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## DR. JOHN BRAY IN CONTEXT

In South Australia "context" is a difficult word. It does not connote mere geographical relationship, nor mere relative prosperity. As well, it involves a study of origins. For South Australia was not, like Queensland, Victoria and Tasmania a mere off-shoot from the mother colony. Even Western Australia, freely settled in the beginning, bears a shadow of subsequent convict labour. Not that, nowadays, there is anything to despise in convict beginnings: the thrust and energy of a new society breaking out of a penal colony mould are full of promise. But they are different from the energizing stimuli of South Australia.

The differences in origin of South Australia should not create any feeling of superiority.<sup>1</sup> We resemble our fellow Australians in far more respects than those in which we differ from them. Nevertheless there are differences. For nearly twenty years South Australia sentenced its criminals to be transported, at the Governor's pleasure, to Port Jackson or Port Arthur.<sup>2</sup> From the beginning South Australia was a radical community. There were, indeed, deeply conservative influences, but there was always a resistance to authority and authoritarianism. No one has put it better than Pike in what has become the definitive text:

"South Australia was settled in 1836 by men whose professed ideals were civil liberty, social opportunity and equality for all religions. Though each of these ideals was moulded in England, each was a protest against English practice. The emigrants had found their civil liberties unreal, because dependent on rank and property; the summit of society inaccessible except by gentle birth or exceptional wealth, of which they had neither; and the Christian religions unequal in law, custom and social status. Such obstructions bred, especially in Dissenters of the middle class, particular ideals of liberty which the emigrants determined to put into practice in their new land."<sup>3</sup>

So, to take an example, South Australia knew nothing of tithe and glebe.<sup>4</sup> The curious fact that the creation of a Bishopric of Calcutta, by virtue of the charter of the East India Company, made the second bishop of Calcutta also bishop of Australia was no more than a curious fact to the residents of South Australia. The bishop had no greater jurisdiction than a Methodist or Congregational or even Unitarian parson. In other words, his sway was a purely spiritual sway and was acknowledged only by those who chose to acknowledge it.

Bishop R. H. Heber, bishop of Calcutta and Australia, might well have had his southern parishioners in mind when he wrote his well-known hymn

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1. Students of the absurd may reflect that Swift puts the land of the Liliputs at 30° 2' south, northwest of Van Diemen's Land. That is, somewhere near Ceduna.
2. The original record of Criminal Sessions is held in the South Australian Supreme Court Library on restricted access. It contains the form of warrant to the Keeper of the Gaol, referring to the Governor's pleasure and choice of penal servitude destination.
3. Pike, *Paradise of Dissent* (1957).
4. On State aid to religion in S.A. see Brown, *Bishop Short D.D.* (Hodge Publishing House, Walkerville, 1974), 70 sqq.

about a land where every prospect pleases and only man is vile. For in South Australia religious fervour led to many a schism and breakaway. The German Lutherans came here, at the outset at least, to escape the compulsory imposition of a liturgy with which they disagreed. Once the binding force of that compulsion was removed schisms developed in their own flock. Anglicans became, in the main, in the view of many, Congregationalists. For most of them worshipped in churches that had been built by a benefactor who imposed a trust deed on the edifice. So the incumbent owed his first duty, under God, to a band of lay trustees and not to the bishop. Methodists split four ways and even the Baptists divided themselves into differing sects.

No one can read the early journals of South Australia, the early correspondence of its first settlers, the early quarrels and set-backs, the early slide to insolvency, without realizing the extraordinary capacity for disagreement exhibited by the early South Australian community. This is not the occasion to deal with such matters but we must, even when tucking up the petticoat of protest, let a morsel of lace still show, for protest is part of the fabric of our being.

The tide of dissent ebbs and flows. Sometimes it thrusts back conservative forces, at other times it retreats from them. Metaphors must not be pressed too far, but perhaps I may speak, without impropriety, of a dodge tide where the rival forces are at times held in an uneasy balance. Let me depart from the metaphor to observe that there is difficulty in detecting the movement of these forces except at long historical distance, for the rival forces are usually embodied in the same vehicles, so that although their relative powers may vary the same vehicles remain. There is some advantage in this. The rival factions can continue to revile the forces that they oppose and can continue economically to use the same invective as did their fathers.

My own impression is that, generally speaking, conservative forces have been most powerful in South Australia in bad times. The desire to experiment with social change increases in good times. It is almost as if the community chooses to spend its surplus in good times in more or less charitable endeavour. Certainly, in my experience, it displays noticeably less ardour for social change in bad times.

I must say something here of the colonial aspects of South Australian life. We felt, in this State, an aloofness from New South Wales. Not a little ink was spilt in proving that South Australia was never part of New South Wales despite the area included in Governor Phillip's Letters Patent.<sup>5</sup> As early as 1842 it was fashionable to call ourselves a Province.<sup>6</sup> No one has been able to point to the differences between the legal concept of a province and that of a colony in the early 19th century.<sup>7</sup> But the name itself singled us out in our own estimation. We were more in communion with New Zealand, which had an origin similar to our own than that of any other Australian colony except perhaps Western Australia. So Hanson, a

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5. See, for a collection of views, Borrow, *S.A. and N.S.W.* (Pioneers Assoc. of S.A. 1948: 2nd. ed., 1967), 3.  
 6. The words "colony" and "province" are used interchangeably by Dutton in *South Australia and its Mines* (1846). The anonymous author of *South Australia 1842* (London, 1843) calls us a "province".  
 7. But see Borrow, *South Australia, Originally a Province—Why?* (Pioneers Assoc. of S.A., 1946).

London solicitor, was among the promoters of the South Australian Company, quarrelled with them, joined the New Zealand Company, went to New Zealand, had other differences, and in 1848 came to South Australia to practice, later becoming our second Chief Justice.

There is, among colonials, an attitude to their colony which is reflected in numerous ways. In the beginning there is an element of transitoriness. The early settlers hoped to make their fortune in the colony and then go home. Very few in fact achieved the rank of Australian nabobs in Cheltenham or Rugby but many hoped. As with Anglo-Indians at all times up to 1947, home was some part of the United Kingdom. There were various consequences of this. In the first place there was a fierce loyalty to the "Mother Country". She would help us in time of need, we would come to her aid as sons to their mother, British goods were best, British bankers and even British politicians were incredibly sagacious. We even partook, at second hand, of the jealousies that Britain began to feel for the U.S.A.

In the second place, we were transitory. We could treat the place where we lived as a mere temporary habitation. Enhanced by an intense piety, this brought about a feeling that home was the United Kingdom and was also our heavenly home. So in the colonial afterglow in which I was reared, when it was said that someone was "going home", further enquiry was needed to ascertain whether he was on the point of death or was packing his bags for a trip to England.

Along with these attitudes snobbery emerged. It was none other than Bishop Short whose name headed the petitions to the Governor not to receive at Government House Mrs. Hanson, the wife of the Chief Justice. The "British is best" belief had further consequences in legal circles. Colonial judges were regarded as being less wise than British judges and therefore colonial judgments were treated with less respect than English judgments. Who would want to follow a considered judgment of the Full Court of New South Wales if there was a conflicting judgment delivered *ex tempore* by a single English divisional court judge? And *ex hypothesi* the Privy Council was the ultimate in legal wisdom.

Colonial attitudes, in my opinion, still lingered on in South Australian legal circles until the early 1960's. Those attitudes were not immediately apparent, but they were there. Sir Mellis Napier C.J., who was a fine judge, with a strong, powerful mind, was not immune from them. He spent his youth in the United Kingdom and early impressions were lasting. He cited English decisions first, and, where there were not applicable ones, decisions of judges whom he respected in other States. He told me once that he had never examined American decisions and he was puzzled as to why any South Australian judge should do so.

A judicial system tends to respond slowly to the thrust of social change. The judges, intensely individualistic to a man or woman, are appointed at different times and are of different ages and outlooks, but they have a collective resistance, an inertia, that must be overcome if change there is to be. Witness the classic example of the U.S. Supreme Court resisting and retarding Roosevelt's New Deal. This is not a malign conspiracy to frustrate those who seek change: it is an ingrained attitude of mind. Change is somehow to be feared, like uncharted waters.

When I began my law course there were plenty of things needing change. It was the middle of the Great Depression and not too much was happening in the field of social reform. There were residuary legacies from the common

law such as distress for rent (seizing and selling even goods not owned by the tenant in some cases), unrestricted ejectment, scarcely restricted subdivision of land and door-to-door sale of blocks to (in particular) farmers who had never seen them, unrestricted right to contract out of liability in the small print, the mere beginnings of manufacturers' liability in tort,<sup>8</sup> penalty interest in mortgages, unequal pay, a Draconian industrial law. Likewise the criminal law retained hanging and flogging, indeterminate sentences, an outlook on sex that even in those days was curious<sup>9</sup> and an attitude to drink and gambling that was entirely at variance with the wishes of the community. But, above all, there was a shut-in attitude. For example, there were in Adelaide only two cafés where a cup of coffee was obtainable at 10 p.m. And if you dined at a hotel (one dined early in those days) a gaggle of waitresses descended upon the tables at an early hour like Furies and removed all bottles and glasses, full or empty. So the custom arose of drinking from a coffee cup brandy poured from a teapot.

A shut-in society breeds formalism. Law tends in any event towards fixed forms, so legal life was formalistic and judges embodied the formalism. No judge smoked in public<sup>10</sup> or dined in public.<sup>11</sup> Judges all wore hats, for all decent men doffed to them in passing and they had to doff back. When a judge entered a room everyone stood up. The judges lunched together, by themselves, in a Club. No one else sat at that table save by special permission which was rarely given. If a judge wanted a haircut he would not visit a saloon: he sent for a barber who came to his Chambers and performed the rites. On Circuit, judges travelled by train in a special carriage with a special hamper, along with their staff and the Crown Prosecutor but not defence counsel (unless eminent). They were welcomed, on arrival at the circuit town, by a Police Inspector, and they dined as a party upstairs in their hotel, the tipstaff acting as Circuit butler. They walked to Court in tails, accompanied by an associate in similar garb and the sheriff in a frock coat, all wearing black silk top hats. They were preceded by two troopers, unmounted, with drawn swords.

Circuit pomp was abandoned during the second world war and never returned, although on my early circuits I was escorted to Court by a Police Inspector. The full ceremony, with drawn swords, never recovered from the audible remark of a Mount Gambier urchin who thought the Circuit party were a group of undertakers who had been arrested by the troopers. Other special attributes faded away gradually. Hats were worn well into my time and until Dr. Bray became Chief Justice there was no one who never wore a hat. The lunch gradually faded out. It was never fully operative in my time. Judges became accustomed to visiting select barbers' saloons. I do not think it would ever have done for Sir George Murray, that stately man, but in his last years as Chief Justice, Sir Mellis Napier brought himself to it with a half apology as if he were letting the side down. I never, as a judge,

8. *Donoghue v. Stevenson* [1932] A.C. 562, final judgment of House of Lords delivered on 26 May, 1932.

*Grant v. Australian Knitting Mills* [1936] A.C. 85, final judgment of Privy Council delivered on 21 October, 1935.

9. Sir Geoffrey Reed, a Judge of the Supreme Court of South Australia from 1943-1962, used to explain to juries in carnal knowledge cases that girls passed through a period of insatiable sexual appetite and had to be protected from young men who sought to take advantage of them whilst in this condition. He merely assigned a reason for a law that most citizens supported.

10. Cleland J. was, I think, the first to infringe this rule. But his pipe was so much a part of him that he felt naked without it.

11. Sir Bruce Ross confirmed to me the persistence of this rule into his period of office (1953-1962).

went by train to Circuit, and special carriages have long disappeared. Judges on Circuit do not nowadays care to be seen by the public in the company of Police Inspectors shortly before a trial. As for dining facilities, on my last Circuit I stayed at a hotel which did not open its dining room. So I had my meals in a dark corner of the bar behind a pillar in order to be less visible to the drinkers. All these changes, and many more, have gradually occurred over many years. They were not planned: they happened. It is fair to say that judges in this State, whilst conservative in Court (in the main) have shown no urge to retain ceremonies that have become outmoded.

The selection of Chief Justices has been a matter of controversy, and attitudes to selection vary widely. In the United Kingdom the Attorney-General was said to have a right to claim the office if a vacancy occurred during his Ministry. This presumably had the advantage of removing doubts as to whether the new Chief Justice would be a former politician. In India and in Queensland it has been the practice (now departed from in India) to elevate the Senior Puisne Judge. In Victoria the new Chief Justice is always appointed from the Bar. In New South Wales and South Australia there is no fixed rule. Sometimes the appointment is from the Bench, sometimes from the Bar. In this State we have had, including Dr. Bray, only six Chief Justices in 140 years. Not that the appointments have all been without drama. It was Boothby's pique at Hanson's appointment that led to the Colonial Laws Validity Act. The record in the Executive Council minutes at the time of Way's appointment is enlivened by a page having been cut out, perhaps for some innocent reason. When Murray was made a puisne judge in 1913 he was told by Hermann Homburg, Attorney-General, that he must not expect and would never receive promotion.<sup>12</sup> And that great gentleman Angas Parsons J. was hurt when passed over on the next occasion, although not at all vexed with Napier. The fact remains that there never has been a Senior Puisne Judge promoted to be Chief Justice in this State.

Bray's appointment came as no surprise. If an appointment were to be made from the Bar he was clearly the outstanding candidate. I confess a preference for appointment from the Bar, for precisely the same reasons as Hermann Homburg advanced. A puisne judge once appointed should not look for promotion. Moreover, a puisne judge, however he comports himself, is somewhat remote from the tide of affairs. Many puisnes look before, not so many look after and pine for what is not. A silk, with a broad practice, is in touch with a multitude of influences, aspirations and ideas. He comes to court as Chief Justice unfettered by false feelings of loyalty to predecessors. Yet I acknowledge that the rule, if applied unswervingly, would not always result in the best candidate being appointed. With due respect to the Bar, there was no practising barrister as fitted to be Chief Justice as is our present Chief Justice.

Before I discuss Bray in more detail I must mention the political climate. Premiers Butler and Playford had concentrated on building up manufacturing industry in South Australia. The great lure was a cost differential, and they did their best to maintain it. Neither came from die-hard Tory ranks, neither was a hard-hearted man. Each provided Treasury funds in aid of a list of charities administered by the Chief Secretary. But charity is not social reform and is relatively cheap. Social reform relates to large numbers of persons and is therefore expensive. I do not say that

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12. Related to me by Homburg.

either Premier Butler or Premier Playford deliberately frustrated reform, but I feel sure that, when reform was suggested, Treasury considerations were prominent. So even such an apparently obvious thing as a pension for retired judges did not come into being until the 1940's. Before that, there was no retiring age and a judge, however old and unwell, was tempted, if without independent means, to stay on the Bench. And, even when it came, the pension had to be bought by the incumbent judges. The Attorney-General who introduced the bill was emphatic that he could not recommend a non-contributory scheme.

The Playford government was defeated by the Walsh (Labour) government in 1965. Walsh had the young Dunstan as his Attorney-General. Dunstan became Premier in 1967, was defeated in 1968, and regained the Premiership in 1970. He remained Premier until 1979. Dunstan was his own Attorney-General at first, but in 1970 he persuaded Mr. L. J. King Q.C. (the present Chief Justice) to leave a large and varied practice and come into Parliament and the Ministry. King was Attorney-General from 1970 until 1975 when he became a puisne judge.

Both Dunstan and King were reformers. They did not merely tidy up small existing defects. They also brought about great changes in community welfare, consumer affairs and a wide variety of other matters. I can do no more here than mention the fact of extensive reform. My purpose is to emphasise that the Dunstan and Dunstan-King period was a period of excitement and social change. Parliament was active as never before and ministerial advisers abounded. The following tables show the comparative amount of legislation and the sitting days of the House of Assembly from 1940 to 1975 when King left the ministry:

(a) *pages of legislation, excluding indices, reprinted Acts, tables, etc.*

1940	349	1952	190	1964	299
1941	248	1953	202	1965	375
1942	133	1954	238	1966	514
1943	127	1955	264	1967	1064
1944	184	1956	227	1968	360
1945	227	1957	175	1969	716
1946	260	1958	232	1970	352
1947	162	1959	269	1971	937
1948	246	1960	302	1972	1450
1949	242	1961	302	1973	564
1950	201	1962	547	1974	597
1951	166	1963	343	1975	574

(b) *days of sitting (source: S.A. Parliamentary Papers)*

1940	58	1952	44	1964	43
1941	53	1953	57	1965	68
1942	47	1954	56	1966	76
1943	61	1955	59	1967	68
1944	49	1956	43	1968	61
1945	50	1957	46	1969	73
1946	49	1958	51	1970	58
1947	54	1959	56	1971	77
1948	59	1960	56	1972	71
1949	48	1961	43	1973	55
1950	51	1962	48	1974	70
1951	50	1963	46	1975	58

Obviously, such intense legislative activity did not pass unnoticed by the general community. It is fair to say that over the whole period there was a heightened consciousness of social responsibility and social need. The economic consequences of change were also loudly proclaimed, sometimes with a degree of accuracy.

In 1967 Sir Mellis Napier, although still strong in mind, was becoming increasingly infirm in body. He had elected, when pensions were first provided, to remain on the Bench and forego a pension. He finally retired on a pension in early 1967. Bray was appointed Chief Justice in the same year by Premier Dunstan. His career and life-style have been discussed elsewhere in this volume and I need not repeat that discussion. No one doubted his great intellectual gifts, no one disputed his ability to discharge the judicial duties of the office with credit to himself and advantage to the community. But even in 1967 South Australia was more obsessed with formalism than today seems possible. How could he acknowledge a doffed hat, seeing that he did not wear a hat? Why would he not accept the traditional post of Lieutenant-Governor? Some of the sillier voices questioned the propriety of reading and writing poetry. Many felt that judicial dignity was inconsistent with meeting one's friends in the front bar of an hotel, or wearing casual dress in the street. So he faced, not a solid wall, but outcrops, of opposition.

Bray adopted at the start and always maintained a consistent position. In all that pertained to his judicial duties he was every inch a judge. In all that pertained to his private life he was his own master, bound only by the laws that bind every citizen, not subject to any special code of dignity or behaviour. If his rejection of a special code was innovative then he was an innovator. But one must be careful to look in the right direction. It might have been innovative against a background of earlier Chief Justices, it was nothing new to him. It merely continued the habits he had observed for many years, habits which the Premier who appointed him was aware of and accepted. For Bray made it plain that he had no intention, if appointed, of disarranging his private life.

I do not want to intrude on Bray's private life. It has nothing to do with his judgments and will be forgotten when they are still cited. Adelaide takes a little while to get adjusted to unconventional conduct, but then it often does not merely condone the unconventional but changes the conventions. There is an increasing easiness in behaviour and dress among the present puienes as in the State as a whole — the conventions themselves are changing. Sometimes alleged unconventional behaviour is mere perpetuation of previous conventions. Until the motor car came into general use thousands of citizens went on a hot evening to Glenelg in trams for a dip in the sea. Bray does not drive a car. He does not want to impose upon his friends. He sensibly catches a public conveyance to the sea-side as his forefathers, or at any rate their contemporaries, did. I say no more about his private life, and I refuse to brand it as eccentric.

Perhaps I should qualify the word "eccentric". In a colonial society there is a single standard of correct behaviour. The standard is that mode of behaviour which the colonial society believes citizens of the mother country would regard as appropriate in the circumstances. Thus, although strange, even bizarre, it was not eccentric for colonial males to wear, throughout the long Australian summer, heavy three-piece suits and top hats. It was not eccentric to sit down in the middle of the day to a hot

Christmas dinner, when the temperature was over 40° C and the only cooling devices in the dining room were spangled postcards depicting holly berries, robins and snow-covered cottages. But we live in a pluralistic society today, and we do not classify as eccentric conduct which is neither unlawful nor improper. Indeed, the wheel has gone full circle and I should regard as somewhat eccentric a man who dressed on a hot Adelaide day in clothes suitable for a mid-winter London day.

In his judicial career, relatively short as it was,<sup>13</sup> Bray was a model. As has been said by Mitchell and Kelly in their article, he conformed in dress when acting in his office. He showed no reluctance to participate in the annual Church service in full robes, knee breeches and buckled shoes. He attended levées until their abolition after 1971.<sup>14</sup> Those who remember levées recall that the judges stood in a group near the Governor like a gorgeous bunch of crimson cannas. Nothing could have been less of an intellectual pleasure, nothing could have been more ritualistic and formal.

Bray was a shy man. There was an air of courtesy between him and the puisnes; but there was a little reticence on his part. He consulted them on all questions that arose touching the conduct of the Court. He used to say that there were two sorts of Chief Justices — the legalistic and the administrative. He put himself firmly in the former category. He was willing to discuss Banco cases after judgment had been reserved, but there was rarely more than one such discussion and he made no attempt to dissuade a fellow judge from a judgment with which he did not agree. There were no seminars on the law. He greatly preferred to write his own judgment and not to participate in a joint judgment, for he took the view that posterity could more accurately estimate a judge who did not blur the edges of a judgment for the sake of achieving unanimity in a joint judgment.

Bray did not chose to lunch with others or to linger over a drink before leaving the court. He worked, rapidly but incessantly, from the time he arrived until 6.30 p.m. or thereabouts. When the day's work was done he reverted to being a private man. Then he had other and more congenial friends with whom to discuss other and more congenial topics in other and more congenial surroundings.

Despite what I have said he was a leader. He led by example, not by precept. In the first place his literary style was outstandingly good. He was spare and accurate with words. Despite his great knowledge of the works of master writers, in poetry and prose, in several languages, he studiously refrained from showing off. Latin tags and references to Roman Law were rare; decorative quotations from English writers were almost non-existent. He used language as an instrument for expressing his views on legal matters. He was not a virtuoso performer in the florid 18th century tradition. His method of writing judgments was influential. It created a pattern which a perceptive judge could readily follow.

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13. Dr. Bray was technically not S.A.'s shortest serving Chief Justice. While his tenure was shorter than those of Napier, Murray, Way and Hanson, it exceeded that of the State's first Chief Justice, Sir Charles Cooper. For although Sir Charles Cooper was the sole S.A. judge from 1839 to 1849, and "first judge" (*i.e.* senior judge) thereafter, he was not formally appointed Chief Justice until June 1856. As to this, see *Dictionary of Australian Biography*, Volume I, 193 (Percival Serle). As his term in office ended on the 20 November, 1861, he was only Chief Justice for 5 years, a shorter period than that of Dr. Bray.
  14. The last levée was held in 1971. (This information was courteously supplied by Mr. White, private secretary to His Excellency The Governor).

In the second place, his clarity of style showed up the imperfections of statutes which he was considering. He applied standards of criticism that influenced the criticisms of others. He pointed out latent obscurities and perhaps induced others to do the same.

In the third place, he ameliorated the application of the criminal law. Errors in summing up were mercilessly exposed, and fear of being upset in the Court of Criminal Appeal was instrumental in causing greater accuracy of language by trial judges. The proviso was still applied occasionally, but its application was restricted. It was certainly not applied merely to avoid causing pain to another judge, or merely to avoid a long retrial.

I regard his great contribution to the law as being his accurate, consistent, unemotional application of the judicial processes to the cases coming before him. In his consideration of sentences he was detached, sympathetic with the offender and inclined, where possible, to keep him out of gaol. He abhorred sentences which smacked of vengeance.

Much of what I have said indicates that Bray was a judicial reformer. He was not, in his judicial work, a social reformer. Moreover, he hated the introduction, for any reason, of what he thought to be false legal doctrine. He applied the law as it stood, giving expression to its requirements as accurately as he could. Where it brought about stupid consequences he would say so. He was not prejudiced in favour of the social *status quo*. When he considered that the *status quo* involved conflict between law and common sense, or law and currently accepted mores, or law and fair play he did not hesitate to say so. He was in no way resistant to the tide of social change that was surging through the community; but I have never known him to bend the law to bring about change.

Indeed, in some ways he was vexed by technological change. He hated electronic recording of evidence. Nor did he express a wish to see changes in the attire of barristers or judges. Even the attached turned-down collar was not, I think, altogether to his liking and when once I said that I should like bands abolished his enthusiasm for the proposal was non-existent. He was comfortable in familiar surroundings. I ceased discussing the proposed new court building with him, for clearly he was pained by the prospect of moving. And his love for No. 1 and No. 2 Courts, where he had practised with such success and such personal satisfaction, knew no bounds.

His relationship with the Executive was formal and correct. If a Minister wished to call on him he was available. If the judges desired to mention some matter to the Attorney-General he would write a letter. He showed no enthusiasm for informal negotiation with Ministers, and in this he was right. But he never allowed himself to be dictated to by the Executive and in the incident over the grant of silk, to which Mitchell and Kelly refer, he was completely firm and correct. He made it plain that while he could not prevent Executive Council from adopting a course which he thought wrong he was under no obligation to make further recommendations for silk and would not do so, unless all his previous recommendations had been adopted.

In summary, then, Bray was a man in full sympathy with the spirit of independence and dissent which have always characterized the best South Australians. His judicial work has been analyzed elsewhere: it is enough to say that he continued, with conspicuous success, the process of slowly, patiently and accurately expounding the law. That is the judicial process, but it can be a cold exercise. In Bray's case the man himself, by his own

nature, gave warmth and humanity to the task. Future historians of South Australia will, I think, look back with approval to the Dunstan-King era of social reform and to the Bray Court which gave full scope to the efforts of the Ministry. For it must not be forgotten that the labours of the judges, and in particular of the Chief Justice, are vastly increased when the Bench is confronted by a great assemblage of new statute law embodying, often in ill-chosen language, new ideas and new aspirations. It is not easy, when interpreting ill-expressed statutes, to give effect to the ideas embodied in the language but not to stretch the language further than the natural meaning of the words used. Bray's judgments demonstrate a clear understanding of the distinction.