

## INTRODUCTION

I have waited for almost 50 years for somebody to write something about the story of the Public Solicitor's Office in Papua New Guinea before independence in 1975, but no one has.

I have written this book as a chronicle. It is not intended as any great work of law or history. Rather, it tries to tell, in terms readily understandable to the general public, the story of a young lawyer in the crucial period leading up to independence, and to give a glimpse into the working and importance of the Public Solicitor's Office and of the part played by the rule of law.

While it is essentially my story, it personifies the story of all those young expatriate lawyers who served the needs of the people of Papua New Guinea as criminal circuit lawyers, from the inception of the Office in 1958 through to the time when local lawyers qualified, and to independence. It is my modest attempt to preserve some record of the sort of things we did and, hopefully, to inspire someone younger and more vigorous to write a fuller story and history while people remain who can be interviewed.

It is perhaps necessary to give some brief description of Australia and the mindsets prevailing in that country in the 1950s and '60s. In the rural part of Australia in which I grew up, not uncommonly there was no electricity and little in the way of communications. Information came by way of the news services, notably via the ABC, on a bulky radio with large, unwieldy batteries stationed immovably in the living room. The only other news came in the daily newspaper printed in Hobart but not usually delivered until

the news was stale. Only a few homes had telephones. They operated on a party line; this meant each phone had a coded ring so that one could tell from the code for whom the call was intended. Anyone in any house could pick up the phone and be a party to the conversation, or listen to it silently.

Many of the older generation had been involved in World War I between 28 July 1914 and 11 November 1918. Upon entering a house, you would often see a framed picture of a young soldier in pride of place – a young soldier who had not returned. There had been only 21 years between the two World Wars. Many of the younger men, still in their thirties or early forties, had not only come through the hardship of the Great Depression, but had participated in World War II between 1 September 1939 and 2 September 1945. Some, I knew, had shell shock, as it was then called. Balloons were banned at some children's birthday parties that I attended lest the sound of them exploding unexpectedly brought on a shell-shock attack for any "returned men" present.

As the threat of Japanese invasion of Australia loomed, my father and three of his brothers, along with tens of thousands of others, volunteered for the armed forces. Altogether some 990,900 men and women were enlisted during the course of the war, of whom some 555,799 served overseas.\* The population of Australia in 1940 was 7,065,000, so about one in seven people served in the armed forces.

In the 1950s and 1960s, there was an emphasis on things military. At the secondary school that I attended, participation in the army cadets was compulsory, and from the age of twelve or thereabouts we were issued with military rifles (303s) and taught to fire them. We were also taught to fire the Vickers machine gun and were exposed to the Owen gun, a light machine gun used in World War II. We learned about things like gas warfare and practised with gas masks. Australia was involved in the Korean War from

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\* Enlistment statistics, Australian War Memorial website: <https://www.awm.gov.au/>

1950–53. Between 1951 and 1959 there was compulsory National Service training for young men, which was then discontinued.

Australia's involvement in the Vietnam War began in 1962 with the deployment of military advisers, and escalated during the next ten years until withdrawal in 1972. Approximately 60,000 Australians served in this war. A new National Service Scheme began in 1964 and continued until 1972. Under this scheme, those selected were required to serve full-time in the regular army for two years and to serve an additional three years part-time in the reserves. They could be required to serve in the Vietnam War.

When I began university as a law student in 1964, I joined the University Air Force Squadron, which involved weekly training and from which I received a commission at the end of my degree. In general, the whole country was more militaristic and more accepting of militarism than it is now.

Australia was still firmly clasped within the British Empire, once the world's largest colonial empire, and about a third of the world map was coloured red to signify British rule. Empire Day was a major event celebrating the British Empire in the traditional fashion with bonfires and fireworks.

In the 1950s when I was in primary school, we had formal school parades with lowering and raising of the flag ceremonies, and we marched into school in military fashion to the playing of the British national anthem over a loudspeaker system. Australia had not selected its own individual national anthem. There were large framed photos of the young Queen Elizabeth in our schoolrooms and in all public buildings.

Until the first displaced persons who arrived from Europe after World War II, the Australian population consisted mainly of Indigenous peoples and those of British and Irish ancestry, although there had been significant immigration from other countries such as Italy, Germany and Greece. We were all growing up in a country where the Indigenous people were without many civil rights.

My father had joined the Royal Australian Air Force and spent

some time in Papua New Guinea during World War II, and in Indonesia (then Dutch New Guinea) and Borneo with the Allied Forces led by General MacArthur. He had brought back many intriguing photos of life in the tropics. For the usual reasons, my father said little about his war experiences but I would often look through those photos with fascination.

Our farm exported apples to many famous European ports, and part of my early childhood duties was to label and stamp the cases. The labelling was done with a stencil and black ink. So I would routinely be branding the wooden cases with the names of foreign ports such as London, Hull, Liverpool, Hamburg, Rotterdam and Antwerp. These exotic names and my father's fascinating photos kindled a desire in me to travel to foreign places. During the 1950s and 1960s there were also often reports of first contact patrols in Papua New Guinea, particularly in the Highlands.

Against the above background, the reader may understand why an advertisement for lawyers to work in the Public Solicitor's Office in the then Australian Territory of Papua and New Guinea was immediately attractive after my graduation with a law degree, completion of articles of clerkship, and admission as a barrister and solicitor of the Supreme Court of Tasmania on 10 February 1969.

In the milieu of the time it seemed quite normal to go off to work in a foreign country ruled by Australia. However, I was aware that the Territory was moving to independence and that much Australian effort was going into readying the country for this. I was to find that there were many young Australians of good heart working to provide services to the Papua New Guineans in health, education, agriculture and a whole range of government services. At the same time, local people were being trained to take over these roles.

It was quite a rigmarole to get the job. I was actually flown to Melbourne, in the days when flying was rare and expensive, for an interview with some grey-haired and serious-looking public servants. I was even told there would be security checks and not to worry

if friends or acquaintances told me they had been approached and questioned.

After some time I was advised that my application had been successful, so I made preparations for the long flight to the island of New Guinea, which at the time was considered by many to be one of the most fascinating places on earth. I continued my reading about Papua and New Guinea in preparation. Nothing I read could have prepared me for what was to come.

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## **CHAPTER 2**

### **Arrival in the Territory of Papua and New Guinea: the legal system**

I stood on the aeroplane steps. The shock of the heat rising from the vast expanse of tarmac enveloped me. It was going to be very hot here. I looked through the heat haze across the asphalt and saw the modest building that serviced the Jackson Airport at Port Moresby. It was early 1969. I had qualified as a lawyer and been admitted to practice in the Supreme Court of Tasmania on 10 February 1969. I was 22 years old.

I had grown up in one of the coldest places in Australia and one of the most remote – Bruny Island. The island lies south-east of Hobart and runs roughly parallel to the Tasmanian mainland. Travel to Hobart was difficult and was undertaken only every few months; it involved a long drive over narrow rough gravel roads to Denne’s Point to catch a tiny launch to Tinderbox on the Tasmanian mainland. The water could be rough. From Tinderbox, one could catch the grinding old-fashioned bus, run by Grant’s Bus Service, to Harrington Street in central Hobart.

The valley in which I grew up was considered remote, even by the locals on Bruny Island. It formed part of the district known as “Lunawanna” and was referred to by the locals with no other name than “Out The Back”. There was no electricity on the island when I was a child. We made ice cream in the evenings from our farm

produce of eggs and milk and put it on the roof to freeze overnight. My brother and I ate it at breakfast time. The winters seemed colder than now. White frosts abounded, the glittering ice crystals weighing down the plants and shrubs and sparkling along the wire fences, so that all resembled some fabled fairyland. The puddles were covered with thick sheet ice, which was fun to break.

Now the shimmering heat of Port Moresby was almost overwhelming as I walked across to the modest airport building. I had come on contract to work in the Department of Law for the Territory of Papua and New Guinea (the Territory) at its Port Moresby headquarters.

After clearing the formalities at the airport, I was met by a government official and driven to the Senior Officers' Hostel, Kermadec Hostel at Ela Beach – a short remove from what passed for downtown Port Moresby. (Coincidentally, Kermadec Hostel was named after Huon de Kermadec, an early French explorer and ship captain who had explored around the waters of my home place, Bruny Island, in an expedition led by Bruni d'Entrecasteaux, after whom Bruny Island was named.)

The people lodging at Kermadec were the single professionals in the Territory's Public Service. Plainly, I was as junior as they come, but I had been placed there because my profession entitled me to live there. Among the residents there were lawyers, dentists, pharmacists, scientific types and so on, most of whom were much older than me. The majority were male, as in those days there were few professional women. Married people had separate accommodation in the form of good-quality houses for the era and lived in the suburbs.

There was a central mess with a dining area and a large sitting and reading area. The accommodation was in "dongas". These were fairly modest buildings comprising two bedrooms, each with its own small sitting area and a shared toilet and shower. They were prettily scattered about among flowering frangipanis and tropical gardens that sloped gently down the hill to Ela Beach. This beach

was well protected from heavy swells but the gentle lapping of small waves was often heard in the background.

I settled into my simple quarters and, when the appointed hour for the evening meal came, I went up to the mess. I had assumed that food in the tropics would be adapted to the climate and that I would be placed on a diet of never-ending salads. To prepare for the expected deprivation, I had been eating lots of hot roast dinners before I flew out of Hobart. When I arrived at the mess, which was run by a middle-aged, grey-haired woman called Mrs Maloney, I found to my surprise that her favourite meals were roast dinners of various types, so after a short time I was longing for variety and a fresh salad.

The day after I arrived, I was collected and driven to Konedobu where the Law Department was situated. I was taken around and introduced to the various lawyers and to Walter (Wally) Watkins, Secretary of the Department. I was to toil away there for a couple of months, pending approval for me to transfer to the Public Solicitor's Office in Douglas Street in central Port Moresby, a short walk from the Supreme Court. This had been my aspiration.

The time I spent at the Law Department proved to be very valuable. It enabled me to settle in, to make friendships and meet people who would be prosecuting or would otherwise be acting for the government, while I would be appearing for the Indigenes. It was close to the Konedobu Club – a place where white public servants met for a quiet drink after work and where I formed friendships with some of the prosecutors whose offices were at the Law Department, and gained an entry into the social life of Port Moresby.

Port Moresby is in the dry tropics and when it was dry, it was very, very dry – and it was dusty for many months on end. The township itself was really quite small. I can recall only two places that were air-conditioned: one was the Supreme Court; the other was the Papua Hotel. There were only two hotels in the main street, the Papua Hotel and one known as the Bottom Pub. Sometimes



for a special treat, we would go to the Papua Hotel just to enjoy the air-conditioning.

There was a small intersection in the centre of town in the same street as the hotels, and in the middle of the intersection was a podium for the traffic policeman. The police officers who were on duty there were marvellously appointed. They always wore immaculate uniforms and long white gauntlets running back almost to their elbows. They stood bolt upright and, with military precision, directed such traffic as there was in a delightfully precise manner.

The Burns Philp company ran one of the major trade and department stores. This was old and rundown and did not have air-conditioning; it was cooled by a system of big old-fashioned sails. Because of the climate, local vegetables were in short supply, or not available at all. Vegetables and meat had to be flown in from Australia. At the Koki Market, the Indigenous market, the produce was poor, and limited in the dry season. A number of local animals were on sale for consumption, including quite a few live tree kangaroos. There were also fish, freshly caught.

I settled easily into a daily routine and was happy to receive every fortnight what seemed like a large amount of money – especially in comparison to the less than subsistence level wage I had previously earned as an articled law clerk. Only twelve of us had qualified as lawyers in the State of Tasmania in 1969 and my fellow compatriots had begun their working year on an annual salary of about \$4,000. In the Territory I was being paid \$8,000. As well, the tax rate was lower than in Australia, the accommodation was modestly priced and, when I was travelling, all expenses were met. This meant if I was on circuit for three weeks of the month, then almost all my salary was saved.

The first thing I did with this newfound income was to buy a second-hand car, a Peugeot 403 sedan – the same car made famous by the detective Colombo in his long-running crime drama series. I think I was as fond of my motor car as Colombo was of his.

When one thinks of the financial system today, the contrast

with the banking arrangements in 1969 is remarkable. The car cost \$400. New small cars at the time were around \$1,200 and upwards. I must have bought the car in my first week or so as it was vital to have your own transport to get to and from work. Notwithstanding that I had a highly paid, secure government job and was a lawyer, I could not borrow the money for the car without a guarantor. Of course, it took only a few weeks to pay for it.

## **Department of Law**

The Department of Law was a good place to gain an understanding of the legal system and its working parts in the Territory of Papua and New Guinea. The Law Department had functions akin to those of the Australian Commonwealth Attorney-General's Department and the law departments in Australian States and Territories.

There was an overriding function of advice to government on legal policy and on the legal aspects of necessary or desirable policy changes. There was a parliamentary draftsman to draft the policies into statutory and regulatory form so that Members of the House of Assembly could consider, debate and amend any proposals as they performed their parliamentary function of passing the proposals into the statute law of the Territory. There was a civil advising and litigation function administered by a senior lawyer in the department, designated as the Crown Solicitor.

## **The court system**

The Law Department also administered the court system, which was a three-tier system. At the simplest and lowest level was a system of local courts, which dealt with minor village matters in a relatively informal way. This was followed by a district court system. This was roughly equivalent to what we would know in modern Australia as magistrates courts, sometimes referred to as courts of petty sessions. These courts had a wide-ranging jurisdiction across civil and criminal matters with upper limits. In civil matters, the upper limit would be fixed by reference to the amount in dispute in the litigation.



Two men adorned with bird of paradise plumes and shells, one sharpening an axe. Mt. Hagen Show, 1969.



Two spearmen. Note the spearheads – they can't be pushed through or pulled out backwards. Mt Hagen Show, 1969.



A warrior spinning, Mt. Hagen Show, 1969.



Warriors with spears, bows and arrows, Mt. Hagen Show, 1969.