

**Ian Warren, *Football Crowds and Cultures: Comparing English Law and Enforcement Trends*, Sydney, ASSH Studies in Sports History, no. 13, 2003, pp. 208. RRP \$15.**

Imagine for a moment that you are at an Australian Football League grand final between Collingwood and Carlton. During this match, there is a riot in the top deck of the Great Southern Stand. So heated does this become that two Carlton barrackers are tossed over the Stand, and fall to the ground. One of them, Les Brown, is killed instantly. The other, Fred Green, miraculously survives, but is left with a broken back and a multitude of other injuries. He is disabled for life.

The incident is covered on television, and on the two screens of the Melbourne Cricket Ground (MCG). Inevitably, legal action will follow.

But who will be the plaintiffs? And who will be the defendants?

Terrifying as this scenario may appear, it is nothing to compare with what happened in 1989 at an FA Cup semi-final at Hillsborough, Sheffield. On that occasion, 95 people were killed and over 750 injured, when a stand collapsed. In that case, the Yorkshire police admitted negligence. They conceded that they had breached the duty of care imposed by an undertaking given to the Sheffield Wednesday Football Club, owners of the ground. Those who were injured were able to sue for damages. Next-of-kin of those killed had a similar capacity.

Likewise, in the hypothetical grand final example posed above, Fred Green, the injured one, and the 'estate' of Les Brown would be able to take legal action. The defendants could sue all or any of the perpetrators, the MCG as 'occupiers' of the ground, the police and any private security company hired by the MCG.

Now, however, suppose that Les's wife, Joan, had been with him. She suffered severe mental depression as a result of witnessing her husband's death. Could she sue? Or suppose that Joan and Les had not been married, but were engaged? Could she sue in that case? Suppose, now, that they had merely been boyfriend and girlfriend. Would that make a difference? Suppose, Joan had been Les's sister-in-law. Or suppose she had been Les's son's girlfriend. And, finally, suppose she had been completely unrelated to Les, but nevertheless the sight of the accident traumatised her for life!

And, quite foreseeably, Les's father had seen the whole incident on television. He recognised his son and had a heart attack. Could he sue? Or suppose Les's father had not been watching television, but had received a telephone call from a friend who had seen these events. Or suppose that he had watched a replay some four hours later. Could he sue?

Permutations of this scenario are boundless. And there are no easy answers to the legal positions. Very briefly, the tort of negligence provides that a person owes a duty to prevent *injury* to those who he can foresee will be injured by his failure to take *reasonable care*. But negligence is a 'common law' tort. There is no *statute* that unequivocally and clearly states the circumstances in which Fred, Les, Joan and Fred's father can gain compensation, against whom, and for what amount. The only way to discover is to take action in the courts.

The vast amount of litigation that must have followed the Hillsborough disaster is not recorded. But some cases did reach the higher courts and were reported. In brief, the highest court in England, the House of Lords, placed limitations on the 'reasonable foreseeability' test (which, in itself is artificial, since it requires the court to look back to what might have been foreseen in the light of what actually happened!). The court placed somewhat arbitrary limitations on who could sue (parents, brothers and sisters — but

not uncles, fiancés or grandfathers) and on the requisite time period between the event and the seeing or hearing of it.

The details of the case-law on Hillsborough are admirably dealt with in Chapter 8 of Warren's book, (see pp. 151-154). The lesson that emerges is that frightening legal consequences can occur when a large number of people gather together at a sporting venue. Warren's thesis essentially deals with the effectiveness of security measures designed to combat such calamities.

This wise and salutary book is required reading for all those connected with the promotion of sporting events. Indeed, it needs to be considered by amateur as well as 'elite' sports administrators. The lesson to be instilled in all participants and organisers of sport at any level is that familiarity with the applicable laws is essential. Warren looks at the history of policing of football crowds, in both the British Isles and Australia. Mercifully, Australia has not known tragedies of the magnitude of those 20 that occurred in professional soccer matches between 1900 and 1990 (see p. 3). Nor has it experienced the hooliganism that has made British soccer fans hated and feared throughout the world. But Australian Rules football has its share of participant and spectator violence. It is no new phenomenon, as Warren demonstrates by reference to an 1896 fracas between barrackers of North Melbourne and Collingwood (p. 80). In the nineteenth century, Geelong supporters seem to have borne the brunt of animosity, from Melbourne-based larrikins who stoned them and their players. And gambling caused much friction amongst spectators. More recent causes of this disorder are racist taunts and the enmity between South Australia and Victoria caused by Victoria's larceny of the Formula One Grand Prix!

Warren details the legal responses to crowd disorder. In brief, they have consisted of a mass of ad hoc legislation and regulations, hastily passed when the horse has bolted! Central to the policing of the stadia, apart from the police themselves, have been private security guards. Warren examines the details of current provisions, and reaches the conclusion that they give too much discretion to the officers. The legal mandates and confines of their discretion differ markedly between state police and private security officers.

The tenor of Warren's thesis is that criminological and sociological issues relating to crowd violence, in Australia and, even more so in the UK, have been ignored. The approach has been punitive and heavy-handed.

In the case of Australian soccer, Warren correctly highlights the significance of ethnicity. It has always pervaded this multicultural sport. Many soccer lovers would argue that soccer's poor image stems from a callous hatred of the World Game by jingoistic, 'fair dinkum', Aussie fanatics of the indigenous code that is regarded as a religion in Victoria and South Australia. Warren is surely correct in claiming that 'incidents' at soccer matches have

been unfairly singled out, especially by the Press. And he is also, surely, right in arguing that recent attempts at 'de-ethnicisation' of soccer clubs, by forcing them to abandon national names are ineffective, offensive and racist. Although perhaps of lesser interest to parochial readers, Warren's analysis of the profiles of British soccer louts is both compassionate and well informed.

This comparison with Britain justifies careful reading. Warren applauds recent British preventive attempts to favour the safety of patrons over the chastisement of offenders, and recommends their adaptation as a policy in this country.

The value of this exceptionally important book is enhanced by appendices which set out in detail the Regulations of the Melbourne Cricket Club (dated 1907, but consolidated in 1996) and South Australia's Football Park Regulation 1976.

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