

The Byron Seven - The truth behind the legend

A Good idea (at the time) and a fifty-kilogram bouncer

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Canberra is an artifice; the consequence of Lilliputian jealousies between Melbourne and Sydney, which in 1901 resulted in a sterile confection of circular streets and roads that go from nowhere to nowhere else. There is a permanent population of about 300,000, mostly public employees, with another half a million or so descending from the sky on Monday mornings to run the country until Friday afternoon when they race each other to get out.

I used to call it Blacktown with federal funding, though today's residents of Blacktown would be justified in objecting to the comparison.

Yet it would be unfair to say that Canberra has no culture. With a concentration of mostly men, separated from their families for four nights a week, it has thriving industries in illicit sex and drugs. There is no offsetting rock 'n' roll.

For reasons that still remain unsatisfactorily explained, I found myself adding to the half-million of itinerants, though without the fun of running the country. I had to content myself with managing a sizeable chunk of the pension assets of the folk who run the country. I did this for three years and two weeks, not that I counted..

I was therefore not unhappy for my *ennuie* to be disrupted by my 21 year-old daughter ringing from Byron Bay, 2,000 kilometres to the north-east and a universe away in every other sense.

Byron Bay is famous for being idyllic. It is the eastern-most point on the Australian mainland where one can swim with wild dolphins and enjoy near-unspoiled natural beauty.

It also sits in the heart of what counts in New South Wales as rich dairy farming territory (though both Victoria and New Zealand produce richer dairy products more competitively). The farmers in the region have traditionally enjoyed considerable government protection - not to mention cash - for their invaluable contribution to warding off the perils attending Victorian and Kiwi milk and butter. Their importance to regional security is beyond question.

In recent decades, Byron Bay itself has become celebrated as the heart of hippie culture in Australia. Go there for the best of yoga and organic foods as well as communes, incense sticks, crystal remedies and advanced astrology.

Much more recently it has attracted the attention of property developers hungry for pristine coastline that is not too remote from urban centres and therefore ripe for development as lucrative up-market tourist destinations. This is encouraged by local burghers: as it happens, a group that overlaps conveniently with the dairymen - as a new and potentially generous source of easy revenues for local businesses and officials alike.

Up-market tourist resorts, however, sit unhappily with the alternative lot, who have an interest in keeping rents low - as well as the price of organic food, henna, yoga workshops and ankle bracelets. (By contrast, they are generally not concerned with the cost of haircuts.) Their very presence can keep rents low.

The combination of sunshine, organic food, concentrations of twenty-somethings and low rent became a magnet for music festivals too. Having started as fringe events, they inevitably evolved into the mainstream. As frequently happens, more fringe events pop up alongside the now-mainstream events. Traffic can become heavy at these times, as there is no public transport to speak of.

This was the case in January 1993, when a rock festival coincided with a jazz festival. It was also when the battle between the developers, supported by the dairymen-burghers, versus the alternative lot was getting underway.

The phone call arrived on the day following a nude parade through the main street of Byron Bay as part of one of the fringe events.

Mum, I've got some bad news. Oh? What's the bad news? Erm, I've been arrested. Arrested? What for? Um, nude bathing. But you're in Byron Bay aren't you? Yes. But don't they arrest you there for wearing clothes? Well, yes, but this time they decided to arrest us for swimming without our swimmers on.

Now it turns out that Ophelia and five of her friends:

Cass, a very close friend who had her own business as a professional band manager.

Floyd, her boyfriend and future husband, who had his own band that Cass managed.

Stacey, another very close friend.

Matthew, the current boyfriend of Ophelia. A student of communications.

David, another friend. A law student.

had been staying in a camping ground and had taken a drive along the beautiful coast. On the way, they fancied a swim in a secluded nook called Main Beach.

It happens that they'd left their swimmers back at the camping ground. After careful consideration of all the circumstances, such as the distance between them and their swimsuits, traffic, ambient temperature, their impatience for a swim and the *zeitgeist*; they decided that swimmers were an unnecessary hassle.

One can sympathise with their reasoning, and doubtless there were still some stragglers from the previous day's event who hadn't yet bothered - or were unable - to locate their sarongs and sandals. Six more would be neither here nor there. Off came the shorts and tee-shirts and into the froth and brine they went.

Frolicking gaily in the waves they were soon joined by a seventh. Noting that this was indeed lots of fun, she introduced herself as Dimity Sunshine Peace-child. They frolicked on.

Back on shore the burghers had spied an opportunity to engage with the local constabulary to make an example of this lot as part of the campaign to evict the hippies once and for all. The police waved and whistled, and the Seven waved back, sharing the generally friendly and carefree mood of the moment. The police now waded calf-deep, and waved and whistled more frantically. After yet more waving the Seven became uncomfortably aware that the constables' motivation for all this waving and whistling was not pure *bonhomie*. Back on shore they were taken to the Police Station and charged with Offensive Behaviour, which in New South Wales is a criminal offence.

They were not allowed to put their clothes back on: which begins to look like a human rights violation.

Dimity Sunshine Peace-child is actually Joanne Smith. Floyd's name is Andrew, but Floyd sounds better. So does Dimity Sunshine Peace-child.



A criminal conviction is a serious thing. You will never be able to practice as a lawyer, work in government service or travel to the USA, among other destinations. For a 21 year-old it is generally to be avoided. But some 21 year-olds don't understand this. Floyd and Cass were among them. For them, this was manna: it could make their careers in the world of Rock Stardom (although it would torpedo the chance of pretty much any other career). They were dead-set in favour of pleading guilty and becoming a *cause-célèbre*. The rub is that, if one of the Seven pleads guilty, it becomes hard for any other to plead otherwise. Some parental foot-stamping was called for.

Amazingly, some parents were happy to let their children be convicted. But not this one. Feet were stamped, solicitors and barristers engaged - on behalf of all seven. Whether they liked it or not.

Now we learn that, apart from the human rights violation, the police were acting improperly in charging them for Offensive Behaviour when a more accurate offence, existing at the time on the statute books, is Nude Bathing, which is a civil offence and therefore no worse than a traffic violation.

The solicitor and barrister were so incensed by this blatant, deliberate and vindictive attempt to ruin seven young lives that they offered to work for nothing, seeking only reimbursement of their expenses. (These were not trivial as the courts insisted that the case be heard in Murwillumbah, the regional centre closest to Byron Bay, near the Queensland border, well over 1,500 kilometres from Sydney and the heart of the privileged dairy industry. This meant everyone had to be flown there and accommodated.)

Apart from denying our request to have the case heard in Sydney, where Police behaviour would have attracted crowds of protesters to the courthouse¹, the regional court also refused our demand to have the charge modified to reflect the actual offence. This refusal would, however prejudice the case of the prosecution in the event of any appeal (which would have to be heard in Sydney), so the lawyers were not particularly perturbed by this.

By now the Byron Seven had become a *cause-célèbre* for the hippy community in Byron Bay, as well as lots of long-standing residents who were less than pleased about the burghers' plotting to destroy the relaxed and affordable life-style they had grown up with. The notoriety has endured: the story of the Byron Seven has entered the lore of Byron Bay and persists twenty years later.

As none of the Seven had a previous conviction, they were entitled to a provision in the law designed specifically to stop young lives being ruined by victimless offences, referred to as a Section 557a. Under this provision the conviction is withheld for a period of five years. Should the individual incur another offence in that period, it becomes a second offence, with correspondingly more severe penalties. On the other hand, once the five years has elapsed with no other offence, then this one is deleted permanently from Police records and it becomes a crime ever to invoke it.

So the Seven were rescued by astute legal representation. But they were enormously embarrassed at having caused so much bother and expense. They insisted that the money had to be paid back, which meant raising \$2,000.

So they had a Benefit Concert at a dingy pub in St Peters, then still a low-rent area of inner Sydney. Ophelia, all 50 kg and 160 cm of her, was the Bouncer. The place was packed: Cass had done a sterling job of persuading some fine rock bands to donate their talent and time. The publican was delighted to host the event in return for the extra bar turnover the concert would attract and music fans were more than happy to pay \$10 to support The Cause, hear some great music and drink cheap beer in a dingy pub.



The Bouncer

And I get a great story to tell.

¹ There was plenty to protest about, including police heavy-handedness, bias in the criminal justice system and corruption in regional politics.