

Sunday February 9, 2014

How to discourage designated drivers

By Jim Taylor

Consider this hypothetical scenario: a bride and groom choose an idyllic location in a farming area for their wedding reception. They recognize that some guests might imbibe a little too liberally at the free bar. They could call taxis to get those guests home safely. But the area's only taxi company has just two vehicles. And the guests would still have to come back the next day to pick up the cars they had left behind.

So the couple has a brilliant idea. They approach, say, the local Rotary club for volunteers, to drive the wedding guests home in their own cars. The drivers receive no compensation – thus avoiding the need for professional insurance coverage – but the bride and groom offer to make a substantial contribution to a local charity.

It seems like a win/win situation. The inebriated guests get home safely. The owners' insurance covers the use of their cars by another adult driver. Rotary members live up to their motto, "Service above self." And the charity gets a much-needed donation.

Would I volunteer as one of those drivers? Not a chance!

Precedent-setting court case

Why not? Because Justice Anthony Saunders of the B.C. Supreme Court ruled, last Monday, that designated drivers are not protected by third-party insurance.

Here's the background. In 2006, Marnetta Lynn Felix was driving her boyfriend Kevin Hearne home after a soccer tournament. Kevin had celebrated well but not too wisely. Bluntly put, he was too drunk to drive. So Marnetta drove his car.

Along the route to their home in Chilliwack, Kevin reached across the car and grabbed the steering wheel. Marnetta lost control. The car left the highway and rolled over. The accident killed him, and left her severely injured.

Five years later, she was awarded her \$863,000 in damages and compensation. She expected that it would come from his auto insurance. ICBC, the provincial Insurance Corporation, disagreed. The case went to court. And on Monday, Justice Saunders sided with ICBC.

The wording of the law, Saunders ruled, only covers liability for passengers who do something that causes injury to a person *outside* the vehicle – like popping open a car door as a cyclist passes by. It does not cover injuries to persons *inside* the car.

Powerful disincentive

Saunders admitted that his ruling "could be a powerful disincentive to anyone acting as a designated driver... To deprive such drivers of a means of compensation when injured through the negligence of an inebriated passenger is to shift the risk of loss to them entirely."

Let's put that into less legal terminology. If I were driving some of those wedding guests home, and a grateful rider's effusive kiss caused me to swerve into oncoming traffic, perhaps crippling me for life, that's just my tough luck.

The possibility would make me think twice about driving anyone anywhere. Unless I could confine my guest to a far corner of the back seat, in handcuffs.

Operation Red Nose has supplied designated driver services for over 30 years. Nationally, Red Nose has used over one million volunteers. In B.C., Red Nose serves 13 communities; 4,347 volunteers have provided 7,768 safe rides homes.

“This is very disappointing,” said Chris Wilson, on behalf of the B.C. branch of Operation Red Nose.

“It’s a bit of a wake-up call for people who are doing what they think is a good deed,” agreed Andrew Murie, CEO of Mothers Against Drunk Driving in Canada.

“Good Samaritans” unprotected

Canada does, in fact, have “Good Samaritan” laws that are supposed to protect people doing a good deed. Generally speaking, it’s a legal principle that protects a rescuer who has voluntarily helped a victim in distress from being sued for wrongdoing.

Laws differ from province to province. In B.C., the Good Samaritan Act (1996) states, “A person who renders emergency medical services ... is not liable for damages for injury to or death ... unless that person is grossly negligent.”

In other words, if Kevin Hearne had lived, he could not have sued Marletta Felix, because she was performing a Good Samaritan service.

But the law as it stands prevents Good Samaritans from receiving any compensation if they’re injured while helping the victim.

To his credit, Justice Saunders recognized this anomaly. The law, he noted, “would potentially leave an injured designated driver without any means of obtaining compensation.”

He went on, “The consequence of this interpretation... is one that some may find disturbing... This is a matter for consideration by the government.”

The government responded a few days later. Transportation Minister Todd Stone said that he and Attorney General Suzanne Anton would review Saunders’ decision. They didn’t say they would change the law. But they should. Because if Justice Saunders is correct, the law as it stands confirms the opinion of Mr. Bumble, in Charles Dickens novel *Oliver Twist*: “The law is an ass.”

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YOUR TURN

Okay, most of you readers must be old “folkies” like me, based on the volume of mail for last week’s column celebrating the life and work of Pete Seeger.

Ted Wilson commented, “The other thing folk music has is words. Words that have meaning. People like Dylan, Lightfoot, and Cohen are both musicians and poets. They paint word pictures we can relate to. ‘Long before the white man and long before the wheel/When the green forests were to silent to be real.’ ‘Think I’ll go out to Alberta/Weather’s good there in the fall.’ Those words create images we can relate to. Putting words and music together is what gives folk music its strength and significance.”

“Pete, like others, was not an atheist. He was anti-establishment. Churches are so engrained in the ‘Establishment’ that they too are part of the problem. Because too many people within ‘The Church’ find it difficult to come to grips with these problems they label anti-church people, like Pete, atheists so they can justify their own

failure to do so. The formal Church seems to have missed Dylan's message that 'The order is rapidly fading' so they are proving the truth of it."

Nancy Kerr wrote, "I too keep on as an idealist. I once told my small-business friend/owner that to me the purpose of a government was to pool our resources through taxes what no one person can provide, such as roads, police, firefighters, and together take care of the blind, lame and poor.

"Aghast, she said, 'Nancy, that's socialism!'

"I said, 'I thought it was Christian'.

"I sang Pete and Dylan's songs, I lived in a parsonage which was one of those 'ticky, tacky boxes'. It was yellow and there was another yellow one just four doors along, into whose driveway I mistakenly pulled until I learned to count from the intersection.

"I was there for the 1963 March for jobs and listened to MLK Jr speak and Anderson and Mahalia sing. I heard that 'dream to be known not by color of skin but by character'. I was a pastoral counselor for voter registration in Jacksonville, Miss. I marched for integration and against another war to end all wars — which it never does.

"I went to seminary with MLK Jr ; he was working on his Doctorate and I, an M.Civ. Bob Moses and Marion Gould Jackson (whom I saw on T.V recently) taught me non-violence techniques in Mississippi where, with the blessing of a Connecticut church, I was sent by NCC to be pastoral counselor for the SNCC in Jacksonville. It was the summer that Goodman, Cheney, and Schwerner were killed in Mississippi, and Vicki Luiggi in Tennessee. We traded members for three years with an AME Zion church (I learned to sing in their choir!) On yes, 'Those were the days, my friend!' I'm sorry the hope and promise ended."

Wayne Emde made a different connection: "George Hewison went to the same school in Campbell River that I attended. Many of our parties in those days ended up in the kitchen where we sang many of Seeger's tunes. George was often the guy with the guitar and I think I still remember most of the words to one of his signature tunes that began, 'My eyes have seen the horrors of the coming of the Reds/They are eating in my kitchen, they are sleeping in my beds!' He had more energy than most people. I was surprised that he became a Sunday school teacher [Only temporarily: JT]. Not sure where he is now, haven't seen him for many, many years."

Art Dronkers corrected one mistake: "I am sorry to note you made a mistake in your article, that may have hurt some people. 'When thousands of Swedes'. The protest was in Oslo, Norway, not in Sweden. The terrible mass murder took place in Norway, a country with a very low crime rate. It hurt Norway and its peaceful citizens deep into their hearts."

Thanks also to Deirdre Straughan, Frank Martens, Rich and Elaine Gibbons, Ginny Adams, Cliff Boldt, Alan Reynolds, and Ralph Milton for their appreciation both of Pete Seeger and the column lamenting his death.

Now on to other things.

Sheila Carey was offended by Steve Roney's response to an earlier column. Steve had written, "Women have control of 80% of all disposable income, and have much more free time on average than men" to organize issues.

Sheila replied, "I'm surprised that you let him get away unchallenged with the statement that women have more free time than men. Not in the world of any women I know! But then if you only published the letters that blandly agree I would be less likely to read them."

For the record, I edit all letters for length and sometimes for style, but I don't attempt to censor the opinions expressed. If I have freedom to express my opinions, I don't feel that I should deny others the same right, even if I disagree with them.

Another objection to Steve's comments came from Judyth Mermelstein in Montreal. As a Jew herself, she writes: "I'm concerned that Steve Roney expresses a common misconception about Jews. What he says about 'The Jews' in

Canada and the U.S. is only true of a relatively small, affluent and Zionist element. Demographically, most Jews are neither rich nor well-connected. While even the poorer ones often donate (small amounts) to charities for Israel, they are more likely to be supporting such things as the Hebrew University, hospitals, tree-planting, and such than the politics of Likud and Kadima.

“Fully half the population of Israel itself supports a peaceful two-state solution and opposes continued military control of and encroachment on Palestinian lands. While almost all Jews support the existence of Israel as a haven for Jews mistreated elsewhere in the world, the vast majority of them do not share the Evangelical Christian notions of the Bible as literal word of God. In fact, it is logically impossible for them to do so: those who have any knowledge of their own religion at all are aware of the basis of Jewish education -- the study not only of the Torah but of the often-revised and sometimes-contradictory rabbinical interpretations of what the Torah's dictates mean in the present day, and the central tenet that what matters is reasoned ethical behaviour, not blind faith in salvation of a ‘chosen people.’

“It seems very odd (if not downright ignorant) to this Jew that the ‘Christian fundamentalist’ element are so adamant that the Jews are wrong about everything else but right to oppress another ethnic group and half of their own population for political gain. Were they to read their own New Testaments with any comprehension, they would surely see that Jesus did not share their views.”

TECHNICAL STUFF

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You can access several years of archived columns at <http://edges.Canadahomepage.net>.

I write a second column each Wednesday, called Soft Edges, which deals somewhat more gently with issues of life and faith. To sign up for Soft Edges, write to me directly, at the address above, or send a note to softedges-subscribe@quixotic.ca

PROMOTION STUFF...

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For other sources worth pursuing, try

- Ralph Milton's HymnSight webpage, <http://www.hymnsight.ca>, with a vast gallery of photos you can use to enhance the appearance of the visual images you project for liturgical use (prayers, responses, hymn verses, etc.)
- David Keating's "SeemslkeGod" page, www.seemslkegod.org;
- Alan Reynold's weekly musings, punningly titled "Reynolds Rap" -- reynoldsrap@shaw.ca
- Isobel Gibson's thoughtful and well-written blog, www.traditionaliconoclast.com
- Wayne Irwin's "Churchweb Canada," an inexpensive service for any congregation wanting to develop a web presence, with free consultation. <http://www.churchwebcanada.ca>
- Alva Wood's satiric stories about incompetent bureaucrats and prejudiced attitudes in a small town are not particularly religious, but they are fun; write alvawood@gmail.com to get onto her mailing list.
