

## SUBURBAN PRACTICE

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As every story has a beginning, mine started with joining the Legal Section of the State Advances Corporation in Wellington in February 1939, when all the legal work for the department was carried out from that office. Amongst those in the office were Gordon Bisson, subsequently Sir Gordon Bisson of the Court of Appeal; the Office Solicitor Mr C E H Ball, who was the authority on mortgages having written a text on the topic; Mr Gordon Cain, who was later with the Crown Law Office and an academic at the Victoria University and sometime legal author; Jack Northey who became the Dean of the Faculty of Law at Auckland; and from the same stable we had two who on qualification subsequently filled roles as Magistrates.

I recall that during the first week of my employment the Office Solicitor, Mr Ball, called us in for a lecture and the topic was the "Marshalling of Mortgages". I must confess that I was completely lost and doubted my decision to follow a career in the Law after having heard that particular lecture, but happily I do not think that I heard anything more about the "Marshalling of Mortgages" until some 45 to 50 years later.

My transfer to Auckland followed in mid-1939, again with the Legal Section of the State Advances and attendance at Auckland University, where at the time I think there were something like 35 students in the Law Faculty, and in 1939 we had no professor and no lecturers other than Solicitors coming up from the city to take various topics. A professor did not arrive until mid-1940 when Professor Julius Stone took the role. We were all parttimers and lectures were set to suit – before and after work.

As I was called up after Pearl Harbour the next 4 years were spent with the RNZAF in various parts of the Pacific. I returned to the State Advances in 1946. On graduation from Law School in 1947 I obtained an appointment as Crown Representative in the Land Sales Court. This was a very interesting experience as every conveyance in those days had to be processed through the Land Sales Court and approval obtained for the consideration sought. This was in line with the Government policies of the day where

there were shortages in almost every sphere, and it was an effort to control inflation in the housing area which was, of course, critical with so many Returned Servicemen seeking accommodation in the post-war years. It was an excellent experience and gave an opportunity to meet almost every Solicitor practising in Auckland at that time, and I think there were in the order of about 400.

On occasion we would have a visit from one of the, I think, 3 King's Counsel of the time who included A R Turner and A K North both of whom were subsequently Presidents of the Court of Appeal, and the Doyen of the Profession of the day – Mr L P Leary.

One prominent performer was Mr L K Munro He had been the Professor of the Law Faculty at Auckland University until his resignation from that role in 1938, and subsequently became the Editor of the New Zealand Herald, which he was at the time of his appearance on a case of some significance before the Land Sales Court. He attended with an entourage with the obvious intention that considerable publicity would be given to his appearance, which also had some political implication given his subsequent career. Unhappily, he failed to obtain the Decision he sought and there was no appearance of the case in the New Zealand Herald at all. However, Mr L K Munro went on to greater things with the United Nations, of which he was at a later stage the President and later again a Member of Parliament in New Zealand.

In 1950 the New Zealand economy was starting to expand, more particularly with the onset of the Korean War and the impetus that gave to the wool and primary produce, which was reflected in an upsurge of the New Zealand economy. I received an appointment as District Solicitor to the Labour Department where I remained until 1954. This was a particularly interesting period as there was a great deal of the Labour Party's Social Legislation being implemented at that time, including the Annual Holiday's Act, The Tenancy Act and Industrial Legislation with the Court of Arbitration.

Probably the most significant interest during those years was the 1951 waterfront strike. The Department was the subject of a picket given the endeavours which were being made to form a new Union to replace the Watersiders' Union of which Jock Barnes was the mentor. As District Solicitor I was involved in all of those meetings which were held in

various locations to ensure the identity of those participating was kept under cover and we thought we had all the arrangements made for a new Union to be formed at a meeting to be held on a Saturday morning at the Auckland Town Hall. As I had written the Rules for the new Union, it was necessary for me to attend and read the Rules through, and secure the adoption of same and the election of the appropriate Officers. The hope was that a new Union then formed would proceed to take over the waterfront and end what was probably the longest enduring and certainly the most bitter industrial strike New Zealand has seen.

When I went up Queen Street to go to the meeting I was astonished at the large crowd outside the Town Hall, obviously aware of what was going to happen, and the belligerence of the watersiders and seamen who attended with a hostility which was, quite frankly, frightening. I immediately took off my coat and tie and endeavoured, whilst not being able to pass myself off as one of them, to be at best a casual observer and slunk into the Town Hall for the meeting. The aftermath was when we came out of the Hall after the meeting. The crowd then erupted and even the Police were unable to effectively control the situation.

Happily, with the new Union formed the strike eventually came to an end. In today's climate it is difficult to recall the hostile attitudes that were engendered by the industrial strikes of the period which were commonplace and brought me into contact with many of the more prominent of the Union protagonists who were in constant communication with the Department on legal issues and similar. Amongst those personalities were Bill Knox, who subsequently became the President of the Federation of Labour and Bill Anderson, who at the time represented the Drivers' Union and with whom I had a good relationship and respect for his abilities. He is still prominent in the area of Union affairs in New Zealand.

In 1954 I found that my earning capacity with the Department was now being exceeded by some of my colleagues who were contemporaries in City Law offices and I decided that it was time to leave the Public Service, which I had thoroughly enjoyed, and my income for the greater part of the time was certainly better or as good as that which could be achieved in those days in the Profession. I accordingly resigned and joined a legal

firm in Pukekohe for several months, but decided that having taken that particular step I should go one step further and chance my arm in Suburban Auckland, with the hope that the expansion of the City would afford an opportunity to develop a good practice.

At that time there were very few Suburban Practitioners in Auckland. My close friend, Jack Chignall, had started in Panmure in 1955 and apart from him there were only a couple of firms in Newmarket of longstanding. There were firms in Onehunga which was, with its Port, a long established settlement some distance from the City centre, and in the West where I elected to practice there were only two practitioners in Henderson which was effectively the first town centre moving west of Auckland. I chose New Lynn as it was the centre of a substantial industrial development, including some longstanding businesses such as Astley's Tannery and the Amalgamated Brick and Pipe Company.

I opened my offices at the beginning of 1956. At that time, apart from Reg Elcoat and Tony Kostanich, Solicitors in Henderson, there were no other Solicitors until Karangahape Road where Bill Subritzky was in practice. It is interesting to recall that having started the suburban practice, I found that whilst people were quite happy to accept a local Doctor and a local Dentist, they certainly did not expect to have a local Solicitor, and it was many years before people broke the habit of travelling to the Central City for their legal services, as at that time it was possible to park relatively easily within the City. I recall on occasion going to the Magistrate's Court and parking my car immediately outside the building without problems whilst I attended a fixture there.

It was my experience that effectively during the first 3 years of practice the major part of my practice came from personal acquaintance recommendations, from colleagues in the Government Departments where I had served, from sports in which I was (and am still) involved such as swimming and surf lifesaving on the West Coast of Auckland at Karekare, and of course the golf club at Titirangi. The backstop was work in the Accident Compensation field which was in those days a Common Law field as the Act did not come in until some years later. Given the number of factories within the New Lynn area, this provided a very good base and by the time the Accident Compensation Act was passed the growth of the conveyancing side of the practice more than made up for the loss.

On reflection, it would be a pity if the Common Law Damages Claim was reintroduced to the Accident Compensation scene. Notwithstanding the value of this particular work to the practice there is no doubt that the trials, particularly the jury trials, brought forward Decisions well in excess of what could fairly be described as compensation, but the jury attitude was that the insurance companies could pay. It would be a pity if we were confronted with the type of damages claims that are seen so often in the American television dramas, and the introduction of a contingency fee situation would certainly exacerbate the situation.

Amongst the many changes that have been experienced over the years of suburban practice, has been the drop in the number of adoptions. We very rarely have an adoption these days, but in the 1950's and for some time later this was a very common side of the practice with up to some 20 adoptions in a year not being unusual. In every instance, to my knowledge, this has always proved highly successful for the parties involved and certainly gave to the child being adopted the advantage of a home where a child was wanted. We have replaced that system with the Welfare Benefit system, with an industry of solo mums, in some instances providing a premium for promiscuity.

In the early days of my practice it was customary when a Returned Serviceman was before the Court on misdemeanour to dwell on the effects that the War had had on the miscreant with the standard reference to "shell shock" and similar. Today, of course, the plea is that the child has grown up in a situation where there is no father or where there is only one parent, and that is a plea in mitigation. A sad reflection on those who have pursued this particular avenue, but it does appear to be irreversible.

In the early days of my practice I found that there was a considerable volume of domestic work in the matrimonial field for which, of course, one very rarely was paid. The grounds to obtain a separation and a divorce were much more stringent than is the present case and it was accepted that the "pro bono" work which was involved was compensated by the fees from conveyancing, although there did seem to be a greater stability in the acceptance of marriage and what was involved for both parties.

It seems rather naive now to think that one would always recommend that the person having the matrimonial problem was automatically asked the religion to which they belonged, and the help of the representative of that religion was approached to give some assistance with the problems encountered. With the development in our universities of the Social Sciences we now have an industry which is directed towards that activity. It is interesting to speculate as to whether that has been more successful, but certainly in my experience the Church involvement was helpful more particularly when one considers how difficult the grounds for securing either a separation or a divorce were at that time.

Divorces were a rather lucrative source of revenue in the early stages of suburban practice and it was my custom to put together as many as I could for the "divorce day" Hearing at the Supreme Court, and it invariably made for an interesting day for those attending. It was standard practice for persons attending the Court to be as well dressed as they were able – it was a solemn occasion for all participants. It is interesting to reflect on the variety of the divorces that were presented to the Court at the standard morning session, with all of the participating applicants for divorce being able to listen to the evidence presented across the board for the varying types of divorce/decree which were sought.

The adultery cases presented tremendous interest. I recall on one occasion I had an elderly lady who had been apart from her husband for some 20 odd years and finally decided to obtain a divorce. She attended with a number of her similarly aged friends who were dressed "to the nines", including hats, one of which had a cluster of fruit on it. During the course of evidence being given on a rather salacious adultery and the details of a situation being described, one of the ladies in some shock shook her head with the effect that a couple of the fruits took off onto the floor and then proceeded to roll down on the wooden floor to add to the drama of the occasion. The fruit would travel for some distance and stop, then proceed on again with embarrassment on the part of all concerned. Certainly no one was prepared to collect the fruit until the whole session was over. It was no wonder that one of my clients who attended on that occasion enquired as to whether he could get the popcorn concession.

New Lynn, like most suburbs, also had its various characters and identities. During the 1950's and 1960's whilst I was still the only practitioner, I came to know practically all of the village personalities, although this changed when the Lynnmall development was introduced. Lynnmall was the first of the Mall developments in New Zealand and a matter of great wonder at the time of introduction.

Perhaps the most colourful of them all was Bob MacRae who ran the Auckland Bus Company and did this in his own way, occasionally stopping buses for the purpose of telling everybody to get off and then taking the bus over and travelling with the driver to whatever destination he chose. He had lost his driver's licence more or less on a permanent basis and the buses were his form of transport and if that didn't coincide with the particular route the passengers were taking then that was their bad luck. An enquiry was directed into the activity and operation of his company by the Transport Licensing Authority and Ronald Davison (subsequently Sir Ronald) was appearing for the Transport Licensing Authority and I was representing the local New Lynn Borough Council.

There was substantial criticism of the MacRae operation and perhaps the most rabid of it all was from the residents of French Bay, a lovely coastal beach with only one road for exit to the main roads which converged. A separate day of hearing was set aside for these objectors to put their case to the authority and when no-one turned up at 9.30 am and were still not there 2 hours later, the hearing was abandoned. It was found, however, that Bob MacRae had taken one of his buses to the road from which the residents were required to exit, had taken off 2 of the back wheels and left the bus astride the road so that no vehicles could emerge. There was considerable wrath on the part of those who had been frustrated in their efforts to bring their case to Court against Bob MacRae and the upshot of it all was that he was prosecuted, but was only fined £5. From his point of view a very worthwhile exercise.

The early years of my practice were also a period when the personality of the local bank managers was of some importance. In those days they had the appropriate responsibility to service the community and most of them did it very well and were also stalwarts of the local scene. Alas, this is no longer the case and it is with some sadness that to make

contact with the local bank these days it is necessary first to ring through Wellington to secure a connection, an exercise which usually enhances ones musical scope with the interval playing, but certainly creates substantial frustration. The bank which I used had the misfortune to appoint its manager at a rather critical time when the area was expanding substantially. A good manager could inevitably make a great impact on business for his bank, but the incumbent had seen most of his time as an Inspector in the bank service and that attitude was still with him. During his term I think the greater part of the bank's business went to the other banks in the area which took advantage of his ability to say 'no', to keep a clean desk and indeed to be proud of that. When he finally left, the few customers who were left, as was our practice, gave him a farewell. To make the presentation I arranged for him to be given a pair of binoculars on the basis that he had seen nothing whilst he was in New Lynn but hopefully he might see something during his retirement. He did not get the message.

One of the pleasures of my early practice was acting for a number of firms that had been established with considerable initiative by Returned Servicemen in initially very humble surroundings, a garage or similar, and had grown at a great pace. Unhappily, with success, the majority of these firms were taken over, either by overseas or substantial/large national firms, with the result that the business was lost to city firms/to local entrepreneurs.

These developments, the Mall shopping with the shops invariably branches of national companies or city firms, the downgrading of the local responsibility of the commercial banks, and the takeover of those of the more successful local manufacturing organisations with representation then by City law firms, have all had an effect on the Suburban practice. Notwithstanding that, because of the traffic situation and (in Auckland in any event) the inward looking of the residents of the area, the orientation is now towards all activity within the suburban environment. The growth of the Waitakere City is evidence of that and where the school holidays were an opportunity for residents to take their children to the City, this no longer happens. Everything is available at Henderson, New Lynn or in other large developments within the area. This in turn has given an impetus to the growth of suburban practice with, on my last count, some 25 practitioners in New



Lynn, in comparison with myself, having been the sole practitioner in the area for well over 10 years.

At the commencement of the practice I found it was essential that I should be prepared, as I think most solicitors would be, to tackle all the work that came in the door, and this meant a very considerable amount of Court work. This imposed a strain, however, as the inevitable orientation was towards the requirement to be in the office and happily the development of the Law brought about a recognition of the briefing of Barristers to act in that capacity and this proved to be beneficial.

As the only Solicitor in the area I found that I was in constant demand from organisations for the pro bono efforts and interests of the district. By joining the Businessmen's Association and the Rotary Club my contacts broadened, and it was abundantly apparent that the area of New Lynn would never progress until the Liquor Licensing Laws were changed to allow the introduction of liquor within the area. I became Chairman of a group that was established for this purpose and fought for restoration of liquor over some 3 elections. Happily, by persuading the people of the area that by adopting Trust control with restoration, the benefits of the sale of liquor would be passed on to the local people. That, of course, became the deciding issue. It was necessary to secure a 60% vote for restoration and we achieved a 64% target which was the best that had been acquired in New Zealand. I was then required to pursue the Trust control issue and as Chairman of the Promotion Committee saw the establishment of the 2 Trusts for West Auckland, which moved on to achieve the objectives which we had sought. As my home was not in the area I was not eligible for election to the Trusts but, as my wife said, I had spent enough time chasing liquor.

However, I accepted an invitation to stand for the Auckland Harbour Board as this was a field in which I always had an interest. Following election I represented West Auckland and a substantial district beyond for some 12 years, and served a term of office for 3 years as its Chairman. All of this, of course, was very demanding in time and in today's climate of clocking up the hours for the purpose of paying the bills, it is no wonder that very few lawyers now seem to present themselves for election to public office, particularly at the local body level.

I recall that Lee Murdoch, a contemporary in completing his Law Degree, was Chairman of the Regional Authority. Fred Thomas also held that Office and a number of lawyers at the time were Mayors of the various Boroughs around Auckland. Amalgamation has had an effect on that, but nevertheless the reality is that the Suburban Solicitor, and indeed the City Solicitor, no longer seems to follow that avenue of service in the same way as we did in the past.

It is interesting to reflect that as Chairman of the Auckland Harbour Board, which was in fact the wealthiest local authority in New Zealand, my Honorarium was \$6,000.00 of which \$3,000.00 was tax free. I found that I needed that just to head the donation list for all maritime ventures, and of the other \$3,000.00 with tax at .66 cents in the dollar I ended up with \$1,000.00. I have no regrets, however, as I thoroughly enjoyed the diversification this activity gave me.

My association with sport was also one in which I found myself, as many lawyers have done, Honorary Solicitor of a myriad collection of Clubs and Committees, and it was pleasing that to my own chosen sport of swimming, I became President and Patron of the Auckland Swimming Association and a Life Member, and for a time was Vice-President of the National Body.

In two areas there have been substantive changes since commencing practice in the 1950's, in particular the Real Estate sales. In those days there was no Registration process or Act which controlled the activities of Real Estate agents and anyone could set up in that capacity, and did – it was a part time activity for a number of business including dairies. There seemed always to be some shady characters involved in the sale of houses, taking advantage of people with no knowledge of the value of their property to purchase and on-sell at a profit, and the control situation which exists today is certainly a substantial improvement on the activity of some of the characters who operated in the field prior to that.

Second hand car salesmen were also a plague. Again there were no controls and the industry seemed to attract some of the worst performers in the commercial sector. In the

1950's and 1960's cars were scarce, unlike the situation today. Given that nearly all the cars were old there were a lot of problems associated with breakdowns and similar, and there existed an inability of the people at the lower end of the scale to meet their hire purchase commitments and maintain a car. Unhappily for me I accepted instructions from one personality operating in this particular field, who was in fact the biggest local villain in the area. This made it very difficult when I finally realised his true personality, and meantime I was unable to act for those people who were aggrieved. In the suburban area where I practised it was not uncommon for ex-jail inmates to set themselves up in this particular field. This was certainly an area which was overdue for control.

Like many of the older City practices, every effort was made to secure as many Wills as possible, in anticipation that this would provide a nice buffer for ones final years in practice. Whilst this has happened, it has nevertheless been eroded substantially by the creation of Trusts. Trusts, of course, have become something of a "cottage industry" and the effect whilst beneficial at the time of formation has nevertheless eroded the asset base for administration of Estates. It is a sign of the more affluent times in which we live in comparison to the middle years of this century.

One of the lessons learned very early in a new suburban practice is to be skeptical of those who seek "justice" with great zeal and enthusiasm. I encountered that in my first year of practice when I was beguiled into acting for a party who indicated that he was going to secure justice on his particular problem "whatever the cost may be". What he really meant was "whatever it cost me" because sadly after doing a very considerable amount of work he absconded and I was not paid. I very quickly realised that on those occasion when a zealot presented himself, the situation was adequately met by asking for a substantial deposit to meet costs, and my enthusiasm would then equate his own in pursuing the objective that he sought. The mention of a substantial deposit had a dampening effect on enthusiasm and at least meant that a lot of work was not done for nothing.

Legal aid has been quite a boon to suburban practice, particularly in respect of Family Law. It is a great contrast to the pre-legal aid days where substantial work, particularly Court work, was done for very little.

At the end of the day, the best feature of a suburban practice is the ability to have a good mix of various aspects of the Law rather than to have, as seems to be the case in the larger firms, to be confronted with a career path that is involved in one particular phase of legal work and to remain with that. The Law is an enriching experience in the diversity of work that comes across the board and I have been very happy to have enjoyed that over a long period of years and in a suburban atmosphere.

It has been interesting in the course of the practice to help clients to move into their first home with a loan and then 30 years later to carry out the discharge of that mortgage, in a suburban location where there has been very considerable stability so far as movement of the local people is concerned. A great number of very close friendships have been formed with people who came to me as clients and the experience overall has been a most rewarding one, both in fulfillment of personal ambition and personal acquaintance.