

Prologue: 19th Oct 2017.

It is raining, drizzle really. It's been a miserable day weather wise. The weather is now clearing and one can see a beautiful rainbow far out to sea. The drizzle is the aftermath of a short but fierce spring storm that rushed across the Sydney CBD late Thursday afternoon.

I'm been perched in front of the Sydney Courthouse steps for a good 30 minutes. Its been like a daze since the court room emptied, I was inside when the first thunder claps started. The claps and rolling sounds of thunder were heard at the very moment the verdict was being delivered. This has been a landmark case and I had been covering the story since the beginning. The claps of thunder and shuttering lights gave fright to all who were awaiting the verdict. In the reverence of the moment it seemed that a heaven sent message was being delivered. It all added to the suspense of the verdict moment - everyone gasp for breath when another lightning bolt grounded very close.

The judge was forced to pause at that very moment he began to read his verdict. The room had first gasp, and then hushed and gasp again as the thunder continued and lights continued to flicker. In my metaphoric mindset trying to measure the moment I remember thinking it was as if the heavens were rejoicing in the doom and gloom surrounding the future fate of the Defendants. We all knew they were guilty and that the verdict was just a matter of how hard the judgement would be.

The date is the 19th October 2017 - and a poetic date it is. It has been a full 30 years to the day since the 1987 global equities crash that began the slide into oblivion for the State Bank of NSW and its Executive. The 'crash' had global financial

markets reeling and that crisis is an event that played its part in the events of this court case and its proceedings.

I'm a freelance journalist - my name is Joe Zigler and I was inside the courtroom for all the trial process. I was one of many journalists who covered the trial – and one of the 50 or so media reporters in the room when the verdict was read.

The court battle had the NSW State Government (NSWG) as the principal Defendant – the Plaintiff's were the former members and staff of the former State Building Society who bought a 'class-action' against the NSWG. It was seen by most as a David verses Goliath contest when it first began in late 2008. The court drama did not start until mid 2017 and its been a nine year battle for the Plaintiff's, not to mention the 20 years this action laid dormant before the Plaintiff's commenced their action.

My job from day one has been to cover the trial and report the story. As happens with a story that has such deep and repressed intrigue, I needed to go behind the court process and find out how each of the main characters became a part of the events that transpired during 1987-88. As the evidence was introduced in a time line format – the interplay between various parties became exposed but needed to be investigated further to understand the motivations and how the '87 crash dictated events due to mounting bad-debts on the part of the State Bank and what they did to hid all the carnage.

My editor gave me a by-line when he told me to cover the story – 'this story will be history in the making'. - he was not been wrong. The trial lasted just on six months and from the judgment handed down today - this story will not end here.

My perch is under an awning of a bus shelter in front of the Courthouse - protected from the rain. During the last 30 minutes since the verdict I have been reflecting on the enormity of the decision just handed down – the numbness at the significance of the Courts decision is still impacting - it is still sinking in. The last

six months of emotional testimony and evidence has just flashed by and I'm trying to capture the by-line for today's copy.

The Court just handed down a judgment in favour of the Plaintiff's for \$2.642 billion dollars. The verdict floored everyone in the courtroom – the hush was deafening – broken by the prissy John O'Neill - the CEO of the State Bank of NSW at the time of the fraud, and a defendant standing with the other co-defendants as the verdict was delivered – he broke-down and wept like a baby.

Nick Greiner the former NSW Premier also looked to stumble as the verdict was delivered. Barrie Unsworth - another former NSW Premier who played his part in what transpired was not in court. He had the courts leave due to ill-health. Rumours were suggesting the stress of the trial and the media coverage was having its toll.

The Judge was extremely vitriolic in his summation – all directed at the NSWG and the other parties named in the suit who worked for the State Government owned State Bank of NSW. The Judge remanded a number of the individually named co-defendants to be further indicted to face further criminal conspiracy charges.

In one foul swoop, the careers and legacies of three NSW Premiers, a number of Ministers who served in those respective Governments, office staff, and senior executives of the NSWG owned State Bank have all been expunged, and many now face new charges and new trials.

The list would have been far longer had all survived to be indicted to face court. Whatever evidence these parties had to contribute to either side would have made no difference. The evidence presented was overwhelming and the question is now why the NSWG did not settle early before it got to court. Rumour has it that \$4-\$500 million would have secured a settlement before trial.

This case has been on the front page or lead story of every National newspaper for months. It has been well covered by the international press, has a running blog on most internet news sites, and within the top five lead stories on television news broadcasts for well over a six months now.

I sat through every day hearing the Defendant's legal team trying to weaken the Plaintiff's argument. The plaintiff's legal team presented an excellent case. At no time did the Defendant's have what they term 'a good day' throughout the trial. Some thought the weight of evidence was so overwhelming that the Plaintiff's would have sought to settle the case well before it went to verdict.

Perhaps they tried and the Plaintiff rejected their offers. If that was the case, they have surely been vindicated today.

Now that verdict is out, \$2.642 billion dollars - the State of NSW is now officially facing bankruptcy or a bail out from the Federal Government. This verdict has added to the now exposed \$5 billion in accumulated losses the NSW taxpayers have funded as a result of the initial \$1.8 billion in bad loans the State Bank of NSW hid in their balance sheet after the '87 crash. These bad loans happened under John O'Neill who took over as CEO of the State Bank from Nick Whitlam in July 1987.

O'Neill - ever the poppycock- was trying to make a name for himself as a Banker - as the evidence presented over the last six months proved - he failed miserably.

His legacy to the NSW taxpayers has been an everlasting financial burden. O'Neill's defence that he was trying to save the Bank from the same fads as the State Bank's in Victoria and South Australia proffered no sway with the court. He and his executive team got it horribly wrong and covered it up for 4-5 years until it became exposed to the marketplace when the NSWG looked for buyers of the State Bank.

He was never prosecuted for that fraud of agreeing to falsifying the financial accounts of the Bank. They traded as insolvent for all those years. That matter will be brought before the courts at some future date.

A great deal of the \$5 billion liability came from contingent guarantees and the accumulated funding costs endured by the NSW Treasury on behalf of the NSW taxpayers. As a result of this court case, NSW taxpayers now know the responsible parties to many of their financial burdens.

The names mentioned in the defendants list, and those who gave evidence during the trial, read like a who's who of Australia's Business elite. Past Political leaders, names like Neville Wran, Barrie Unsworth, Nick Greiner, Nick Whitlam, John O'Neill, were all found to be directly negligent in their duty of care and responsibilities as Administrators and Directors. Some were more culpable than others – and many are now facing additional charges and indictments.

For Neville Wran's family, it has been a heavy toll. He died during the trial whilst sitting in court. O'Neill was targeted throughout the trial – it was proven he was the main instigator and delusionary protagonist in prolonging the fraud.

The evidence proved his culpability and he is going to go for plenty when he faces his own court proceedings. As a result of the evidence uncovered during this trial, he will do jail time and his personal wealth has already been frozen.

Nick Greiner will also be facing charges. His roll was minor compared to O'Neill. O'Neill misled Greiner and Greiner responded naively. He had only been Premier in March '88 for a few days when O'Neill came at him in desperation to resolve the State Bank's faltering merger agenda between the State Bank and the State Building Society.

Greiner is mainly guilty of bad advice, being ignorant of the legislative issues, and of having inherited a Labour Party time

bomb that went off two months after he took office. Greiner just wanted it to go away and as a result, O'Neill went rogue trying to deliver on his promise to Greiner and save his own career and creditability.

Unsworth was similarly impacted during his term as he inherited the position from the Wran Government. His public statement that he would not allow a merger saved his ass ... but not his reputation. In the end he made a statement acknowledging that he knew of the Wran-Plan to get the Commonwealth Savings Bank (CSB) into court over the 1931 failure of the Government Savings Bank of NSW. Ultimately – Wran's plan was to merge the State Building Society with the State Bank after the Government had the 1931 AGREEMENT rescinded. The folly was that the 'entity' used The State Building Society had members and shareholders – and when it came to merge and then sell the SBS – the members and shareholders were contemptibly dismissed as having any rights at all. The hubris displayed in how O'Neill went about the sale to St George Building Society proved defining in the Judge's summation.

During the trial – so much evidence was revealed about how the NSWG went about the business of circumventing existing legislation to get the advantage they needed to achieve their agenda. This evidence has cast a wide stench that will forever tarnish reputations and how Governments go about abusing laws of the land to get what they want.

The NSWG do not have the funds to settle, its rumoured they have burned their way through \$50 million in legal fees to defend this case, and now they have nowhere to turn. This has all come down to the ego of one man, John O'Neill. The future individual defamation charges he faces arising from these proceedings will vilify the plaintiff's further. All the SBS Executives who had their reputations tarnished by O'Neill's impetuousness and slanderous comments, will receive another

estimated \$6-\$700 million to add to the damages the NSW Government will be up for.

The further criminal charges that await O'Neill will ultimately bring justice to a vile man who trampled over sub-ordinates to protect himself and his career. O'Neill looked a berated and withered old man as he slumped into his chair sobbing openly after the verdict. The media were allowed into the courtroom today to hear the verdict - those images of O'Neill will replay themselves over and over on National News broadcasts over the next few days.

This trial has captured the Nation's attention. O'Neill's corporate reputation, and the inclusion of three former NSW Premiers made sure it had profile from the start. This trial was a first in that past elected State Government heads were facing criminal proceedings arising from actions they undertook whilst they were in office and on behalf of the Government.

The public were all rooting for the Plaintiff's - Bookmakers betting on the outcome stopped taking bets long ago. Witness's came out of the woodwork to offer and give testimony about what they knew about what happened at the State Bank and the State Government during the period in question. There have been many offers and feelers put out for the story to be serialised into a television drama.

As all these thoughts keep rolling through my mind, I notice the rain has now cleared. The media throng, their camera crews and assistants with their microphone holders in tow, are now gathering around the Courthouse steps. The mood is eerie and the dark clouds from the storm have passed. There is freshness in the air, as if the stench from this trial has been cleansed and the dishonesty exposed washed away.

The Plaintiffs lawyer had announced he will be holding a post verdict press conference. We are all about to hear him speak as only he can speak one more time. The eminent QC who acted for

the plaintiff was Geoffrey Robertson, the Australian barrister of global human rights fame who took on this case on a no-fee basis. An offer was made by the plaintiff's to ensure his services – that offer was that 50% of all damages awarded if they won, would be held in Trust for charities in NSW and the rest of Australia.

That press conference is now only moments away and we are all waiting for the final comment to this remarkable decision.

The story that follows is about this trial, the evidence and research, the personalities, and how a single individual, Rudi Borsky, started a movement that gained support and then took on the NSWG - won a class action verdict – and crippled a Government. The final settlement value will be well in excess of \$3 billion dollars when finalised.