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***The Eighteenth Camel Solution*** Bitterly, bitterly, the three sons fought over the old sheikh's dying wishes. To the haughty firstborn went half his camels, to the handsome Mustafa one third, and to the wild young Ali, a ninth. But there were seventeen camels! The math didn't work. "If only my brothers would be reasonable...", each thought. Tempers flared, warriors took sides and trouble was in the air.

Suddenly, out of the shimmering desert appeared a wise old woman. She gave her camel to the young men. Now there were eighteen! The eldest son took nine, the middle son six and the youngest, two. Nine plus six plus two makes seventeen! The wise old woman quietly took back her camel and disappeared into the desert.

Does your impossible conundrum have an "eighteenth camel" solution?

***Pardon Me?*** A criminal record can ruin your day. In fact, it can ruin your life----- mess up your security clearance, your ability to travel abroad and your self image. Consequently, Parliament provides that if you can keep your nose clean for three years after a summary conviction offence (five years if it's indictable) you may apply for a pardon. If granted, a pardon will remove any disqualification to which you may be subject under Federal law. However, if you re-offend, or are otherwise found to be "no longer of good conduct", the pardon can be revoked.

***Whereas the hereinafter mentioned party of the first part wishes to obfuscate and prevaricate.....*** Is "legal language" really so slippery, a smokescreen for the sinister? Generally not. Language, like fire, is a wonderful servant if used with care and respect.

A good legal writer knows that precision is essential. His words must contain no more, but no less, than

their intended meaning. He understands that nobody will pay much attention to the words until they no longer like their plain meaning, so he must protect the words by making them precise and unambiguous. He will choose words which have been sanctified by the courts or by statute. While drafting, he will self-test, looking for potential weaknesses, ambiguities, unintended results, vagueness, confusion..... anything which might provide a grip for inventive challenge. The final result should be clear, logical, precise and capable of only one meaning. Good drafting has a tight elegance about it.

But like fire, words can be used as weapons and sometimes drafters *do* create verbal camouflage. Legal land mines and semantic sleepers can be buried deep within the mind-numbing detail of paragraph eighty-seven. Warranties, insurance policies and franchise agreements can be especially rich in such nasties. Future articles will deal with defenses to these devices, but for now remember, "If you don't understand it, don't sign it!"

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***Where do we go from here?*** After a year of consolidation, it's time to move ahead. We want to use the best legal technology but we never want to lose personal touch. If our growth and development begins to make us lose touch, tell us, loud and clear!

*"What shall it profit a man if he gains the whole world and loses his own soul?"*

*Jesus of Nazareth*

## ***Joint Tenancy/Tenancy in Common: What's the difference and who cares?***

Joint ownership is best understood by focusing on the owners, whereas ownership in common is better understood by focusing on the property. Joint tenants are considered as a single legal entity. When one dies, the survivors continue to hold title as if the deceased had simply evaporated from title, just as if he had never existed.

Conversely, every molecule in property held in common has two (or more) distinct owners, each of whom owns a personal interest which will form part of his estate when he dies.

It is possible to have both kinds of ownership in a single property. Thus Mom and her two daughters could hold the cottage such that the girls are tenants in common *vis à vis* one another, but joint tenants *vis à vis* their mother. When Mom dies, the girls will immediately hold the cottage as tenants in common.

Succession can be simplified and probate fees saved by having joint ownership of bank accounts (and other chattels) as well as land. But, as always, consider all of the implications. Don't let the estate planning tail wag the common sense dog!

A man who was new to this country saw a gravestone marked, "Here lies a lawyer and an honest man" and concluded that Canadians must be buried two to a grave.

***Barristers, solicitors and attorneys*** The British have barristers who go to court and they have solicitors who do the paper work. You can't be both. The Americans have attorneys and in Quebec they have lawyers and notaries. Who are all these legal characters, anyway?

In legal history, a barrister was an elite lawyer who had been called to the "bar" of the court, that is, qualified to argue cases at the king's court. A solicitor was legally trained, but not called to the bar.

When someone was represented in absentia, his representative was (in the correct use of the word) his "attorney". Gradually the word "attorney" came to be used as the functional equivalent of "barrister" and at the time of the American Revolution was a common term for all lawyers.

In our pioneer days there weren't nearly enough lawyers to handle everything, so those few had to do it all--- paper work and court work. The luxury of being just a barrister or a solicitor wasn't available. To this day we are both. And somewhere along the line, and for similar reasons, we also picked up the title "notaries public" which means we get paid for making people swear. Don't you just love it!

***Fiduciary Duties: Trust Me!*** Sooner or later, each of us becomes a fiduciary---- sometimes with the formal title "trustee" and sometimes when one's duties put one in a position of trust. Occasionally, by virtue of putting your nose where it doesn't belong, you become a "*trustee de son tort*." In any event, your position now holds you to the highest of all standards. Because someone else's fate is in your hands, you must now at all costs put his or her interests ahead of yours. That's the law!

***Transparency and the rule of law*** What is at the heart of the economic well-being of most Western countries? Transparency. Conversely, a key characteristic of the Third World's stagnating economies is an entrenched pattern of graft, privilege and corruption. Where the rule of law does not prevail, the rule of the jungle does.

What keeps our system clean and transparent? Politicians making more rules? Not likely. What keeps the system honest, day in and day out, are the lawyers in the courtroom, pushing the edges, testing the limits of freedom and exposing the cheats. Individual cases may occasionally yield bizarre results, but taken as a whole, the system works. It is the unfettered right of the simplest man or woman to challenge the mightiest which is the ultimate guarantor of democracy.

*"The man with a new idea is a crank until the idea succeeds."*  
Mark Twain