

Client Newsletter

Biddulph & Salenger **Lawyers**

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The past year

2002 was a time for consolidation and review with two new staff learning the ropes and contributing different insights. Anita Emery and Amber Maples have now comfortably found their niche.

Sally Klem (nee Skene) Licensed Conveyancer sliced through red tape and bureaucratic mazes to ensure clients were housed in a timely fashion. Not even a plastered arm, broken while skiing, caused her pace to falter.

Maryanne Ofner ceased her part time position with the Guardianship Tribunal after 12 years and so is now able to offer advice and assistance to those appearing before that Tribunal. Her specialist family law work continues to expand with forays into other areas of litigation providing variety and balance.

Warwick Dunn, Senior Partner, with his vast experience, remains the guru in conveyancing and deceased estates. On 23 March 2003 he will have been a solicitor for 50 years. According to the Law Society he is now a "Golden Oldie".

Times were very different on Warwick's admission. For some reflections on the momentous changes in the law and the social climate since he commenced practice *turn the page*.



Hot tips:

- ◆ Draw up a will and update it regularly
- ◆ Make a power of attorney
- ◆ Don't sign a document without reading and understanding it
- ◆ Put agreements in writing, including loans to relatives
- ◆ Get good advice – and follow it

Some recent changes in the law worth noting.

Land Tax is payable on any investment property with an assessed land value exceeding \$261,000 or on a primary residence with a value exceeding \$1.68m. The onus is on you to ensure that you meet your land tax liabilities otherwise you may find yourself on sale facing an accumulated land tax charge and fines. In 2002, 9900 new clients were issued with land tax assessment totalling \$31m due to either an increase in land values or the purchase of land. www.osr.nsw.gov.au

The Civil Liability Act 2002 caps damages for many personal injury claims, eliminates damages for smaller claims of pain and suffering, limits legal costs payable and requires solicitors to certify that the claim (or defence) is meritorious. Workers compensation and motor accidents are covered by other schemes. The climate is ripe for far reaching reform to provide uniformity of compensation awards. You may see significant media discussion during 2003 in a campaign spearheaded by the Law Society to implement reform. www.lawsociety.com.au

"Seller Disclosure" rather than "buyer beware" applies to the purchase of residential property. Changes in conveyancing laws mean that in a sale contract you promise that all buildings on your property have been built with Council approval. If they have not, then you must make full disclosure of all illegal building work. The other option is to obtain a building certificate from Council prior to the sale with any outstanding work clearly identified. If you do not take this step and the purchaser later applies for a building certificate and work needs to be done, you face the risk of the purchaser withdrawing from the contract. Make sure that all building work is covered by insurance and keep records.

Superannuation and the Family Law Act

As of 28/12/02 changes to the Family Law Act state that superannuation is now included as an asset and is treated in the same way as other matrimonial assets. The valuation of superannuation interests will require expert input and provide fairer outcomes for separating parties, although a little more paperwork and expense.

www.familycourt.gov.au/html/new.html

28 Alfred Street Milsons Point NSW 2061. Telephone: (02) 9929 8777 Facsimile: (02) 9929 8480

email: biddsal@ozemail.com.au

website: www.biddsal.com.au

How it was 50 years ago.

In 1953, the population in Australia was 8.8m (not including Aborigines who in accordance with the then constitution were "not to be counted".)

There were about 2200 solicitors in New South Wales of whom 74 were women. The first judicial female appointment was still 12 years away. Indeed 1953 saw the first woman impanelled in a jury, not without some disquiet as the evidence "might be of such a disgusting nature that it is unfit for female ears."

It was a buoyant climate for conveyancing. A housing boom had taken place thanks to the prosperous post war years with its record wheat and wool production and immigration (which reached a million by 1955) European migrants only, of course, as the discriminatory dictation test was not abolished until five years later.

Torrens Title, that advanced system of property transfer that NSW still exports around the world had already been entrenched for 100 years. Flats were conveyed using leasehold or company share interests. The concept of strata title was not introduced until 1961.

Wartime controls of rents and evictions followed by transitional decontrolling legislation provided fertile pickings for landlord and tenancy lawyers. Prosperity translated into increased car ownership and correspondingly more accidents and the District Court (then known as Quarter Sessions) expanded with negligence claims.

The 20% of marriage breakdowns were dealt with by one judge in the Divorce Division of the Supreme Court. (There are 18 in NSW today!) There was no consistency across the States in dealing with custody and property issues and certainly no rights for children born out of wedlock.

There was no legal aid and no anti-discrimination legislation.

Our highest Court of Appeal was still the Privy Council. Very strong loyalty to the Monarch was demonstrated that year as Australians tuned into BBC radio to listen to the coronation of Queen Elizabeth II.

TV was still to come but most homes now had a refrigerator and a vacuum cleaner, often purchased on hire purchase, providing another area of litigation.

In 1953, the 18 year old Ken Rosewell stunned the world by winning the Australian Tennis Open, and Edmund Hillary conquered Everest.

Warwick was earning \$7.00 at a time that a male teacher earned \$45.00. Women, of course earned 25% less. Annual leave was 2 weeks.

Milk was 17 cents a litre and the rent on a 2 bedroom home and a Sydney Melbourne flight was about \$18.

The Sydney Morning Herald of 23 March 1953, the day of Warwick's admission (price 4 pence) featured a shark attack on the front page. The editorial applauded talks taking place in London with Marshall Tito of Yugoslavia "a notable advance in European relations." Juxtapositioned alongside that was a plaintive letter to the editor from the Vice-President of United Association of Women railing against the bias shown to woman barristers and doctors "only when Australia can be induced to relinquish its custom of calling upon the talents of half its people and appointments are made on qualification and not sex can we claim to be a true democracy".

The popular film on that day was "African Queen" starring Humphrey Bogart and Katherine Hepburn

On admission, Warwick had a law degree and five years training as an articled clerk to his master solicitor. He relied on a trust account handbook. It was not until 1963 that the Law Society Journal commenced providing helpful advice and a Solicitors Manual was not published until 1967. His tools of trade were a telephone, a library of leather bound books, folded manilla folders bound in pink tape, fountain pens, blotting paper, a loyal secretary taking shorthand and typing with carbon paper, title deeds with wax seals and the postage stamp book to record outgoing mail.....

Warwick and his post war generation of lawyers, however brought to the profession new energy, dynamism and reform and progressively worked with golf ball typewriters, photocopier, computer, e-mail and Internet.

A half century of being at society's heartbeat and assisting clients to deal with and work around evolving legislation provides some explanation for Warwick's wisdom, vision, tolerance, optimism and capacity to embrace change.

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This newsletter is for the benefit of clients. The information is of a general nature only. You should not act solely on the basis of material contained in this newsletter.