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"Both sides, now": some historical perspectives on regional practice

I've looked at life from both sides now
From win and lose and still somehow
It's life's illusions I recall
I really don't know life at all

So sang Joni Mitchell in 1969. When inviting me to speak at this conference, the NQLA committee suggested I discuss my perspectives on regional practice, as a solicitor, a barrister and now as a judge. Regional legal practice, especially in the far flung north, can be very different to practice in the capital. So the focus of this speech is regional practice, but it is not my story. It is the story of a few ordinary, and extraordinary, people who played a part in our legal system in the north some time ago.

Of course, before the colonial settlement of Cairns the traditional owners of this land, who I acknowledge this morning, had their own complex system of Aboriginal laws and customs which they had practised for thousands of years.

But in 1876 something happened to change all that. Gold was discovered on the Hodgkinson River. When the news of the find and rush was reported, the government sent instructions to find a track from the coast to the goldfields. Members of one of the scouting parties that left from Trinity Bay reported: "Water everywhere. Bogs to the right of us, swamps to the left of us, and the deeper we penetrated inland, the more confusing became that system and labyrinth of watered scrub and teatree swamps". Eventually a track was found. A site on the western side of Trinity Inlet was selected and the new town of Cairns declared a port.

[1] A list of selected references appears at the end of this speech. Any errors are entirely my own.

Imagine a shanty town of tents and simple timber and tin buildings, its streets paved with mangrove mud and pencil cedar sawdust.

An 1878 marine survey of Cairns harbour indicates that the very first courthouse was located on the customs reserve near the Esplanade.

It was replaced in 1884 with the first permanent courthouse, a wooden building facing Abbott Street on the police reserve. According to the Cairns Post of 3 July 1884, it was "very fine, the best erected building in Cairns, both in so far as appearance and design as well as in construction".

By 1890, however, the local court had outgrown its courthouse, and the building was in a state of disrepair. Despite repeated comment from public and judicial circles alike that the courthouse at Cairns was the worst on the circuit (and that a police inspector had fallen through the floor while giving evidence), it was not replaced until 1921.

The imposing Abbott Street courthouse (known to some younger practitioners only as the Courthouse hotel) was used for the first time on 17 January 1922.

By the early 1990s, Cairns' population had increased and that courthouse could no longer cater for the city's demands. In 1992, a new courthouse complex and police station were constructed in their current location.

When Cairns was first settled, the Court of Petty Sessions operated as the base level of criminal justice in Queensland. Justices of the peace and police magistrates performed a wide range of duties, such as acting as electoral officers, registrars of Births, agents for the Lands Department, and customs, immigration and quarantine officials. Most of them had no or little legal training.

Originally, there were three District Courts located in Brisbane, Dalby, and Bowen, the latter known as the Northern District Court. The Northern District Court had some teething problems. In 1878 the Northern District Court judge, William Hirst, became the first Queensland judge to be dismissed for misbehaviour after his numerous absences from duty and his failure to pay debts (for which he was sued in his own court).

Port Douglas and the case of Ellen Thomson

Port Douglas was also established soon after the discovery of gold and the first Police Magistrate arrived there in 1878. The only place to conduct court sessions was in one of the newly constructed police cells. The Police Magistrate considered this unsuitable, and requested that a tent be sent. Court sessions were conducted in the tent for most of 1878. (I will remind myself of this when next dodging buckets and wheelie bins collecting rainwater in the court corridors during the wet season.) As the population increased, it became obvious that a purpose built courthouse was necessary.

Port Douglas's first courthouse was constructed in 1879 on the northern side of Wharf Street. It survives to this day and is the second oldest timber courthouse in Queensland. The majority of cases heard there were modest, with the exception perhaps of the committal of Ellen Thomson in 1886.

Ellen Thomson was a poor, illiterate, Irish widow struggling to support her four children. She arrived in Cooktown during the Palmer River gold rush. About 1878 she started work as housekeeper to William "Billy" Thomson who had selected a farm on the Mossman River. He was 24 years older than her. Two years later they married, after the birth of a daughter.

By 1886, life was difficult. The marriage was strained. Ellen's other children were sent away. Billy was a drinker, Ellen was not, and there are suggestions he was violent and jealous.

On 22 October 22 1886, at about 10pm, Billy was found dead from a gunshot wound to the head. He was buried at Port Douglas cemetery.

At Ellen's insistence, John Harrison, who worked as a hired hand on the neighbouring property 'Bonnie Doon', stayed on at the selection and the local rumour mill got to work. Ellen was aged 41 and Harrison was only 27.

Some months later, on 6 January 1887, Ellen and Harrison were arrested and charged with Billy's murder. A committal hearing took place almost immediately before Major Martin Patrick Boyle

Fanning, the local Police Magistrate at the Port Douglas Courthouse. They were committed to stand trial in the Supreme Court.

The trial was conducted in Townville on circuit before Justice Pope Cooper. He had served briefly as the northern Crown Prosecutor and then member for Bowen and Attorney-General before being appointed, in 1883 at the age of 36, the first Northern Judge of the Supreme Court at Bowen. He was the first Australian born judge of the court and remains the youngest judge ever appointed to the court.

According to the Australian Dictionary of Biography, Justice Pope Cooper was noted for severity in criminal cases and his ability was obscured by a long quarrel over his circuit travelling expenses which, because of his extravagant tastes, were often excessive. It reports that northern service was a martyrdom to one of his cultured taste, and he spent as much long leave as he could in Britain and the south. He was appointed the Chief Justice of Queensland in 1903 and was knighted in 1904. His judicial style has been described as 'grand, pompous and arrogant'.

The Crown prosecutor was Virgil Power. He described Ellen as a loose woman and John Harrison as her latest fancy man. The press also painted Ellen as a scarlet woman.

Justice Pope Cooper directed the jury that Ellen and Harrison had lived together ‘on improper terms’; and that Ellen was to profit from Billy’s death. He charged the jury with their ‘duty to find the prisoners guilty’.

He sentenced them to be hanged. While in Boggo Road gaol awaiting execution, Ellen Thomson sent 2 letters petitioning the Governor for mercy. She wrote:

"H.M. Gaol, Brisbane, 8th June, 1887 - I have already made a pitiful appeal to you on behalf of the young man, John Harrison, whom I believe to be innocent. It meant ruin and poverty for me to lose my husband, and I will never consider it a murder, when I am dying on the gallows; it will be the taking of my life that will be the murder. Our lives, I know, were completely sworn away through false swearing. I have three demands to make of the Government: Firstly, in the event of my innocence being proved, that each of my four children receive the sum of £500; secondly, that all my statements be returned to me, that I may destroy them; and thirdly, that Pope Cooper may

never be allowed to sentence another woman in Queensland without first hearing both sides of the story. I want these requests to be granted in writing, and Mr. Knight and the Rev. D. Fouhy are to be trustees for my children. If these demands are not granted I will stick out for my rights at the foot of the gallows; if they are I will walk on to the gallows like an angel – ELLEN THOMSON."

On the eve of execution, Harrison confessed that he alone shot and killed Billy Thomson in self-defence. The admission came too late. The double execution proceeded.

On the day of her hanging, 14 June 1887, the Brisbane Courier described Ellen as a "pitifully wicked woman" and gave a detailed and lurid account of the demeanour of the prisoners leading up to the hangings, the hangings themselves and the phrenological examinations which followed:

“Throughout the morning Mrs. Thomson conducted herself with the greatest respect towards the Sisters of Mercy, and also towards Father Fouhy, who visited her in the last half-hour of her life. She bore up bravely to the last, and even when standing on the scaffold her fortitude was remarkable. Attended by Father Fouhy, she stepped on to the drop, and her voice was unshaken as she said, "Good-bye everybody; I forgive everybody from the bottom of my heart for anything they have wronged me in in this world. I never shot my husband, and I am dying like an angel." Only once, within a few seconds of the fatal moment, was there a perceptible quiver in the unhappy creature's voice, when with almost her dying breath she murmured, "Oh, my poor children; take care of my children will you, Father". The next instant her body was swinging in mid air.”

The hanging itself was grotesque. The rope severed her jugular vein and she bled copiously. To add insult to injury, a phrenologist followed with a brain examination announcing that the parts of her brain pertaining to sexual appetite were overdeveloped, to tie in with her scarlet woman label. The Brisbane Courier again reported:

“Professor Blumonthal found that the respective measurements of Ellen Thomson's and Harrison's brains were: largest measurement, 22¾in. and 21½in., and from neck to root of nose 13in. and 13½in. A phrenological examination showed that in the woman combativeness and destructiveness were both large, the domestic affections were fairly full, the animal or selfish propensities were full, the moral propensities were small, and sexual love−amativeness, exceedingly large.

In Harrison combativeness was exceedingly large, destructiveness large, amativeness rather small but tending to sensuality, as shown by the noticeably heavy lips. His domestic affections were also small.

Judging from this it would seem that the woman was the moving spirit in the plot, and that her passion for Harrison inspired her. She was active, cunning, and masterful, capable of doing kindly acts and of attachment to her children. Harrison, on the contrary, cared for nothing but himself, and wanted old Thomson's money far more than he did old Thomson's wife."

Ellen Thomson was the only woman to be legally hanged in Queensland.

The execution of a woman offended moral sensibilities. By 1899, a powerful community mood had grown to abolish capital punishment. By 1922, Queensland became the first State in the Commonwealth to end the practice.

What happened to the other players in that case? In 1888, Police Magistrate Fanning was promoted from Port Douglas to Cairns, where he served for many years. On 13 June 1888 local Cairns solicitors held a welcome ceremony for him. The Cairns Post reported that he made these remarks about the relationship between the judiciary and the legal profession, which are equally relevant today:

"Mr. Kingsford and Mr. Aumuller, I thank you most sincerely for your kind expressions of welcome on behalf of the Bench, and I sincerely trust that in all our dealings we shall act for the good of the town, that a kindly feeling may at all times exist between us, and that though we may at times differ we shall do so with a good grace. I have made it a practice through life to avoid any personal feeling, and I look forward to adhering to that practice whilst I am in Cairns. … I trust that any difference of opinion between me and the legal gentlemen present will be confined to the precincts of the court, and never travel beyond it. There need be no occasion for enmity outside, so long as we are all actuated by sincere motives in the discharge of our respective duties. I am fully aware that the legal gentlemen in Cairns conduct their cases in a manner which wins the confidence of the Bench, and also that there is an excellent selection of magistrates here, equal if not superior to those in many of the larger towns in Queensland. It will afford me great pleasure to see the Justices here frequently, for I am deeply sensible of the advantage of their counsel to any police-

magistrate. It is awkward to take the place of one of the foremost magistrates in the Colony, and especially of one whose legal knowledge is admittedly of a high order; but the assurances I have just, received from the Bench and the Bar will do much to encourage me in the exercise of my duty however onerous or responsible."

In 1889, the judge in the Ellen Thomson case, Justice Pope Cooper, was joined on the Supreme Court by a second Northern Judge, Justice Charles Chubb, and that court relocated from Bowen to Townsville. For a brief halcyon period, there were 2 Northern Judges of the Supreme Court who had their own appellate jurisdiction (including appeals from the District Court) as the new Northern Full Court. This experiment was short lived, abandoned after only six years for a single Northern Judge in Townsville and a new Central Judge in Rockhampton.

In 1895 the prosecutor in the Ellen Thomson case, Virgil Power, was appointed as the first Central District Judge of the Supreme Court situated at Rockhampton. He was also the first Queensland born Judge of the Supreme Court.

The first Northern District Court judge to circuit to Cairns was Judge Henry Lindsay Hely in 1878. By 1880 he had attracted controversy in Parliamentary debate because, despite being the Northern District Judge who was to be based in Bowen, he lived in Brisbane and he failed to attend court for his circuit to Thornborough. Thornborough was a township on the Hodgkinson goldfields, on the Mitchell River. Connected to Cairns only by a rainforest track over the steep ranges, travel there was very difficult. Judge Hely became depressed from being on circuit, the lack of contact with other judicial officers and the lack of a legal library. Alcohol and the harsh climatic conditions on circuit quickly took their toll. Judge Hely died on the job in 1882.

He was replaced by Judge Arthur Baptist Noel, a young largely unknown barrister, the son of the Chief Judge in Bankruptcy in Victoria. He was appointed to the District Court at the age of 28, the youngest judge ever appointed to the District Court. Perhaps they thought someone younger would be better able to cope with the punishment of regional circuits.

And the circuits were nothing if punishing. By 1888 Northern District Court Judge Noel had 3 criminal and 3 civil sittings at each of Mackay, Bowen, Townsville, Charters Towers and Cooktown, and 2 of each at Ravenswood, Hughenden, Port Douglas, Thornborough, Herberton,

Cairns, Normanton and Croydon. In 1898, he was on circuit for 234 sitting days. He travelled by steam ship along the coast and around to Normanton. It was not until 1924 that Queensland had a rail line that ran all the way from Brisbane to Cairns. Before that, travel was by steamer. Judges could be stranded for days waiting for the steamer service and on occasions the conditions were rough.

In parts of Queensland before the railway came, Cobb and Co provided a special judge's buggy, a buckboard with seating for 2 passengers and a driver to transport the judge and Crown Prosecutor.

The Supreme Court suffered the same hardship. In 1890, it circuited to Cairns, Cooktown, Charters Towers and Normanton. By 1922 the Northern Judge could expect to be absent on circuit for 210 sitting days per year, leaving only about one month of civil and criminal sitting days in his home town.

District Court Judge Noel was described as a caustic wit but a capable judge who on occasions consumed too much alcohol in his private time. The story is told that on one circuit, he mistakenly left his wig and gown behind. Not wanting to open his court in a western town without being properly attired, he prevailed upon the Crown prosecutor to borrow his wig and gown, believing it would be better for the prosecutor to appear undignified than the judge. When the court opened the prosecutor apologised for not appearing in wig and gown and sought leave to appear without them. Judge Noel put on a great act questioning him about why he was unrobed. The prosecutor replied that unforeseen circumstances had caused it. He had to suffer several minutes of Judge Noel berating him for not taking proper care to have his wig and gown available.

In 1909 Judge Noel was replaced by Judge Allan Macnaughton. He had practised for many years in Townsville as a barrister as well as an acting Judge. He was considered ambitious, quick and industrious, and was later appointed to the Supreme Court.

In 1922 the District Court was abolished. The Supreme Court assumed its jurisdiction, and had to deal with every civil claim above £200 and every criminal trial not heard summarily. The new system became unworkable and unsustainable, largely because of the tyranny of distance and the judges having to spend so much of their time in transit. The Supreme Court had to circuit to 31 regional centres at least twice per year.

One of those centres was Innisfail. Its circuit court was abolished in 1927, to considerable local disquiet. Those who practise regularly in Innisfail now may be interested to know that the Police Union had called for the abolition of the Innisfail circuit due to the strong aversion Innisfail jurors apparently had to delivering guilty verdicts. The Townsville Daily Bulletin reported, on 10 February 1927, 7:

"During the past few days there has been considerable discussion regarding the decision of the Government to abolish the Innisfail Circuit Court, but the decision has not caused surprise to the majority of right thinking citizens. …It is an open secret that law abiding residents of Innisfail, particularly business men, have been heard to admit that owing to the attitude of a section of the community, it was practically impossible for them, as jurors, to give an impartial verdict. …Therefore, trial by jury at Innisfail has proved a farce, a waste of public money, and in many cases has meant a miscarriage of justice."

Innisfail has another claim to legal fame. In 1923 Queensland became the first state to allow women to sit on juries with the passage of the *Jury Act Amendment Act* of 1923. The Act did not give women full equality with men; eligible women were not automatically included on the jury lists, but had to register their willingness to sit on juries. The first women to be empanelled on a jury was said to have occurred in Innisfail. The Northern Miner of 5 March 1945 reported that the "first woman to be empanelled on a jury is claimed for Innisfail. … Mrs Maud White served on a jury at Innisfail on June 9 and 10 1925". It was a trial of the circuit court before Justice Douglas involving a youth charged with stealing a saddle. The report does not say whether he was convicted.

In 1959 the District Court was restored by the *District Courts Act* 1958. It was given a modest civil jurisdiction (limited to claims up to £1500) but a vast criminal jurisdiction (all trials on indictment for offences with sentences up to 14 years imprisonment). The District Court took over the bulk of the criminal trial work done by the Supreme Court, and the vast bulk of the circuits at which those trials were conducted. It continues that role today.

The first resident District Court judge in Cairns was Francis Daly, appointed in 1989. At the time of his appointment, he had no courtroom and had to share one of the courtrooms in the Abbott Street courthouse with the Supreme and Magistrates Courts, until the current courthouse was built in 1992. He was followed in 1992 by Cairns' second resident District Court Judge, Peter White.

Judge Daly retired in 1999, and was replaced by Judge Sarah Bradley. Judge White retired in 2008, replaced by Judge Bill Everson. They were in turn replaced by Judges Brian Harrison and Dean Morzone QC.

In 1997 Stanley Jones QC was appointed the first Far Northern Judge of the Supreme Court based in Cairns. On his retirement in 2011, he was replaced by Justice Jim Henry.

Returning to the early 1900s, a review of the Queensland Weekly Notes shows that the courts dealt with the full gamut of legal topics: challenges to valuations of land, workers compensation, personal injuries, matrimonial causes, liquor licensing, sale of land, contract, probate, mining, assault, theft, rape, perjury, prosecution for having employed in the sugar industry "coloured labour" or a person who had not first obtained a certificate of having passed the dictation test. There was even a prosecution by the Cairns Town Council in the Court of Petty Sessions, charging Chen Fong Yan with a breach of a by-law of the Cairns Town Council, which prohibited persons from riding velocipedes upon footways. Perhaps the first local government planning prosecution?

Local historian, Timothy Bottoms, in his history of Cairns reports that in the 1880s police led raids on Aboriginal people resulting in the massacre of many men, women and children at Skull Pocket (near White Rock), Skeleton Creek (near Edmonton), Four Mile (now known as Woree) and Irvinebank. In 1884 Sub-Inspector William Nichols, in charge of the Native Police, was tried for several murders. Justice Pope Cooper presided. Nichols was acquitted.

The case of Eliza Woree

1897 saw the introduction of the *Aboriginals Protection and Prevention of the Sale of Opium Act* which established a system of segregation of Aboriginal people on reserves and settlements, and the control of the conditions under which they lived and worked. "Protectors" of Aboriginals were appointed for each District. The power to remove and restrain Aboriginal people on reserves and in institutions was an administrative power not subject to judicial review. It enabled government officials to control every aspect of Aboriginal lives, including the care and custody of their children. People were removed from their traditional country and placed in missions, such as Yarrabah. Family members were separated, children were taken and placed into segregated dormitories and put to work from 12 years of age.

The Act made the director the legal guardian of every Aboriginal child in the state under the age of 21. In that capacity, the director had the power to consent or refuse consent to marriage, and make arrangements for the custody of the children. The director retained this guardianship power until 1965, when the Act was finally repealed.

The policy basis for that legislation, and its consequences, are beyond the scope of this presentation. But its impacts affected the families of all indigenous families who live in or near Cairns today.

Occasionally matters under the *Aboriginals Protection* Act came before the courts. It was an offence to employ an Aboriginal person without the consent of the Protector. Eliza Woree was an Aboriginal woman from Edmonton. In September 1913, with the consent of the Protector of Aboriginals, she married Joe Andrews, described as a Malay and a Dutch national. Because she was married to a non-Aboriginal person, she was not obliged to live on a reserve. Later, she was employed by a Mr Rigg. Mr Rigg was charged in the Court of Petty Sessions at Cairns by Constable Dempsey for employing her, an Aboriginal woman, without having first obtained the consent of the Protector. The charge was dismissed but on appeal to the Supreme Court at Townsville by way of special case, Acting Justice Jameson decided that the Magistrate was wrong and remitted the case to him with the expression of that opinion. Mr Rigg appealed from that decision.

In June 1914 the full court of the Supreme Court in *Dempsey v Rigg* [1914] St R Qd 245, considered whether the marriage of an Aboriginal woman to a non-Aboriginal man freed her from the operations of the Act.

The appellant argued that because Eliza Woree was the wife of a Dutch national, she ceased to be an Aboriginal within the meaning of the Act and he was entitled to employ her without complying with its provisions. It was submitted that "She passed, on her marriage, from the protection of the State under the Aboriginals Acts to the protection of her husband under the general law."

In the leading judgment, Chief Justice Pope Cooper said:

"I am of opinion that the marriage of this woman with a Malay did not alter her personal status as an aboriginal. The marriage did not make her anything different from an aboriginal. She still remained an aboriginal inhabitant of Queensland, and therefore the employment of her by the

appellant was an offence, unless he had the permission of the Protector. The appellant had not that permission, and therefore he committed an offence. Certainly it seems rather hard that, a white man who has married an aboriginal woman is not permitted to take her to live with him if he were employed by some other employer and lived in the house of his employer; but, under s. 14, if he were employed on the premises of his employer, he could not have her living with him on those premises. We are bound, however, to give the words of the statute their natural and ordinary meaning, and I think the appeal must be dismissed."

Fred Paterson and the "Parramatta riot"

Since Cairns was first established there have been regular public debates in the media about homelessness and vagrancy.

One of the first times the issue came before the court involved the barrister Fred Paterson.

It is interesting to set out some of his background. Paterson was one of 11 children born in 1897 to working class parents in the Gladstone Meatworks Boarding House. His father worked as a carrier with horses and carts and later ran a piggery. Paterson was a brilliant student, talented athlete and intended to have a career in the church. He topped various State public examinations, won a university scholarship and then a Rhodes scholarship, before going to war in 1918. He returned to Australia disillusioned and radicalised. After returning from Oxford, he worked as a teacher and became an active member of the communist party. While studying law, he ran a piggery. Because of Paterson's politics, there were many attempts to prevent him being admitted as a barrister. An active public speaker, he was charged with sedition following a speech given in the Brisbane domain. He defended himself and was acquitted. When Paterson was finally admitted in 1931, one of the barristers who provided a reference that he was a fit and proper person was Roslyn Philp, also a Rhodes Scholar, who was later appointed a Supreme Court Justice.

Paterson's work in the working class and Italian immigrant communities in North Queensland was a factor behind the rise of communism in North Queensland in the late 1930s and early 1940s.

In many towns in North Queensland with large proportions of immigrant Italians, consulates had been established by Mussolini's government for the avowed purpose of promoting Fascist

propaganda. In 1931 he acted for three anti-fascist Italian cane cutters charged with assaulting the visiting Italian Consul at a reception in Ingham, forcing the band to play the "Internationale" and ripping the Consul's Fascist Party badge from his clothes. Paterson defended the three accused at their trial in Townsville, where they were acquitted by a jury comprised largely of waterside workers.

The following year Paterson appeared on behalf of Italians in the sugar industry to challenge the legality of "British Preference", arguing that the so-called gentlemen's agreement reached between the Australian Workers Union and management to exclude foreign cane cutters (limiting them to 25% of the workforce) was illegal. Although the case was unsuccessful, it convinced him to settle in Townsville where he practised for many years.

In 1932 Paterson was involved in a case in Cairns that became known as the Parramatta Park riot. It was the middle of the great Depression. Economic conditions were bad. Large numbers of people migrated from southern states to Queensland because the state had the only social security system in place at the beginning of the Depression. It offered the possibility of seasonal work in the canefields, a warm climate in which you could sleep outdoors and a cheap place to live. Government policy meant that the unemployed had to collect their rations from different centres, which meant they had to keep moving around. Single unemployed transient men moved from town to town by rail seeking work and food, swagmen jumping the rattler. There were reports of police brutality towards the unemployed. As Cairns was at the end of the railway line, unemployed people tended to gravitate there, prompting a hostile reception from some locals. The showgrounds at Parramatta Park were used as a camping ground. The unemployed men camped in the horse stalls and pigpens. The Cairns City Council had promised them a shelter, but it did not eventuate. As the date for the show approached, the men refused to leave the showgrounds.

On Sunday morning, 17 July 1932, between 80 and 100 unemployed men were confronted by an organised, angry mob of townsfolk and police. The mayor, Alderman Collins, incited the townspeople to evict the men. Reported estimates of the angry mob range from 500 to 4,000. There was also a busload of 48 police who took up military formation, six to eight abreast. There followed a melee during which cane knives, iron bars, fence posts, clubs, sticks with razors inserted in the top, tent pegs, batons, poles and shovels were used. Around one hundred persons were

injured, some seriously. The Cairns Post published many articles supporting the townsfolk, describing it as a 'red letter day" in which "Law, Society and Citizenship were vindicated".

Paterson was briefed to defend three unemployed men who were arrested following the eviction and charged with throwing an explosive substance, assaulting a police officer and grievous bodily harm. He applied successfully to the Supreme Court in Townsville to move the trial from Cairns to Herberton, arguing that the tremendous amount of prejudice in the Cairns area would mean a fair trial was unlikely. The jury in Herberton was made up of independent tin miners and battlers. In his address, Paterson described one of the defendants as "one of a body of men who were forced by circumstance to take up abode in Parramatta Park". Paterson addressed them on the law but also on global economic decline and the economic system he said was responsible for the men's predicament. The jury was out for only 20 minutes before they acquitted.

Paterson often returned to Cairns to speak publicly. His successful use of the public meeting in halls, churches and on street corners attracted the attention of the Cairns City Council. In July 1933 they attempted to stop him by refusing a permit to speak on the street by the Esplanade. To counter this, Paterson spoke standing on a table in the shallow waters of the sea.

In 1934-5 Paterson was active in the Weil's Disease strike in Far North Queensland where cane cutters went on strike to force the burning of the cane after many men died from the disease, transmitted by rats in the cane.

The issue of itinerant people sleeping rough has continued to attract local media attention but in later years it has focussed largely on Aboriginal people.

In 1994 Mayor Byrne had Aboriginal people living rough on the Esplanade put on a bus and sent back to Lockhart River in Cape York, over 750 kilometres away. Many had health problems. A complaint was later lodged with the Anti-Discrimination Commission on behalf of 19 Aboriginal people. They stated that they were forcibly taken by bus, hired by Cairns City Council, from the Esplanade, where most of them had been living. The complainants stated that they had been forced or coerced by Council staff, police and security staff engaged by the Council to travel on the bus. The Council had intended to take the complainants to Lockhart River Aboriginal community, but one of the buses became stranded in the flood waters of the remote Wenlock River. All the

passengers were subsequently abandoned on the river bank. Later, they were taken to the Lockhart River Community by Community members and government staff.

The matter could not be conciliated and was referred for public hearing before a Commissioner, Stanley Jones QC (who three years later would be appointed the first Far Northern Judge of the Supreme Court based in Cairns). A further attempt was made to conciliate the matter prior to the hearing. An agreement between the parties was reached. A public apology was made by the Council but the other terms of the agreement were confidential.

Conclusion

Every place has its stories. These are just a tiny selection. And so it has been that the practice of law in this remote place, that evolved from a tent shanty town on the sand ridges of the mangroves, has its own, singular, stories. Some of them might sound familiar. The stories of your community, of the development of your legal profession, are the stories of struggles against the climate and environment, stories of injustice and brutality, stories of advocacy on behalf of the disadvantaged, stories of land development and exploitation of natural resources, stories of economic success and entrepreneurship. Some are mundane and prosaic, some had far reaching consequences. Now you are the characters in those stories. Each day in your work, in applying the law, in interpreting it, in enforcing it, in advocating for change, in defending it and administering the law, you are writing the new stories that will, in a small way, shape our community in the future.

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