



Read 13/6/83

221 QUEEN STREET  
MELBOURNE, VIC. 3000

Mr. David Kennedy, M.P.,  
Member for Bendigo,  
Dispensary Walk,  
Off Hargreaves Street,  
BENDIGO 3550

-7 JUN 1983

Dear Mr. Kennedy,

THE LAW OF TRESPASS

I acknowledge receipt of your letter dated 18 May 1983.

The Law of Trespass is one of longstanding. A trespass is a civil wrong actionable per se. Criminal sanctions may also be involved if the trespasser refuses or neglects to leave after being requested to do so (per section 9 of the Summary Offences Act), or if the trespasser's presence causes fear or apprehension to the occupiers of the property and cannot be lawfully excused (per section 7 of the Vagrancy Act).

A trespasser must always be given reasonable time to leave the property onto which he has trespassed, before action may be taken to remove him. Then, only reasonable force may be used in the removal. What is reasonable will always depend on the circumstances.

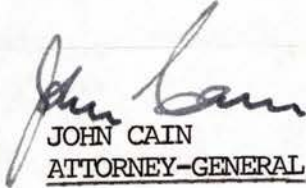
The shooting of a trespasser is also regulated by the notion of reasonableness. The recent decision, to which you have referred, I assume, merely emphasised this. The notion that any trespasser may be shot on sight is plainly dangerous. The correctness of shooting a trespasser will depend on reasonableness in the circumstances.

Often, acting in defence of property or family becomes connected with the shooting of trespassers. The action of self-defence is also regulated by reasonableness in the circumstances.

In conclusion, the legal situation regarding trespass and trespassers is one not strictly capable of precise definition. The correctness of a response will be determined by reference to the situation causing the response as well as the nature of the response.

I hope the above information is of assistance.

Yours sincerely,

  
JOHN CAIN  
ATTORNEY-GENERAL

81/932

Read 13/6/83



LEGISLATIVE ASSEMBLY  
PARLIAMENT HOUSE  
MELBOURNE, VIC. 3002  
TELEPHONE: 651 8911  
EXT.

Dispensary Walk,  
off Hargreaves St.,  
Bendigo

054 438639

June 9, 1983

Mrs. Joan Heard,  
Wicks Road,  
MAIDEN GULLY

Dear Mrs. Heard,

I enclose a reply from Mr. John Cain, Attorney General, on the subject of the Law of Trespass.

Please feel free to contact me if there are any matters arising from Mr. Cain's letter on which I can be of assistance.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "D. Kennedy".

DAVID KENNEDY, M.L.A.  
Member for Bendigo



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221 QUEEN STREET  
MELBOURNE, VIC. 3000

20 MAY 1983

Dear Member,

re: Law of Trespass

We have received your representations on behalf of  
your constituent dated 18 May 1983

I have forwarded the matter to my Departmental Officers  
for the preparation of a full and proper reply to you.  
As soon as that is to hand the Minister will write to you  
directly.

Yours sincerely,

Hilary Scoles  
Secretary to  
Attorney-General

Mr. David Kennedy M.P.  
Dispensary Walk  
off Hargreaves St,  
BENDIGO 3550