



The People's Solicitors Pty Ltd

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www.peoplesolicitors.com

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The People's Solicitors Pty Ltd, a new idealistic venture in the legal profession. The Peoples Solicitors aims to provide legal advisory services and advocacy work at a high standard of efficiency and at low cost basis.

The firm is generalist with particular interests in criminal, civil administrative, employment and immigration law.

Please visit our website at
www.peoplesolicitors.com



The Partners
Janice Gounder
Kingsley Liu
Hon. Jeff Shaw



Paralegals and Solicitors at the People's Solicitors

A Good Win for a Taxi Driver before the Administrative

Decisions Tribunal

A client of the firm had applied for a taxi authority to the client on the basis that the client was not a 'fit and proper person' because he had criminal convictions in the 1970's. The firm represented him at the Administrative Decisions Tribunal where the decision of the Ministry of Transport was set aside.

My Experiences at the People's Solicitors



Samuel Stern interviews PLT Paralegal Chris Wallace

1. *Why did you choose the People's Solicitors?*

I liked the fact that they helped the little guy. I feel as though

the little guy doesn't get a fair go.

2. *What were your initial impressions of the firm?*

Surprise. I was surprised at the layout of the firm. The office was a very open environment and very welcoming.

3. *How were your first experiences of working at the People's Solicitors?*

I was thrown into the deep end initially. I was given a lot of responsibility when I first began working. It was quite daunting yet exciting to be given such a high level of responsibility as I received.

4. *Why would you recommend People's Solicitors to other students?*

It has a very friendly atmosphere to it. You get a lot of experience as hit the ground running. You are also given a lot of independence. The firm gives a good educational atmosphere for young aspiring lawyers.

5. *Do you feel your time at the People's Solicitors will give you a good stepping*



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stone to becoming a solicitor?

Yes, because you are given so much responsibility, therefore you are given a head start into the profession whereas other students are eased in to the profession slowly.

6. *How could the firm improve its client base?*

Perhaps we could advertise more broadly. However provided we continue along the same path and let the word spread through our current clients, the firm will continue to grow.

7. *Do you have any final comments about the People's Solicitors?*

It is the only firm where you can find parrots and fish in the office.

Chris and Samuel are currently completing their Practical Legal Training and work as Paralegals with the firm.

Working for Cabbies

Capsicum Spray Incident Driver Acquitted, "Cabbie"
June 2008, pp 10.

Remember the incident at Sydney International Airport 8 months ago when a driver refusing to move his cab was

sprayed in the face with capsicum spray by a Federal Police officer? If caused an impromptu strike at the rank and the driver Zahi Nakle was arrested and charged with a number of serious offences, the most serious ones being "cause harm to Commonwealth officer" and "resist Australian Federal Police" – a maximum total of 15 years if convicted.

At the hearing in the Downing Centre on 30 May, the first charge was dropped and the other dismissed under a Section 10 (no conviction recorded) after a strong submission by The People's Solicitors. Other charges: "not comply with direction" and "negligent driving" were also dropped. So Zahi Nakhle is finally vindicated after 8 months, but he still has to deal with some minor fines.

Taxis queuing along the arrival circuit which caused the "capsicum spray incident" still bank up in peak morning traffic. No CCTV footage of the incident was ever found.

A Tale stranger than Fiction

As published in 'Cabbie' Magazine, June 2008

On Christmas Day last year, taxi driver M. Kumar was accused of assault by a passenger and charged by police. After representation by the People's Solicitors, late last

month a magistrate found that the police had failed to prove its case and dismissed the assault charges.

The case rose a number of important issues about evidence and cameras fitted into NSW cabs.

How Repression Crushed Workers

Book Review by Jeff Shaw.
Why Is There No Labor Party in the United States? By Robin Archer.

Conventionally, Labor parties have been distinguished from those characterized as social democratic by the former's organic links with the trade union movement. Frequently that nexus has been forged following the realization that only by representation in the legislature could workers achieve improvements in wages and conditions. These parties support incremental reform and revolution, socialism without doctrine.

Many advanced capitalist nation states saw the emergence of labor in politics: The United Kingdom, Australia and New Zealand being perhaps the prime examples. But no generally supported electable labor party evolved in the United States of America ('USA').



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For the author of this book, this absence was not a simple example of American “exceptionalism” but rather a more subtle phenomenon that is endeavoured to explain in erudite detail.

There were embryonic attempts to create a union-based party. In 1886, Henry George of “single tax” fame ran as Labor Party candidate for the mayor of New York coming a respectable second. The Socialist Labor Party secured 14% of the vote in 1878 in Chicago local elections leading to the success of two aldermen. However the concept did not flourish.

Archer presents four conventional reasons why not. These are reasons, the book argues, distinctive to the USA and linked by a “plausible causal mechanism.”

First, there was the “weakness” of the new unionism; secondly, the level of repression; thirdly, the political salience of religion; and finally socialist sectarianism.

Union weakness was evidenced by the low proportionality of the workforce that was collectively organized. Repression involved court injunctions against union action but also the use of soldiers and police to protect employer interests and the fear of dissension. Religion also played a role with American traditions of

evangelism and of revivalism. Socialist sectarianism lay in the balkanization of the doctrine, a descent into narrow multiple factionalism.

These notions are central to the book’s argument. Take for example the discussion of judicial repression of the Labor unions. It is contended that there was a decline in charges of criminal conspiracy in the USA but a concomitant increase in the widespread use of injunctive relief and the development of a new doctrine of civil conspiracy which gave “new life” to court repression of the workers in employment disputes. Civil conspiracy involved the employer’s expectation of future relations with customers and thus strikes or boycotts frequently amounted to illegal attempts to cause irreparable damage to that property.

Curiously, the Australian Parliaments did not pass legislation protecting unions from industrial action in “trade disputes”, unlike the English legislature in 1907. More relevantly systems of conciliation and arbitration were enacted so that, with notable exceptions, controversies between capital and labor could be determined freely. In the famous expression of the second president of the Court of Arbitration, H.B.Higgins, the system created in 1904

constituted “a new province for law and order.”

A greater level of repression existed in the USA when compared to Australia, the author argues, and this helps to explain why the American federation of labor decided not to build a Labor Party.

Take the role, somewhat incongruously, of the socialist doctrine being antithetical to the formation of a Labor Party. The author posits that sections of the union movement would see the formation of such a party as precipitating faction-fighting and disruption within the unions. It was the in-fighting of what one union leader called “fads and faddists” which it was thought by some to be suicidal. Whether the activists were single-taxers or Marxists, there was the typical sharp conflict between those whose world view is objectively close.

Lengthy attention is paid to the Australian analogue. Indeed, Archer says that, for methodological reasons, “a most-similar comparison of the United States and Australia lies at the heart of this book.”

Archer does not reject the conventional criteria answering the central question he has posed, but he does add a dimension of scepticism as well as some other factors; prosperity, precocious



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democracy, liberalism and racial hostility.

This is a book of great scholarship and painstaking research. If, in parts, it could be described as ambivalent, this arises from the difficulties of its subject matter and the extent of its research.

Jeff Shaw is an Employment Lawyer

Is There a Right to an Interpreter for Litigation Before Courts and Tribunals?

By Jeff Shaw

In *Singh v Minister for Immigration & Multicultural Affairs* [2000] FCA 1858, a Sikh Indian found himself before the Refugee Review Tribunal and asked for an interpreter. The tribunal indicated that that would be possible. One was available. Yet, somewhat incongruously, the interpreter was not used.

The refugee lost his case and appealed to a judge of the Federal Court of Australia (Dowsett J). His Honour held that the applicant seemed to have a reasonable command of the English language and therefore, in a discretionary way, the tribunal need not have availed itself of the use of an interpreter.

However, a rudimentary understanding of the English language does not necessarily allow a litigant to fully comprehend the details of the case against him or the case which he should present in rebuttal to it. Litigation is obviously more complicated than colloquial discussions and there is a respectable argument that the courts and tribunals should lean towards granting an interpreter when one is requested.

Probably the clearest judgment on this point is that of Kenny J when sitting as a judge of the Federal Court in *Perera v Minister for Immigration & Multicultural Affairs* (1999) 92 FCR 6. Kenny J said at [20]:

If not proficient in English, the applicant is effectively unable to exercise his right to give evidence unless an interpreter assists him. The tribunal is unable to give the applicant an effective opportunity to appear before it to give evidence unless it provides an interpreter to assist. Thus, in my view, if an applicant for refugee status is unable to give evidence in English, the effect of s 425(1)(a) is to necessitate the making of a direction, pursuant to s427(7), that communication proceed through an interpreter. The terms of any such direction extend to the whole of the hearing and are not limited to the applicant's evidence.

Other Federal Court judges have made expressions to like effect, citing Kenny J in *Perera* (for example, Mansfield J in *Long v Minister for Immigration and Multicultural Affairs* [2000] FCA 1042 at [34]).

Perhaps regrettably, the legislature removed any right of appeal from a single judge to the full court in this class of matter and the only remedy available was an application for special leave to the High Court. Special leave was denied on the basis that there was insufficient doubt about the exercise of discretion by the tribunal at first instance and Dowsett J. Hence the matter has not been finalised in Australian law. In New Zealand, admittedly based upon various constitutional grounds, the right to an interpreter has been affirmed (Benipal v Minister of Foreign Affairs & Immigration (unreported, High Court, NZ, 29 November 1985, Ch8ilwell J); *Khalon v Attorney-General* [1996] 1 NZLR 458 at 463 (Fisher J); *AB v Refugee Status Appeals Authority* [2001] NZAR 348 at 354 (Nicholson J)).

So, this remains an open question which will almost inevitably need to be decided in an appropriate case.

J W Shaw QC



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The People's Solicitors and the Gay and Lesbian Community

3 important cases have recently been undertaken, involving gay and lesbian members of the community. Some involving domestic disputes, others involving employment disputes. All were resolved successfully.

A Background to the People's Solicitors

The People's Solicitors Pty Ltd was incorporated in September 2006. It is located in the heart of Darlinghurst and short walk from the Downing Centre and Central Court House.

The People's Solicitors aims to provide legal advisory services and advocacy work at a high standard of efficiency and at a competitive cost.

Our policy: We give a lump sum fixed fee. For certain work we operate on success driven formula.

We are developing an after hours and a weekend law service to meet local community needs in the Darlinghurst/ East Sydney area.

We cover a range of legal matters in trade union and taxi industry issues, migration and commercial and property transactions.

Our people are engaged not only for their legal skills but also on their communication skills and their ability to develop workable solutions. We supervise and train a number of solicitors who are initially hired on volunteer basis. Our directors are as follows.

Jeff Shaw was the NSW Attorney General from 1995 to 2000 and was a former Minister of Industrial Relations and former Judge of the Supreme Court. He has a background on key areas of the law.

Kingsley Liu has a background in commercial transactions, investment and securities law and engineering. He formerly ran an ASX stock broking company and has engaged in businesses development in a range of industries.

Janice Gounder is a migration specialist and has worked in diplomatic and government circles.

We work closely with external advisory team that includes the following:

Lewis Marks is an US licensed attorney operating from LA

and Beijing. He is a director of an ASX public listed mining company and former head of Glencore China commodities trading group.

Bob Stanton is a barrister who specializes in commercial litigation.

Geraldine Kinnane is a barrister in criminal matters. She was a former Crown Prosecutor.

Christmas & New Year

We are proud to announce that our firm, in contrast to most other firms, will still be open during the Christmas and New Year holidays, just as we are available on weekends and holidays for emergency purposes. The three principal solicitors can always be reached on their mobile phones if the office number is not answered.

Contact:

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