

The grizzly truth

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## Lawyers or grave robbers?

# Introduction.

### The grizzly truth

There is an imaginary place in our minds where goblins live deep in the bowels of the earth and guard pots of gold. In these dark and gloomy places they work their evil. Whilst the dead spirits of our ancestors look on in helpless horror, powerlessly entombed by death. The pots of gold have been robbed by this heartless gang of barbarians and nobody can ever relieve them of their ill gotten treasure. They have built their fortress over the past thousand years and those that attempt to enter it will only find that they, like the dead, will be forced to contribute to the contraband.

When one enters the world of inheritance, and the legal profession become involved, it soon becomes apparent that this place is as real as the rain that falls from the sky, the sun that gives us life and the wind that brings us fresh air every day.

The goblins become the lawyers. The pots of gold are their fees and the fortress one finds has been built up by an elite group of unaccountable, untouchable humans, who justify their existence though the rule of privilege. They are what we term the judiciary (the keepers of the law).

Unlike most other professions the legal fraternity when acting as paid professional executors remain largely unaccountable and can only be judged by their peers. A consumer of their services is not provided with any quality standards or guidelines as to how lawyer/executors behave. If one has concerns about inefficient and costly procedures, they are impossible to pin down. They are a law unto themselves. In jurisdictions of criminal, business and financial disputes, it is possible to argue that there is a need for adversarialism. In the event of a parent's death and the passing on of the centuries of accumulated family wealth to the distressed and grieving relative's

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different skills are essential. Skills of conciliation, negotiation, mediation and selflessness upon which the beneficiaries of deceased estates can rely.

Currently the legal fraternity do not require specialised training in order to become professional, paid executors of their client's deceased estates. There are no standards on how they should treat the beneficiaries of the estate. The beneficiaries, unless they hold executorship are not considered by the law to be worthy as the lawyer/executor's clients. They have no recourse in regards to the procedures used by the lawyer/executor in the management of the estate. There is no disciplinary body available to evaluate whether or not the lawyer/executor is behaving in a combative manner in order to benefit himself by racking up fees and charges on the estate. There are no formal venues available in which to mediate these types of concerns by the beneficiaries, apart from an application to the Supreme Court. This type of application is extremely expensive and substantially reduces the values of deceased estates as a result of the obscene legal fees.

The lawyer/executor is most likely the constructor of the will. A will becomes a contract between the deceased and the living. The executor takes on the role of the person who has died. A lawyer/executor who has written this contract with the input of the testator is not obliged to show the beneficiaries or a deceased estate the mechanisms of the will's construct even when a dispute arises between all of the beneficiaries and the lawyer/executor. The lawyer/executor is not accountable for their professional input into the construct of the contract. If an engineer constructed a bridge and it fell down he would be obliged to show in detail the mechanisms by which the bridge was constructed.

Under the current laws in Victoria a lawyer/executor is protected from being accountable for his workmanship by client/lawyer confidentiality. This assists some members of the legal profession to provide a poor quality of service to the community. A legal service which is not required to provide

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historical information as to the mechanisms used to create a will, is unable to be subjected to critical analysis. Critical analysis is the process by which the provision of quality is continually improved. In other words we learn by our mistakes, admit to them and put in standards to help us avoid making the same error again.

In the case of my own story the lawyer/executor refused to provide critical information. Information required to enable a proper analysis of my mothers will. Without this information it is impossible to assess the risks of a positive outcome in litigation against the lawyer.

This is a story about a highly combatative lawyer, who is the senior partner in a medium sized legal firm and the mechanisms that were used whilst dealing with a deceased estate. These mechanisms have wreaked havoc upon a grieving family. It is a story about how despite complaints being made about the lawyer's self interest, the bodies that have been created to protect normal every-day families, are powerless to do so. It is a story that identifies the need to change the jurisdiction of our ascendancy laws and to place them into the family law area where mediation, conciliation and negotiation are the foundation stones for positive resolution.

I write this book as a warning to all those people who at one time in their lives contemplate the writing of their will. I offer the following advice. Do not under any circumstances in your will appoint a lawyer as the executor to your estate. If you do not have an option, give all of your possessions away prior to your death, but do not appoint a lawyer as executor, especially the lawyer who wrote the will. At least you will know you have made someone better off and they will be grateful of your generosity. The lawyer can squander the lot on exorbitant fees and leave your family shattered. There are no quality standards for lawyer/executors, they are a law unto themselves and controlled by an oligarchy of families that have emerged over the past two hundred years in our fair country; Australia.

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In Victoria they are accountable to the Law Institute of Victoria, the Bar Association and the Ethics Committee. In other words, themselves. In a world where greed is good and our laws have their roots embedded in the tyranny of Feudal England, (which protect the legal profession and those members of our society who are privileged), the beneficiaries of a deceased estate are disempowered.

Over 150 years ago Charles Dickens who had worked in a law firm identified the primary purpose of English Law.

The one great principal of the English law is to make business for itself [i.e. lawyers]. There is no other principle distinctly, certainly and consistently maintained through all its narrow turnings. Viewed by this light it becomes a coherent scheme, and not a monstrous maze the laity are apt to think it. Let them but once clearly perceive that its grand principle is to make business for itself at their expense, and surely they will cease to grumble.<sup>6</sup>

One hundred and fifty years later, the legal profession resists the needs of the community and has avoided incorporating standards and the principals of quality management systems into their profession. This neglect by the legal profession permits them to remain unaccountable and allows them to charge their clients at will. If they make an error, they are not required to pay compensation or even required to put in systems to prevent duplication of the error in the future.

If you are a human being do not trust them, do not allow a lawyer to have control of your family's assets after your death; by doing so you are inviting the devil into your own home. Look after your children in death as you would in life and do not trust a lawyer with your children's well being.

The angel Gabriel went to welcome two newcomers at the gates of heaven in order to show them their new homes. One was a pope the other a lawyer.

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As they moved through the ethereal clouds that are heaven they came across a modest wooden hut. Whereupon they stopped and the Angel Gabriel introduced the pope to his new home.

Gabriel and the lawyer then travelled on together and came to a sumptuous mansion where they stopped. The Angel Gabriel introduced the lawyer to his new home. The lawyer was perplexed and asked Gabriel angel why it was “that a mere lawyer should be housed in such a palace whilst a pope was relegated to a humble wooden hut?” Gabriel replied, “Well you see my friend we only have two lawyers in heaven and plenty of popes.”

Anybody making a will and contemplating the involvement of the legal profession should be made aware of the profession`s historical motives. When you appoint a lawyer as an executor of your estate you are giving them control of your money when you die. Why would you give a person whose profession is based upon making money for themselves, control of your money? Particularly when that person`s profession has refused to acknowledge the need to be accountable through quality standards and the free exchange of information.

Evan Whitton in “Serial Liars,” explains what can happen in the following story. It would be wise to take this warning from history very seriously if you are contemplating the involvement of the legal profession in your estate.

The record spin-out, *Jennens v Jennens*, began in the anciently corrupt Chancery Court in 1798, four years after the water lawyer (Shark) was caught near Workington. *Jennens* concerned the estate of a loan shark names William Jennens, whose grandfather had married twice and called boys from each marriage Robert. William Jennens plied his trade in London`s gambling dens. He was the richest commoner in England, worth five million pounds, about five hundred million pounds today. Jennens, 98 unmarried went to a solicitor to make a will, but forgot to take his spectacles, and the solicitor`s spectacles did not fit. He died a few days later, on

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Tuesday, June 19, 1798, the unsigned will still in his pocket, and twenty thousand pounds (about \$6 million today) in cash in the house. Lawyers for the alleged relatives flooded into the Chancery Court.

Jennens v Jennens was still going when Dickens was born in 1812, when he worked as a law clerk at Ellis & Blackmore in 1827-28, when he used it as a model for Jarndyce v Jarndyce in Bleak House in 1852-53, and when he died in 1870. It ended in 1915, 117 years after it began, but only because generations of water lawyers (sharks) had 'devoured' the entire estate. Jennens had thus been on foot for 55 years when Dickens observed that the law exists to make business for lawyers.<sup>7</sup>

If you are still considering appointing a lawyer as executor to your estate it is important to understand that our legal system is based upon an adversarial approach to finding the truth. Lawyers working within this system develop a legal personality that nurtures the art of serial lying.

"Lawyers might be accurately described as serial liars because they repeatedly try to induce others to believe in the truth of propositions, or in the validity of arguments, that they believe to be false."<sup>8</sup>

Authur Applbaum, Professor of Ethics, Harvard, 1995

Be warned, you could be appointing a person who is unaccountable, has never worked with quality standards, whose only interest is to make money for themselves who is trained in the art of serial lying. I say. "God help the beneficiaries." When one analyses the origins of our English legal system, and understands the implications for consumers of its services, only the naive would contemplate appointing a lawyer as an executor to care for one`s estate.

The adversarial system originated with the Norman conquest of England (1066). England was an island inhabited by small communities. They banded together under Harold and were defeated at the battle of Hastings. As with any conquering

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army of barbarians, they took what they could get. Conquest through the act of war legitimises, slavery, rape, murder, and theft. The act of conquest extinguishes community law (law that is generated from the community) and imposes the law of the conqueror (law that is generated by the conqueror and rules over the community).

The 300 'magnates', or 'great men of the realm' were part time judges and full time organised criminals: they franchised land to freemen and extorted goods and services from them; they extorted from merchants travelling through their land; and they 'sometimes led or employed bands of brigands to plunder towns and villages'. Freemen in turn franchised their land to its original owners and extorted from them.<sup>9</sup>

As the society evolved through the middle ages, "the lords extorted goods and services from peasants in return for protection against other plundering lords and vagabonds"<sup>10</sup>.

Common law began in the reign of Henry 11 (1154-89). It was based upon a culture of systemic corruption that had evolved when William 11 institutionalised trickle down extortion in the trade of authority. William put every public office up for sale. The purchaser then extorted bribes from those that had to deal with that office.

The British Empire perpetuated a system based on the trade of land and human beings. The empire dates from 1072 with the incorporation of Scotland, spread to Wales 1079, Ireland 1172 and Virginia 1607. It then developed a triangular trade in goods and humans between Africa, America and England. It continued its global expansion into India, South East Asia and Southern China, involving itself in the trade of opium and the utilisation of gun boat diplomacy.

Hence if you are still contemplating the appointment of a lawyer as executor to your estate, remember you are bringing a person into your family affairs, who is a member of a profession, whose historical roots do not respect the rights of communities to evolve and create their own laws. They do not acknowledge the primary human tenent of civilisation, 13