

LINES IN THE SAND

The Alice Springs
column

Darwin Mayor George Brown recently called for drinking to be banned in public areas and said he had never seen so many boozing “white trash and Aboriginal drifters begging and sleeping rough around city streets”.

He said the itinerants should stop begging and drinking and get out of town.

He said he would start a public campaign to get NT Police to “harass, harass, harass” them off the streets. (*NT News* Thursday 11 February 1999)

Although it has taken just over two years, police now have the power to do what the Mayor of Darwin was reported to have urged back in 1999 — harass people off the streets. In this regard, he can properly be described as a “visionary”.

The Public Order and Anti-Social Conduct Act, the government’s new zero tolerance flagship, enables police to direct persons engaging in anti-social conduct to move on and not return for up to 72 hours. If that person refuses, he or she can be subject to fines or ultimately, a term of imprisonment not exceeding six months.

Anti-social conduct has an extensive definition in the Act but the minimum requirement to trigger the operation of the Act is to cause a “reasonable person” (firmness and courage not required) entering, at or leaving [a] place, “apprehension”. Apprehension of what is yet to be determined. One could argue that the government could not have possibly intended to deem causing someone uneasiness or dread (see *Concise Oxford Dictionary*) a criminal offence subject to imprisonment, but it’s doubtful that you will find a sympathetic ear.

The anti-social conduct must arise in a “public place” or a “prescribed place” defined to mean just about anywhere outside your front doorstep. “Place of anti-social conduct”, once deemed to be so, means potentially everywhere, not only on your doorstep, but even inside your own house.

Police need only a “reasonable apprehension” (as opposed to reasonable grounds) that a person has engaged in, is engaging in or is about to engage in anti-

social conduct to exercise their powers. But wait, there’s more! Conduct, behaviour or an incident can amount to anti-social conduct whether amounting to criminal conduct or not. There you have it. You can be sanctioned by the long arm of the law whether or not you are engaging in criminal conduct. All you have to do is give a copper reasonable apprehension. I can just hear the evidence: “Your Worship, I had a gut feeling that the defendant now before the Court was about to get up to no good. He just didn’t look right to me”.

The obvious question is whether we need this new law that sends the government’s reputation for eroding basic rights of the citizen to new lows. We already have a plethora of laws that proscribe behaviour in public. The Summary Offences Act prohibits anti-social activities such riotous, offensive, disorderly or indecent behaviour, fighting or using obscene language, disturbing the public peace, offensive behaviour in or about a dwelling house, unreasonably causing substantial annoyance to another person, disrupting the privacy of another person, threatening violence, loitering, obscenity including singing bawdy ballads, undue noise, possession of offensive weapons and also begging alms, that ridiculous offence that criminalises poverty.

As for alcohol in public, it is an offence to consume alcohol in a public place within two kilometres of a licensed premises. If a police officer believes on reasonable grounds that a person is intoxicated in public he can be arrested and taken into protective custody.

As for protection of property, commit an act of criminal damage and it’s off to the clink. The use in Alice Springs of trespass notices under the Trespass Act have been very effective in keeping young people and so called itinerants from entering shopping centers and other “private property” that depend on public patronage for survival. You don’t need to provide any grounds, reasonable or otherwise for issuing trespass notices, just proof of service. Try sitting on the wall of the garden beds at the Coles Complex and you will be approached by Chubb Security who will draw your attention to signs prohibiting such mischief. Failing to desist

will lead to a “polite” direction to leave the area, not to mention the rancour that comes from such a situation. You may very well find yourself in the back of a divisional van and a summons to appear in Court.

Mr Reed expressed the view in Parliament that police do need powers beyond those that they currently have. There is good reason for it. The laws to deal with contemporary issues need to be contemporary in terms of how different types of behaviour is both viewed by the community and those people who break the law, and the courts in turn as to what penalties they apply (*Hansard* 7 June 2001. Question Time). That clears that up!

What isn’t clear, however, is where those young would-be miscreants and drunks who threaten the fabric of society with their lawlessness are going to go. The Central Australian Aboriginal Alcohol Programs Unit, the only organization offering a residential alcohol rehabilitation program in the Centre has the capacity to accommodate 40 people. However due to the lack of funding, it can only accommodate ten people. It closed down for two weeks last Christmas because it ran out of money.

Alice Springs Youth Accommodation and Support Services’ (ASYASS) attempt to provide a drop in centre for young people on Gap Road was met with hostility from the owners of the neighbouring backpacker’s hostel. They argued unsuccessfully before the Development Consent Authority that the influx of young people in the area would harm their business. Although ASYASS defeated this challenge, it has since abandoned the idea due to lack of resources needed to develop the proposed premises.

Perhaps the government might consider organisations such as these worthy of its patronage as part of its ‘integrated’ law and order strategy. Getting tough on crime should not mean stomping on the powerless by legislating imprecise and draconian laws, giving police more powers and adding to the litany of minor offences in the Northern Territory that attract terms of imprisonment.