

Spalding sense

5.30AM. FRIDAY. My mobile phone cheerfully comes to life with a tune that, in other circumstances, one could dance to. Shortly afterwards the alarm clock joins in, except that no dance has yet been devised to the tune of pip pip pip, pip pip pip. Both phone and clock are on the other side of the bedroom. That is because this is a 'must wake up' situation. It is not an option to press the snooze button.

I have to go to Spalding for an inquest. It would have been more than my life was worth to miss it or arrive late. So, why is this the first time the name of that Fenland market town has graced the pages of SJ for more than six years (according to the search engine on the website)?

Wind the clock forward a couple of days. It has become a tradition in our family that lazy Sunday mornings are to be spent in bed with the Sunday paper and a cat on the quilt.

It should be a pleasure to read the Sundays because although there is always something bad going on – a distant war or the minor matter of a few clearing banks getting into financial difficulties – there are usually nice things to read about, such as where we might go on holiday next or which of the books under review we will buy this week.

But increasingly, and especially in the last two or three weeks, the news has become so depressing that one might as well get up at 5.30 and drive to Spalding.

I can live with redundancies and recessions and the vague thought that we might all be obliterated by Iran's 'peaceful' nuclear installations. I can tolerate the occasional misdemeanour from members of the government (like forgetting to mention that you have paid off your mortgage and still claiming for it – such an easy mistake to make). I can even bear – or even slightly enjoy – the Attorney General being caught out by the maxim that ignorance of the law is no excuse.

Ludicrous laws

But what sticks in the craw is the sheer idiocy of some of the rules and proposals that are now dripping out of Whitehall (or wherever these things ooze from).

Take the report that government advisers are considering making motorists legally responsible for accidents involving cyclists

or pedestrians even if they are not at fault. The same report suggests that there would be a presumption of blame against the driver of the most powerful vehicle involved in the accident.

Has anyone thought of the consequences if such proposals were enacted into law? What if the cyclist (a 90-year-old granny) is in collision with the pedestrian (a sumo wrestler)? Who pays then – the powerful wrestler or the frail granny? And what about motorway pile ups? Do all the smaller vehicles get compensated by the larger ones, or does the biggest of all have to pay for the lot? And what happens when two cyclists collide, or two pedestrians? Will there be some form of joust to determine who is the most powerful so that compensation can be paid to the weaker? And would there not be a risk that both parties would compete to show feebleness – each crawling on the ground towards the opponent, and surrendering when the other raised a little finger in combat?

That was one silly idea, but then there was news about the mind numbing idiocy of Ofsted and their attitude towards the perfectly sensible childcare arrangement by two mothers who looked after each other's daughters as each in turn worked a shift at the local police station. Ofsted ruled that such reciprocal arrangements amounted to childcare "for reward" and the mothers were not only told they must register as childminders or stop the arrangement, but that Ofsted would be snooping on them to make sure they complied. The result? Huge and unnecessary childcare costs for both.

Then of course there was the school dinner lady who was sacked for a breach of confidence by enquiring of a mother how her bullied daughter was recovering (revealing to the mother what the school had not – that the daughter had been tied up by bullies and whipped).

And the trouble is that this is all catching. Data protection, child protection, politician



protection (well not the last – yet, but there is an Apostrophe Protection Society!) are all bandied around and waved at us as a threat.

The home of common sense

There are two responses to the nonsense. The first is: go to Spalding. There you will find a magnificent court house that looks like a castle. The courtroom is everything an old court should be – formidable, menacing, sombre and dignified. I doubt if it has been changed in a hundred years. I don't know the Spalding magistrates, but I would find it very surprising if in those austere surroundings they had much truck with the nonsense and newspeak coming out of our rule makers. I cannot imagine that anything except good old fashioned justice would be meted out here.

And the second is for us to lobby for the creation of a new government department – to be called the Ministry of Common Sense, to have a very small staff (at least half of whom would be solicitors) who would have the power of veto of any law or regulatory decision that defies common sense. Like equity, it would be a gloss on the common law, but this would be not only gloss but also emulsion and matt. And where better for the Ministry of Common Sense to be housed? The court house in Spalding of course – on days when the magistrates or coroner are not sitting, because it would take little time to decide on how little common sense features in many of our new laws.

Richard Barr is a consultant with Scott-Moncrieff Harbour and Sinclair and can be contacted by email: Richard.barr@paston.co.uk. For more information on Spalding log onto solicitorsjournal.com/tales