correct image number. On finding the photograph and the correct number I again emailed the AWM with my findings. There was no identity to the soldier. If I was to supply them with some digitised images of my father the Photograph Curators could then make a decision and I would be notified. I selected two images of my father one in full uniform and another taken without uniform while he was in New Guinea. I emailed them to the AWM.

To think that for 69 years that image of the soldier leading a pack mule up the steep slope of Uberi ridge was unknown. It took AWM only two months to identify the soldier as N45380 Private Sidney Ronald Oxenbridge of 34 Battalion - MY FATHER!

I urge those people whose relatives served in the armed forces to search the AWM database and if you have the opportunity of identifying your family member it would greatly assist AWM and also give the servicemen in question the recognition they so deserve.

Carol Herben.

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The Law During the Last 50 Years.
A talk given by Peter Daly at our December meeting.

You are probably all familiar with the bread and butter of a solicitor’s practices involving property transfers, wills and settling the affairs of those that have died. Legal work is certainly broader, and varies from practice to practice. I shall be relating my own experiences in practice here in Wollongong to bring to attention laws, happenings/events that went beyond the personal affairs of one client and demonstrate more the community of which you and I are a part. It is more a social history than a law lecture. It qualifies as some of our district’s history, not necessarily unique to it, and for this reason this talk was suggested.

Just some details that will put a time period to what I have to say. I commenced practice here in 1962 and finished in June 2008. A period of
46 years. I had in fact been admitted to practice law as a solicitor in 1958 and not unlike many others wished to work for myself. In retrospect this fact was beneficial when it comes to a talk of this kind. I might have elected to find employment in a firm and deal with the clients of that firm. I had to find my own clients. I was prepared to do any legal work at all and in the early years did so. I was single, not a local, known to one or two practitioners here from law school days, had made the acquaintance in Sydney of a Wollongong resident, who was to become prominent here later on, and through my family knew the lady proprietor of the Oxford Hotel, Crown Street, and lived there for about 8 months. There were approximately 80 solicitors in practice in Wollongong, Shellharbour and Kiama council areas in those days.

My office was on the 2nd floor in Western Crown Street, the same location as Bill McDonald, our society’s life member. Bill was most welcoming, even if softly spoken that tested my hearing then. I had an office with a secretary, who did shorthand, a few law books but no customers, except two tasks my father had thankfully obtained for me. A flow of clients was all that was missing. A Public notice, and there not large even today, of the opening of a legal practice was permitted, but no advertising or promotion of areas of legal work. A name on a tenant chart was OK, so as clients could find you. I meet as many as I could, the bush telegraph system went into operation. I remember people coming in to have a look, people were welcoming, and in particular I introduced myself to all other practitioners and to the Clerk of Petty Sessions, now the Clerk of the Local Court. An immediate source of work was my landlord who referred a couple of sizeable motor vehicle injury claims to me, not paraplegia cases, but more broken bones and head injuries. The manager was a Mr Basil Dickenson, an Olympic sprinter in his younger day, which was pre-war. I was very grateful for that even if it did not pay the bills this week.

To be continued.

MUSEUM OPENING HOURS
Wednesday & Thursday 12.00 noon - 3.00pm
Saturday & Sunday 1.00pm - 4.00pm
Public Holidays 1.00pm - 4.00pm
Closed Good Friday, Christmas Day and Boxing Day.
Schools and groups by appointment. Contact Mrs M Christie 4228 0158.
The Law During the Last 50 Years.
Part two.
Continuation of
A talk given by Peter Daly at our December meeting.

Let me mention the first fee paying task I performed and remember decimal currency was not yet introduced. The particular task was to advise and complete a certificate for a lease. In those days, tenants were to be fully informed of the risks of concluding a 5A lease. The law makers decreed that an independent practicing solicitor was the best person to certify that it had occurred. As noble as the community minded motive was, I rarely experienced a person so advised being deterred from accepting the risk. He probably had little choice. We are certainly not risk averse. In a broader context this requirement was part of the gradual dismantling of the protection given to tenants, a fair rent and improved security of tenure considered socially desirable, in the days of shortages including the supply of houses and building materials to construct them following World War II. Another certificate I completed frequently was called a Moratorium Certificate also introduced in the context of another catastrophe, the Great Depression, and certifying that people had been fully informed, of the risks in borrowing money on home mortgages, those risks being eviction, forced sale, and personal responsibility, if you failed to pay. Here again not many of us were deterred, and just as well. In retrospect these legal protections outlived their usefulness, by many years, and were repealed over time, with beneficial effects.

Tom Maguire, a Wollongong solicitor since 1932 and I believe a Founding Member of this Society in 1944, who started practice thirty years before I did, said, “You get known out of work on the Hill.” The Hill meaning the Court House. Clients did come seeking help of all kinds. I added my name to the list of practitioners prepared to assist married women to claim maintenance for themselves and children as well as custody of their children.

In those days of practice in these personal relationship matters, being married and not being married determined what was the procedure and remedies available, or more importantly whether Society was to
offer a helping hand or not. There was a real preference in favour of the marriage relationship. Not only that but the law required a commitment to marriage, so that persons in that relationship electing to withdraw as they had tired of it, were on their own. To obtain maintenance, and it then it was a female right only, a married woman had to prove desertion on the part of the spouse or in other words that the conduct of the spouse was at odds with community expectations of the married relationship. We understand it as fault, as distinct from no fault. Maintenance was a court order, and an order if breached could see husbands arrested and put in jail. So the preference in favour of marriage was a strong community value backed up by the sanction of imprisonment if there was a failure to pay court ordered maintenance.

It has been said by many that this experience is a real eye opener about life and so it was. Preparation of these cases proceeded on the basis that your opponent, the spouse, was rarely to admit shortcomings. Another lesson for practice soon emerged. Facts win cases, Law Books, or relying on the law is no substitute for a weak case.

It was court work that had started the honing of my advocacy skills. Magistrate Towns usually presided and you were at odds with other practitioners. The more experienced practitioners gave you the opportunity to develop your confidence, even if gently and repeatedly chiding you on the clangers that came. There was some personal conflict, but that was quickly forgotten. The late Mr Fred Duncan, an experienced local court advocate, vocal in and out of court about amongst other things his Presbyterian Scottish background and a favourite with men, pulled me up on quite a few occasions and one I do remember. He said to the Presiding Magistrate, “Your Worship will you direct Mr Daly to forget about the peas and vegetables and get to the meat of the matter.” I trust this talk is moving beyond that “peas and vegetable” territory.

For husbands loyal to the marriage, despite allegations to the contrary, they had the opportunity to be heard, and may have convinced the magistrate the wife was not a deserted wife and had no cause to so allege. The best way to put it is the case presented on behalf of the wife
was not enough to cause those scales of justice, the familiar symbol of our legal system, to weigh down in her favour, so she was not successful, and not entitled to support from her husband for herself, but even so the Community offered support. It was the marriage relationship that mattered.

But whatever the outcome, it was heartening to know that notwithstanding ups and downs, the family did endure to a degree, because even if a defaulting spouse did shoot through he had an instinct to return to see certainly his children. If he hadn’t kept his maintenance up to date, it was a risky visit for him, as he ran a risk of arrest, a warrant for unpaid maintenance being the issue. Giving in to the natural curiosity had a price on it, paid occasionally rather than frequently.

Nevertheless the System had a very sharp enforcement edge. The prisons were no place for defaulters, not a good thing for the men or the jails. It was the loving or the harmed wife that put them there. There was a change coming.

There were cases too about custody of children. Custody, in some cases, was a fiercely fought issue, particularly where there was no marriage. With or without a marriage in place, the law presumed that it was in the best interest of a child that the mother should have the full time care of young children and there had to be convincing factual reasons to change it. Custody remains a big issue for parties and wider family members.

It does seem extraordinary that more than 30 years on I do not recall the issue of drugs as distinct from alcohol being a part of the many cases I was involved.

Persons not married had no maintenance rights against one another, no matter the length of their relationship. For unmarried mothers they were entitled to obtain from the father preliminary expenses surrounding the birth of a baby and immediate after birth needs of the mother and baby, and, of course, long term maintenance for the child but not for themselves. There were children in those days called illegitimate,
not any more, but nothing like the number of ex nuptial children today. There was a real risk that criminal charges, referred to as carnal knowledge, would arise out the teenage pregnancies of those days even when consensual. Governments have always offered help to mothers keeping their children and its agencies were on watch for children abandoned or neglected by young mothers. It did occur not infrequently that new born babies were brought before the court to be committed to the care of the child welfare department.

A by-product of this work was acting for women in divorce cases. There was then the Matrimonial Causes Act, a federal Act of Parliament, that allowed for divorce on ground of fault by either a male or female. Fault was the trigger. Conduct at odds with the married state will cover it for now. Without proving fault on the part of your spouse, there was to be no divorce. Individuals who walked away from a marriage, through no fault on the party of their spouse, and without a divorce in place committed the criminal act of bigamy, should a second marriage occur. A Judge of the Supreme Court granted divorces. Nowadays as fault is not an issue, you apply in writing as long as there are no children.

Disputes about property loomed large between spouses. Again the threshold question was the marriage of the parties. Watch out if there was no marriage. Long term de facto relationships that broke down were begging for remedies in those days. It was possible for a married woman who had worked and made a contribution to the assets enjoyed by the couple to seek orders about property, even though not wishing a divorce. But women in a de facto relationships, that were long term had no maintenance or property rights, until a few years later. And the law has done a complete turn around, from giving them nothing to being fair, and some say too fair, where children were born into the relationship.

The work extended further into adoption of children. While institutions caring for unwed mothers and infant children initiated and supervised most of the work, adoptions did also occur between family or close friends, or between couples remarrying, with children of a prior relationship. Consent of the natural mother, when unmarried, or both
parents, if married was always necessary. But social policy now dictates that approved adopting agencies must be involved and the private practitioner not associated with these agencies had little or no role. Adoption did mean in those days, but I don’t think it still applies, that for all intents and purposes the adopted child became the child of the adopting parents, going to the extent of altering birth certificates to indicate that the adopting parents were the natural parents. Contact with the natural mother, and sometimes father, and child was at an end. Practice in this area was beginning to change in the 60s/70s when government agencies adopted a supervisory role in all adoption applications. The adopted child had to be informed and know of their adopted status, and know that he/she was not the natural child of the adopting parents and the government through its agencies went to some lengths to establish that the child was fully aware of its past etc. This was a radical change, and adopting parents who had developed a united family involving usually a child of one of the parents, chose not to go along with it and withdrew their adopting applications.

It did not take a lot of time for my practice to develop, and there was other work as well, not as concentrated on suffering wives and erring husbands. While this work was not a glowing report card it was far from representative of my new community either. There were far more marriages intact than otherwise.

I had more connections with Wollongong than I had first realised. It was ten years earlier that I left a boarding school in Bathurst, and work came from that connection. Add to those connections that the community was prepared to give you a fair go and there was substantial population growth.

The work arising out of those connections was of two types, debt collecting work and debt creating work.

Some people didn’t pay. Debt Collection was not always contentious but recovery of debts delayed. Default summons for debt for goods sold, services performed were issued, and enforced, sometimes with the assistance of the sheriff, or through other recognised legal
procedures. It was administrative, not adversarial court work but it was surprising the turns that routine processes can take and lead to court work. But there were stand out events and I’ll mention some.

Not always deliberately, in some cases recklessly, but arising out of hidden and unexpected financial traps people did not then and do not today properly budget for the total costs of building or other projects. In those projects, it is never one contractor alone on a war path, chasing his/her money but a number. I mention supply contractors to a hotel renovation at Berry. The owners are looking for time, for a revenue to start, but contractors need the money now. Resort to the legal system is no instant relief, but to persevere will pay off and creditors will be compensated also for the time delays by an additional order for interest. For entrepreneurs not to pay they were exposing themselves to bankruptcy and some did go down that track, representing a catastrophe for creditors.

In other cases an impression is allowed to exist, innocently sometimes. but deliberately and deceptively in others as to the identity of the real business proprietor, so the persons supplying in good faith are genuinely unsure where to turn to recover payment of bills. Creditors/contractors get the run around. Sometimes contractor’s enthusiasm for work overtakes their business sense. They are open to being exploited. There is a principle of estoppel which simply stops the person publicly identified with the business denying responsibility. For example there was a gentleman, born in Turkey, who was held accountable to a number of clients put on a noteworthy display of remorse, with handkerchief etc. in the witness box how unwise he was to trust his son into a business, and prompted the Judge himself to say, This is not the man they call “Mick the Turk, is it?” a character known of even in places outside Wollongong. I was to learn afterwards his son was indeed, to put it mildly, a character. And Mick’s remorse was probably genuine. Another client came to having given me a lift to Sydney, complaining of fraud arising out of misrepresentation of trading figures on the sale of a corner store. The allegation of fraud and a court case may have been a blow to the family’s standing and reputation. Proceedings were issued, a jury requested, and to my surprise and
satisfaction the defendant paid the writ in full. It is not only the issues of the court cases themselves but the fact that as I think of the individuals for whom I acted in these matters, they continued to support and assist in the development of my practice and not only them but their children. I was to act later for one of those opponents too, Mick. It was part of my practice, in an immigrant community that Wollongong was and still is to deal with the extraordinary range of personalities, names and languages that presented. When we started in the law in Sydney the names for the most part were Anglo, or had that feel about them. That went out years ago. Our children cope with this diversity much better than we did.

Debt collecting continued. Credit agencies existed to warn suppliers of doubtful payers and while I was referred work by a debt collecting firm, there is less debt collecting done by individual practitioners and more done by collecting agencies as a specialty service. That work presented monitoring problems for general practices.

The Community knows about trial by jury as an enshrined tradition. When I started practice, a jury had a role in all criminal trials, a jury of 12, men and women, and still does, and in civil cases too, a jury of 4, but only if a party in the civil case requests it. The accused has a right to settle the make-up of a jury panel, by challenge to a number, based more on a hunch or perceived prejudice, but it does exist. The jury determine guilt or innocence, and a judge passes sentence. In civil cases, a jury may determine fault and damages, or one of them. In those third party cases referred to as amongst my very first as the parties had requested it, a jury was empanelled to determine them. Now this has been changed, in relation to civil cases except in defamation cases, jury trial is no longer the practice in the civil jurisdiction of the Supreme Court and District Court of this state. When a bank sued a Greek Cypriot, for whom I acted, over a guarantee, my client the defendant, as a tactic, elected a jury trial and the Bank’s case against him failed. Another civil case in those early years alleging false imprisonment, on the part of a retail store, summoning a client to the office on suspicion of shoplifting which was strenuously denied, the plaintiff elected for a trial by jury and was successful but recovered damages of $20.00. A pyrrhic victory, you would say. Yes indeed. And another lesson in it, for me.
Just because an individual is stirred up and acts purely on the principle involved, “it is the principle of the thing that matters”, we know, don’t we, that that principle is not of universal application prevail that other interests and principles are involved. Judges say the jury system works well, particularly in criminal cases but practitioners point out that sometimes the Jury system in the past has failed in the criminal system, and in more isolated areas geographically because of bias, and errors have occurred not easily remedied. The answer has been that the system is not perfect but the best system on offer.

The debt creating work originated from another school contact. I was asked to do legal work for a public company, a finance company. These institutions served a very real need in our community, as more and more of the community were only to acquire things they needed if credit was extended to them. The finance company was not the only one in Wollongong. There were others and some owned by Banks. Mortgage debts were necessary to assist people to buy land and consumer goods. Banks were not able to assist except primarily for home building and home purchasing purposes, at a cheaper rate. For holiday blocks of land, or your first home block and even land developers, all were delighted to benefit from this finance. The finance was at a higher rate of interest than bank rate, it was also a flat rate. That meant that the actual interest amount was not calculated on a balance of a debt that was reducing, known as reducible interest, but on the full amount of the loan for the term of the loan. I had clients who acquired taxis and later a bus run, saying finance companies were easier to deal with than banks, despite the higher cost of money. Car buyers and Trucking contractors are well known for borrowing of this kind. Individuals were able to speculate in land purchases, and did so, some successfully. What makes that higher interest rate more affordable was that it was tax deductible. It was my practice that saw to it that valid and enforceable mortgages were in place and if default occurred the money lender was protected and able to recover by forced sale the amount owing to it. Credit was a fact of life. The old timers, anti debt people who paid cash for things were becoming rare indeed, as a cartoon in a real estate office declared. It was buy now and pay later scenario, still in place today.
My experience here was to convince me what a fantastic service the IMB society provided in Wollongong over many years, and thanks to it when my second child was born I moved into a house, four years after starting my practice, with a mortgage. I remember telling or complaining to that Mr Duncan about moving into my new house, with noisy floor boards, sheet window coverings, and little else, except for the family, and a neighbour visiting immediately wanting a dividing fence built yesterday. Give me a break! I got little sympathy from Fred. All he said was ‘tall fences make good neighbours’. I gave that advice frequently later to encourage harmony and peace between neighbours.

Clearly the practice was underway, and clients thought so too.

The late 60s were boom times in Wollongong, and a large source of work arose out of the property boom. Tracts of land were opening up throughout the Illawarra, particularly in Oak Flats, Warilla and Barrack Heights and further south to the Kiama and Shoalhaven Shire Council areas.

Closer to the centre of Wollongong, and north of it agency scouts were on the lookout for pockets of land that had remained undeveloped. These were large paddocks where horses were kept, but the wide meadows gone. Fairy Meadow extending up Mt Ousley, and Mt Pleasant were subdivided but some of the subdivisions were not fully developed until the late 60s and early 70s. There was then in the late 60s little land on the coastal plain, except for Woonona and Bellambi and odd parcels here and there, capable of subdivision and sale. You have to remember then that there was still a coal mining presence along the coast, with pit tops at Corrimal, Bellambi, Bulli and further north, and coal truck movements throughout the shopping strips constantly. The developers took on the slopes, particularly at Mt Keira, Mt Ousley, Mt Pleasant, Balgownie, Corrimal, Woonona, and in the late 60s and 70s, and have been edging into the escarpment bit by bit ever since, encouraged by coal mining activity shifting behind the escarpment.

To be continued in next Bulletin.
The Law During the Last 50 Years.
Part three.
Continuation of
A talk given by Peter Daly at our December meeting.

Wollongong’s southern suburbs took on an appeal for young families and suddenly the shoppers were better served in those areas and so Wollongong was being by-passed. But there was a greater transformation story for the Wollongong central area and elsewhere all encouraged by legislation known as Strata Titles Act of 1973. It had a huge impact on the demolition of the old homes, perhaps too many, and their replacement with a denser type of housing, walk-up home units, town house/villa/terrace development and finally high rise.

The Strata Titles legislation introduced a new type of land subdivision. This type of subdivision was in strata or on levels both underground and aboveground. It applied at the beginning to levels or part of levels of buildings. To that time we were used to nothing but a horizontal subdivision, altering and creating boundaries of land, or creating lots or blocks of land at ground level only. It was a radical and worthwhile community reform to provide for subdivision in strata. This enabled people to avoid the high cost of land, not all needed. It also enabled persons to acquire title to what we had known previously as flats. It changed many lifelong renters to owners. There is now a range of housing choices to accord with greater variety of housing needs. There is a huge number of high rise and ocean view developments that are part of the city landscape in the Smiths Hill and Beach Front areas. There was now more town planning concerns than previously. Residential land had been sold in the past, selected on a haphazard basis, with provision of utility services by government department in some cases an uncertain prospect. Services and utilities should be available as necessary and preferably from the time of sale. Edging up the escarpment, land to be sold had to offer stable and secure home sites. For land or part of land permanently unstable no development was to occur. Building envelopes came to be identified for buyers. Again, buyers had to be fully informed of the risk of land slip and how to protect themselves against it. No certificates from solicitors in these
cases but land contracts took on the size of a small book in the interest of buyers being fully informed. This was clearly a significant happening for land buyers in our city. The reform was a revamping of the approach to many related property issues that were largely unnoticed by the broader community in order to remove all hidden traps such as stability, etc. so that when the land was sold it came with all utilities. Too many, in those early days, were to be without water and electricity until they were put there by the appropriate authority. These utilities are all there today from day one. Also, residential subdivision was to take place within urban limits and not in zones known as rural or non-urban. It has certainly added to the cost, but the benefits derived have outweighed them.

What used to be called restrictive covenants, a private choice then, but now called town planning, sought to protect both private and public interests, some good, some over the top, but on balance a worthwhile achievement. Environment issues, water run-off, erosion, endangered species, streetscape, flood mitigation, tree removal, house height above ground and many more were just emerging in those early days.

The Quarter acre block, except for dreaming about it, has gone, if only for the reason that acres and quarters of them are no longer part of the land measuring systems. We have gone metric and all measurements are now in metres or parts or multiples of them. We have also rid our system of those quaint units of land measurement, such as roods and perches, we learnt of in primary school.

The development of land in the broad sense is not for all the participants a steady and constant activity in our community; it is subject to boom and bust. It is cyclical. My practice engaged in the related legal activity to that land development and the practice was going along at a cracking pace dealing with land in all those areas mentioned. By the mid 70s the property bubble burst and a number of clients went broke, including a finance company. This period had been the peak time for my practice in terms of personal effort and constant application more than at any other time, before or after. I was unable to carry out all types of work. The rule is you should not put all your eggs in one basket, and
while I plead not guilty the practice became selective to a degree. I willingly retired from that relationship work to referred to earlier. The boom was over. Australia was up for sale and not too many buyers. A new period of practice had arrived. One door closes and another one opens; not immediately but gradually and painfully from time to time...

The remainder of this address will cover other events that have a community feel about them, but for me they occurred after the land bust of the mid 70s.

Firstly there were calls for more effective remedies for consumers. There was safety protection proscribed by law, for employees in industry and in particular coal mining, in place for many years. Consumer protection was called for. The protection took on many forms. Consumers were to be protected by a system of licensing in many callings. A trained, licensed and supervised building contractor was more likely to deliver a better product for the consumer than the unregulated one. Let me say immediately that there were many honest trades persons who did deliver the goods before the advent of the Builders Licensing Board, but to stop poor practices on the part of few, the whole system was changed. Another area was the motor trade, in particular the second hand motor trade. The classic false advertisement was 'a low mileage vehicle and a one only lady owner'. The community was not to be subject to false claims of this kind, or any other kind, and heavy penalties were imposed with defaulters risking loss of licence, the ultimate sanction.

Cooling off periods were introduced to protect consumers giving in to impulse buying in car yards or real estate offices. We know they are given the opportunity to cancel the deal within three business days, but do lose a proportion of deposit paid in property transactions.

Consumer protection was a community measure in outlawing questionable commercial dealings such as price fixing and the like. It went further by expanding the private remedies available to consumers. Dealings in products had three parties, so that relief against the trader wasn’t enough sometimes. The consumer was given a remedy also
against the finance company. Let me explain. A contractor goes into the business of supplying timber props to the coal industry. A machine is needed, which, on behalf of the manufacturer it is claimed, can cut and stack timber logs in the forest at a great rate. It is a very expensive machine and money has to be borrowed. The client enters a lease agreement. The machine achieves nothing like the production represented, and working amongst hardwood timbers the machine buckles, breaks down and is not capable of the production targets budgeted for. This consumer was compensated, but the release from his borrowing obligations was the optimum outcome for him. Without that remedy my client may have faced bankruptcy, etc. A thoroughly worthwhile reform.

In addition to this, the law allowed for consumers to challenge contracts on the ground they were unfair. This was a departure from the principles of what was known as ‘black letter law’. Or in other words, what did the contract state. That contract did prevail absolutely. Whatever traders and others had inserted into contracts was too bad for the consumer, but this is no longer the case, and now may be set aside if a court concludes that there was unequal bargaining power between contracting parties, brought about by matters of undue influence, limited understanding, etc. Without wanting to heap further ill will on the banks, guarantees were often given by elderly couples, putting their family homes at risk, to advance financial interests of family, children in particular, and in some cases set aside on the ground that the parties were improperly influenced by others, and this influence, at law adopted by the banks. All in all guarantees are not good and should be very carefully avoided.

There were duties on traders as well. Traders may have exaggerated the features of anything sold in days gone by, and if the claim was misleading, an action for damages/compensation was allowed, not a completely practical remedy. With the reform, a cancellation of the contract and return of all moneys paid is an effective sanction on traders prompting them to do the right thing and make full and complete disclosure and not mislead customers.

Final part in next Bulletin
REQUEST FROM
WOLLONGONG ADVERTISER

The Editor of the Advertiser, Antony Fielding, has approached the Illawarra Historical Society Inc. to provide images and information to publish a weekly historical story. Two stories have been supplied so far. Tongarra Heritage Society has also been approached and is already supplying the Shellharbour edition with stories and photographs. CH

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The Law During the Last 50 Years.
Part four.
Continuation of
A talk given by Peter Daly at our December meeting.

As solicitors we have observed changes in the man-made character of our environment. We saw plenty of this here. Take Collegians Club with whom I was connected professionally from the very beginnings of my practice. It was around the site of Wollongong Gasworks established here in 1860s and as that club prospered and by the 1990/2005 it had acquired the land, from which all traces of the operating gas works were removed, the train tracks, shunting yards, gas making ovens, storage cylinders and the like. These traces of a substantial industrial undertakings went into oblivion before our very eyes. Strangely too, that was the site of Wollongong’s Albert Memorial Hospital, and that too was acquired by Collegians and demolished.

In this connection I have already mentioned the extensive use of our roads by coal trucks. Frank Arkell told me of his greatest achievement for Wollongong, when I asked him. He said the Northern Distributor. It was agony before and disruptive. It ended the truck movements through the northern suburbs and they by-passed Wollongong. A visit to these areas today will show the steady renewal that has occurred. And again there were coal washeries, in and around the Railway Overpass and International Student Hostel now gone.

I want to expand on the areas of practice for me and many others that took shape after the land bust of the 1970. It was not completely
new, but at an intensity that was startling. There were motor vehicles accidents and people took to suing for injuries sustained in them. There were spectacular head on and tragic fatal accidents on Mt Ousley Rd and elsewhere. Jersey barriers were put in place. This litigation was not only road accidents, but accidents arising in mines and industry, certainly hazardous, but also from falls, dog bites too, slippery floors in shopping centres and supermarkets, missing steps, or falling on them, tripping on uneven footpaths, or missing concealed traps, pedestrians being struck down, children harmed using bicycles, and tripping on discarded building materials. There was a guest at a wedding party, sipping from a wine glass, when suddenly the stem of it smashed, on contact with a fire cracker, leaving her with a badly distorted hand profile. There was a female hit in the head by a golf ball coming across Corrimal Street. That screen there was not enough to prevent it. There were a wide range of injuries with bad backs and whiplash injuries common. Workers compensation benefits were payable to injured workers, and dependent widows and for children, irrespective of fault. I was accepting instructions from members of the Shop Assistant Union, working in the retail industry. There was some scepticism on the part of the public and the medical profession as to whether the repetitive strain injury (RSI) was real or imagined, but employees claimed real injury was caused by rapid use of that pricing gun, now superseded by bar coding. They complained about the effect on their backs of lifting products, like those heavy boxes of Pal Dog Food. Their was such activity that defendants through their insurers offered settlements rather than incur the expense of trials. And the public were alert to it, so there were numerous try-ons, and some got away with it, but some claims out of contrived accidents came unstuck, and criminal charges ensued. It was a litigation bubble, that burst too, when the State governments acted to rein in the cost of third party premiums and workers compensation insurance costs, professional medical premiums, and even public liability premiums, by measures limiting injury payouts, and abolishing the workers compensation court, turning the claims process into an administrative process where possible. Towards the end of the 1990s asbestosis and mesothelioma claims were arising more frequently, sadly with speedy fatal outcomes. People were reluctant to accept restaurants, Motels, new car dealerships, and new and/or expanded home
responsibility for their actions and were keen to blame others, some called it the blame game.

But there was at the same time an increase in general economic activity across the city and I and my practice were to experience signs of a more enterprising community. While the butcheries, greengrocer shops disappeared, probably because of supermarkets, and a movement of shoppers out of the city, to make way in one case for the State Office Block, Wollongong was providing a range of new fashion shops, improvement business. Out of the city I was involved in legal work for a factory freezing gem fish, transport companies, timber pallet company and perhaps the most successful of them all a roller skating rink in Oak Flats. There was an optimism in the community again. The developing business was now into building projects such as high rise, so that with the Creston complex, we were to see the high rise development take on an intensity we had not seen before and this continued, with some hitches, into the late 80s/early 90s until the late 2008.

I want to end this account with some change that has occurred more commonly in the affairs of deceased clients. When I arrived in Wollongong a regime of state and Federal death duty was in place. There were protests about this tax, and a lot of professional work was done to avoid liability for it at the big end of town and its impact on people of modest means was harsh, so it was abolished at both levels of governments. Also change has occurred in relation to challenges made to the wills of members of the community. It reflects that the population was better off now than it was all those years ago. At one extreme a husband marrying at a late age to a younger woman, and without dependent children, thought that a wife was appropriately provided for if she had a house to live in, and left a limited estate to her, say a right of residence, and the rest to his relatives. But these wills were not allowed to stand, and at the very least, the widow was entitled to a home of her own which she could sell as she wished. We would not argue with the fairness of this outcome. Personal circumstances were all different, but many people made judgments about the future behaviour of a beneficiary, namely drug taking, about their personal behaviour or attitude towards them and in the process deprived people in need of a
proper share of the estate. So those ads you have seen "have you been left out of a will" has alerted members of our community to challenge and take advice. How often do we hear that it is not worth making a will anymore. Well it certainly is, even if those claims crop up.

There is much more, but for the moment this is enough.

It certainly has been a most enjoyable career.

Finally, we have had our fair share of characters on the bench as magistrates and judges. I'll mention one in closing. A judge of the District Court in Wollongong, Judge Gee. He had a family association with the law that commenced for him as a solicitor in suburban Sydney, Auburn. The depression was taking hold when he qualified. As an idealistic young man he was startled about the failures of the capitalist system, then unfolding, massive unemployment, evictions, etc. and he wished to achieve a new utopia or workers paradise promised by the radicals. For a few years of his adult life, and after qualifying as a solicitor, he worked on the Sydney waterfront and wrote a book about his experiences. He was to begin that work committed to the class struggle, and probably saw himself leading a spontaneous uprising of workers from the factory floor. He was to write of being bitterly disappointed and finding little enthusiasm for any such uprisings, but rather more attention to the mundane matter of living. He returned to practice law first as a solicitor, then barrister and later was appointed a judge. He should not have been surprised for even the capitalist system can over time reform itself and achieve changes for the better. It is the ability of our community and legal system to adapt to change that was borne out by my experiences that I have shared with you.

Thank you.

Peter Daly

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