has said it will introduce, Alcohol Protection Orders (APO), is similarly flawed. These look like the old Banning Alcohol and Treatment Notices (BAT): the police issue them, they ban you from drinking for three months, and if you're caught drinking, you get breached. But there are two fundamental differences. If you breached a BAT, you were directed into treatment, but you were not criminalised. If you breach the new APO, you do *not* get treatment, but you *are* criminalised: you get charged, you can be kept in custody on remand, you go to court, and you can be sent to gaol.

Was the BDR perfect? Of course not, but it made it harder for banned drinkers to breach. Under these new schemes, it will be an offence for bar staff to knowingly serve people on Alcohol Protection Orders, or Mandatory Treatment Orders, but with no BDR, the bar staff will never never know they're serving a banned drinker, and the banned drinkers will be set up like little black ducks in a shooting gallery to be locked up for breaching their order.

Recently, our Chief Minister instructed critics of his government's grog laws, to 'get out of the way, piss off'. We are not in the way. And this is our home, our community, so we will certainly not be pissing off.