



Snippets

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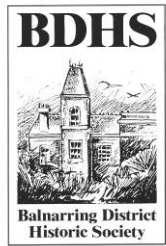
Balnarring and District Historical Society Inc.

® A002.25691B

P O Box 183 Balnarring 3926

November 2024

Editor: I. Hackett



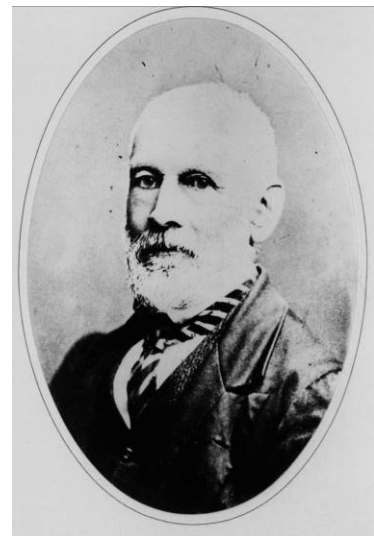
SUMMUM JUS; SUMMA INJURIA

*(Information from the Argus, December, 11, 1861;
the Herald and the Argus, 26th November 1861)*

In November, 1861 a case came before the High Court of Victoria over a ruling passed down at the Schnapper Point Court of Petty Sessions presided over by three magistrates - A.B. Balcombe, Edward Lintott and W.B. Cobb. Joseph Hann was appealing against their ruling.



Left: Joseph Hann



Right: A.B. Balcombe J.P.

Two labourers, hired by Hann, had gone to court over non-payment of wages by Hann, the owner of Coolart Station, Western Port.

The summons to appear in court on the 5th October, 1861 was issued on 26th September but the Clerk did not serve the summons at Hann's home in 3rd October. Hann was not there. He had left on 1st October to take cattle to Melbourne and was not expected back until the 7th of the month. The summons was left with his daughter, a young girl of ten years. On the day of the hearing, Hann's representative asked for an adjournment with the Clerk explaining why Hann was absent and saying when he would be back at Western Port. The adjournment was refused and the case went ahead in the absence of the defendant.

The case went against Hann and an order was made for him to pay a certain sum plus costs against which he could not appeal.

After Hann's return he applied for a hearing and was refused. The Clerk of the Bench swore that no deposition had been made in writing and that this step was taken at the express direction of Mr Balcombe.

Mr Hann took the case to the High Court.

At the hearing, reference was made to previous cases and the Chief Justice said the Court felt constrained by the authorities to refuse prohibition but, under the circumstances, they would not give the magistrates costs. He went on to say that the whole proceedings were 'wrapt in mystery' and that, had it not been expressly prohibited, deposition would have been made in writing.

The two complainants had absconded from their place of employment yet an order had been made in their favour for a sum that exceeded what they were due. The court found the conduct of the magistrates was most arbitrary while at the same time discharging the order for the prohibition with great regret, although costs had not been granted.

Mr Justice Barry, one of the two judges, gave the opinion that it might have been desirable to refer the matter back to the justices to compel them to do justice but the Court was unable to do so. He thought perhaps it was *summum jus* and perhaps *summa injuria*, that in carrying out the letter of the law an injustice had been done.

At the beginning of December a letter was sent to the *Herald* newspaper by Edward Lintott J.P. He had been one of the magistrates at the Schnapper Point hearing, had been away and had just read the account of the case before the High Court. He assured the public that had the court received a request to adjourn the meeting it would have done so. It had not refused such a request on behalf of Mr Hann.

As for the plaintiffs, what justice for them - a young couple just arrived in the colony, hired from the Depot, unable to procure work in the district and living on charity till the case was decided? They had not absconded but had been forced to leave the station, threatened with violence and had left without receiving any remuneration for their services.

Lintott concluded by writing that the severe censure aimed at the three magistrates was poor reward to 'gentlemen who give up their time in endeavouring to do justice to their fellow men'.

Life in the '70s

by ***Rupert Steiner***

(From a holiday destination to a place for a permanent home)

In the late 70s I had the good fortune to partner up with Cheryl McCubbin and her two daughters, Mairin and Kylie, in Templestowe.

From that time on I got to discover Balnarring Beach and the peninsula.

Many a school holiday was spent at a property in a holiday house right on the beach. It belonged to a girlfriend of Cheryl's family. We called it "Hancock's Lane" because at the corner of the access right of way next to 35 Fauconshawe Street, to several houses on the Esplanade, on a wooden power pole, all the residents in these houses had painted their names. The largest name was Hancock's so it became "Hancock's Lane:" to us. The reason many of the holiday houses right on the beach had some right of way from Fauconshawe Street was the fact that in the first half of the 20th century a great big storm had

washed away the once planned Esplanade that was fronting all the houses now directly on the beach between Seawind and Tulum Courts.

I remember the very basic conveniences of the house but it was always a great time that was had there, summer or winter. I still remember the kids playing on the beach and sometimes sitting on the timber groynes or digging great big mantraps or making tree houses in the cypresses near the house. They also met many friends among the other families in Balnarring Beach.

Atop the wooden groynes



Balnarring shopping district was quite different then. There was no big supermarket and very few other shops. There was the old general store and bakery, I remember, and for takeaway and petrol we mostly went to the old chicken farm and fried chicken shop and milk bar, a bit further up the road towards Flinders.

In the early 1980s the house on the beach was sold and we spent a few camping holidays at the Balnarring Foreshore camping grounds while we built our little holiday house in Stumpy Gully Road. We spent every school holiday and many weekends finishing our little house after it was built to lock-up stage and finally moved in, in 1985, after we had finished it. It was our little haven away from the bustle of Melbourne and it was always a great way to get refreshed from the rat race of the big city. In the '90s, after Cheryl retired from teaching in a high school as Graphic Design and Arts teacher, we moved into the house in Stumpy Gully Road permanently after the kids had moved out of home. I still commuted to Cheltenham in Melbourne to work as a Boilermaker-welder in the Engineering Department of my brother-in-law's company. In 2021 I also retired and enjoyed Balnarring and its nearby beach 100% of the time.

Eventually Cheryl bought a block of land with a fibro shack in Balnarring Beach at 15 Bayview Road which we rented out for a few years because we were waiting for Balnarring Beach to be sewered before building our present house. That was in 2000 and we moved in, in 2001, and have been here ever since.



Exploring the reef at low tide

We joined the local then Ratepayers, later Community, Association and I became involved with the Foreshore Committee and am still involved with maintaining our fantastic natural resources in the natural habitat of our Foreshore Reserves.

In the early 2000s I joined the local Greens Party and became seriously interested in all things environmental and became active in many campaigns on the peninsula.

It all started with meeting a wonderful woman and her children. I'm a very lucky person and will always appreciate our mostly peaceful and charming Balnarring Beach.

PAPER MILL AT MERRICKS

(Information from contemporary newspapers)

In February 1927 several newspapers including 'The Age' in Melbourne and as far afield as Perth's 'Western Australian' carried news of a paper mill or plant being built at Merricks on the peninsula. The report stated that much excitement had been generated by the news of the establishment of a mill which would be a great thing for the peninsula. A factory site was being prepared and a railway siding commenced with preparatory work for a branch line from Merricks. To ensure a good supply of water it was planned to build a large reservoir. A representative of the parent company, Westernport Products Company, had toured areas in the northern district of Victoria and NSW to secure supplies of fresh straw from wheat growers as the raw material for the paper.

News of the company and its interest in the Peninsula had first surfaced in October 1926 soon after the company had been registered. The two founders of the company were farmers, Heinrich and Hermann Holtkamp of Rupunyip and Mr James Florance from the same district. Their chief organizer was Mr J. Moulton. The man behind the scheme was German-born Ferdinand Adolphus Nuske. One hundred and fifty thousand shares were being offered at £1 a share. It reported that £20,000 had already been received. The Herald newspaper carried an offer from the newly formed company to buy up land in the Westernport district. It was not prepared to say how much land it needed but was investigating buying up a large rectangle of land if people were willing to sell at a fair price.

At first it was not known what the new mill or plant would produce. Some speculated that because the land was good for vegetable growing, the plant would be a big cannery to process vegetables. Then came news of a paper mill for the production of wood pulp and other tree products, and that trees were to be planted. Soon after, it was revealed that the plant would make paper from straw.

It was proposed to make kraft paper to use for bagging cement. In Germany much success had been achieved in making a tough paper of five layers which could be used to serve the purpose. Jute bags had been used but the fine cement powder not only caused trouble with the powder penetrating the jute fabric giving trouble with handling but jute was also expensive. Kraft paper

bags could be thrown away or destroyed after one use. Other reports released suggested the enterprise would include the production of several grades of printing paper on an extensive scale.

Further news followed that noxious weeds, such as St John's Wort, saffron thistle and stinkwort could also be used in the manufacture of paper. Farmers were being offered £4 (four pounds) a ton for newly harvested straw and £3/10/- (three pounds, ten shillings,) for weeds. Four hundred and fifty farmers throughout Victoria and NSW were contracted to supply the company with 100,000 tons of straw and/or weeds.

The company had authorized capital of £150,000 which would be privately subscribed. Machinery from Germany was being purchased and experts from that country would arrive to set up the plant and to train workers. It was envisaged that the enterprise would be second only to Yallourn, once it was established and would employ some 300 to 400 people. These workers would be housed in a township built for that purpose, a town that also boasted a golf course, tennis courts and a public hall. A jetty would be built at Shoreham so paper could be shipped not only to Melbourne but to other Australian cities. It was estimated that 500,000 tons of straw would be converted into paper annually, straw which normally was burnt by the farmers could return a profit. Operation was expected to start within 8 months. Two thousand acres of land had been purchased covering land between Red Hill, Balnarring and Shoreham. Dairy farmer, Dave Forbes whose farm was at the corner of Merricks and Stanley's Road sold off 160 acres of his land at somewhere between £10 and £20 an acre. He received a retainer. The remainder would be paid later when the plant was up and working.

The money did not materialize, neither did the machinery, nor the experts. By the end of June 1927, it was noted that Westernport Products Pty Ltd was in liquidation and the contracts were all worthless.

Alas, the enterprise was all a dream from the fertile imagination of Mr F.A. Nuske. And not his first. It was just one of several disastrous failures he had initiated, another 'Get Rich Quick' scheme to create the improbable - nitrogen from air, liquid fuel from straw and waste products, paper from straw and weeds — and to get people to invest in his dreams.

OLIVE ROBB née OSWIN

by Mary Karney

(This is the final piece that Mary wrote for 'Snippets' The subject is her mother, Olive Robb, née Oswin.)

John Oswin selected land in Balnarring Parish in the early 1860s. He married Georgina Mills, daughter of another early settler. They had eight children, one son dying in infancy. Olive was the youngest of the Oswin children.



*The Oswin family.
Olive is in the back
row, far right.*

The school the Oswin children attended (when they could be spared from work at home) was at Balnarring, four miles away. They walked or rode to school. Olive, an outdoor girl, was an excellent horsewoman, and helped their father with the cattle. Sometimes she would be late home from school, because she had been fishing in one of the creeks or checking on livestock on one of the paddocks they owned away from the homestead. Balnarring in the 1890s was a lively place. The children of the early selectors worked and played hard. There were balls and concerts and gatherings in each other's homes. They travelled by horse vehicles, or walked, sometimes as far as Flinders.

As her older siblings went away to work elsewhere Olive was left to look after her ailing mother, her father and her brother Dick. She cooked, kept the house, milked the cows, and helped her father. There was also time for social activities with her many friends. She was a good tennis player, and Balnarring fielded a team. Brother Dick was in the cricket, football and shooting teams.

Georgina Oswin died in 1908, John in 1910, and their home was sold. Olive joined with two sisters, Sue (Fanny) and Zing (Florence) in running a guest house at Cowes, Phillip Island. This was Broadwater, built in the 1890s by the Henty family. The boom era for guest houses at Cowes was beginning. Here Olive met David Robb who, with his brother Alec, owned the Cowes General Store.

The Robb family came to Victoria from Scotland in 1889, and the father, Alexander, who had been a missionary in West Africa and Jamaica, became the first resident Presbyterian minister at Phillip Island. The three sons (one had died of diphtheria in Edinburgh) took a farm at Lang Lang. Unused to farming (Alec was a bookkeeper, John an apprentice bookbinder, David a lad of 13), they struggled to pay off their debts. John went to Croajingalong prospecting, unsuccessfully, for gold. Returning to Lang Lang after devastating bushfires in 1898 he was killed down a well the brothers were digging. Two years later Alec's ankle was broken when a log rolled over his leg, partially crippling him. In 1901 Alec and David sold at Lang Lang, and in 1904 they bought the Cowes store.

In 1917 Sue Oswin married Valentine Hellicar of Merricks. Zing and Olive continued to run Broadwater. Zing did the cooking and Olive was 'maid of all work', including milking a cow or two which grazed along with her horse on the sports oval opposite Broadwater. Olive married David Robb in 1917. Alec Robb died in 1928, and the store was sold.

In 1932 David, Olive, and their three children moved to what is now known as Merricks North, buying land across the road from the old Oswin home where Olive grew up, by now subdivided and used mainly for orcharding. Orchards covered most of the land from Main Ridge to Hastings.



Above: Olive with her two oldest children, Marjorie and Davie

Left: David Robb and Olive on their wedding day

Olive was always a very sociable person, she loved having visitors, even though this meant extra work. Like all the Oswins she was a great cook, her pantry was kept stocked with cakes, biscuits, scones, jams, and fruit preserved in the Fowlers bottling outfit. The IXL wood stove always shone with black polish. Olive kept several milking cows. The milk was separated in a hand-turned separator, and butter was made in Olive's Cherry Churn, some being sold. After a while they sent cream by the butter factory carrier who collected from local dairy farms.

Every Monday the week's washing was done. Most things were first boiled in the copper in the wash house, then scrubbed and rinsed in one trough, rolled through a wringer into the next trough, coloured with Reckitts Blue and rolled back to be hung. Ironing was done on the kitchen table using up-to-date petrol irons instead of the old flat irons heated on the stove.

Olive didn't have to bake bread. This was delivered weekly by bakers from Dromana and Flinders, and Mr Skillon, the Flinders butcher, delivered meat every Friday. The meat was in the back of his van; he had a chopping block and a branch of gum leaves to wave off intrusive flies. The meat was kept in a safe on the verandah and could be getting a bit whiffy in summer after a week. There was also a Coolgardie safe. Electricity was put down Merricks Road in 1940 and such luxuries as refrigerators became possible.

Olive played tennis with the Somers tennis team before the war, the Balnarring courts having fallen into disrepair. Well-known names like the Stones, Hope-Campbells, Carrs, Luxtons featured in Somers Tennis Club. Other friends met at each other's houses for evenings of bridge. Olive also

enjoyed playing less serious card and board games with the younger generation. She would join in a game of cricket in the paddock, and was good at quoits. Olive and her sister, Sue Hellicar, were foundation members of the Balnarring C.W.A., meeting in the old hall near Warrawee Road where the Oswins used to attend functions in the past.

In 1938 Fenton Hall was built at Merricks North. Working bees were held every Saturday, the women providing afternoon tea for the men. In 1939 Primary School No. 4552 opened in Fenton Hall, and many dances and other functions were held in the tiny hall to raise funds for its upkeep and furnishing. Church services were also held there. After the Union Church at Merricks, built in 1862, was demolished Presbyterian services had been held for a time in private houses, including the Robbs.

During World War Two Olive was in the local Red Cross. Mrs Slaney held classes on First Aid. Fenton Hall was a First Aid Post and evacuation centre, and parties were held there for soldiers when the army was in great force in the district after the Japanese entered the war. The ladies of the district turned on large suppers for these young soldiers and welcomed them into their homes.



Later, Olive used to have American marines down for weekends. She, and many other women in the district, worked at the Balcombe Army Hospital on a regular basis. They knitted socks and balaclavas, and made camouflage nets.

The Robb family home in Merricks North.

Olive died suddenly, aged 57, while visiting her sister Zing at Broadwater, Cowes. She was buried at Crib Point cemetery where also are David Robb and their son Davie who died at 17; her brother Dick Oswin; Zing and her husband; and sister, Ethel Thornborrow, and her husband, Joseph.

CHERRY CHURN

(detail on Cherry & Sons from the internet)

The Cherry Churn which Olive Robb used for making butter was one made at the factory of Edward Cherry in Gisborne. Edward Cherry migrated from Herefordshire in 1855 with his wife, Anne (Appleby) Cherry. He established a joinery workshop in Gisborne and in 1858 began making butter churns in his spare time.

The churns were made from kauri pine and took the shape of a footed wooden box with slatted four-bladed paddles fitted inside, joined to the exterior by a metal hand crank. The crank was turned by a wooden handle to which it was joined through a hole in the side of the box. The lid had a carry handle.

The churns Cherry made were popular and he turned their manufacture into a viable business. Cherry's Churn Factory was established in 1875. This name was later changed to Cherry & Sons. At the factory churns of different sizes were produced to meet different needs. Some were for use in the home, others made for the small butter factories that sprang up in the late 19th and early 20th centuries. Cherry Churns were also exported to a number of overseas markets. The company diversified, making other dairy-related products such as butter trolleys, curd mills, curd knives and cheese presses.

Edward died in 1909 and the business was carried on by his son, George. George ran Cherry & Sons until his death in 1917. The factory continued turning out goods until it finally closed its doors in the 1970s.



Mary kept her mother's butter churn which is pictured here.

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