

# District Court Dénouement

On 17 August 1987 the swearing-in of the now Judges Levine and Wheelahan took place. Shand Q.C. reports that after the usual lavish praises and recognition had been heaped upon the new incumbents by the Solicitor-General, Keith Mason Q.C. and the President of the Law Society, Kevin Dufty, the much revered Chief Judge Staunton C.B.E., Q.C., adjourned the Court without giving either the opportunity of responding. This was an unfortunate oversight on his Honour's part, especially as Judge Wheelahan's response had been through eight drafts. His Honour's speech was rumoured to require the absolute privilege the venue would have given. This rumour acquired some substance when the Editor, enquiring some days later to obtain same for publication, was told it was into its ninth revision. Perhaps his Honour took some advice from Judge Levine, once the doyen of the Defamation List.

*Bar News* has procured both speeches so that those who were present know what they missed, and those who did not can get the flavour of what will be said at their Honours respective 15 bobbers.

## Judge David Levine, Q.C.

"The honour, privilege, pleasure and indeed excitement of this occasion is, in a very personal way for me, heightened by the fact that this morning I have been sworn in with my Brother Wheelahan. For many years now I have known and admired Dennis Wheelahan as a colleague at the New South Wales Bar which he has served with such distinction; as a friend and as a neighbour; and for completeness, as a fellow officer in the Royal Australian Navy Reserve.

I look forward therefore to serving, in good health and vigour, with him, this Bench and the Community well into the 21st Century.

Mr Solicitor: your being here adds moment to the occasion and for what you have said I do thank you. I am particularly touched by your references to my father. The Bar I leave of course with regret. Nonetheless there will be social and professional gatherings when I can enjoy the company of friends and former colleagues. However I look forward to observing from the Bench counsel both known and new to me, to receiving their assistance and to being gladdened, I trust, by the fact that the liberties and rights of citizens are fearlessly being championed according to the duties and traditions of what I hope will remain a strong, competitive and independent Bar.

Mr Dufty: I thank you also for your words of welcome on behalf of that branch of the profession which, through you, I thank for the support I received when at the Bar.

As an articled clerk and as a young solicitor I was introduced to and received instruction in the essential and fundamental aspects of legal practice. Among the many important matters I was taught by my Master and employers in relation to one's overall professional behaviour are two tritely stated but vital requisites: punctuality and patience. The former as a matter of courtesy and efficiency; the latter, as a matter of necessity especially when dealing with clients, with counsel, with Registries, with other solicitors and I add with judges. I need hardly say that a reciprocity of adherence to both

requirements by myself and others will make judicial life a little easier.

Might I remark on the extraordinary changes to the structure of solicitors' practice in recent years. It is my view that because of the immense resources now available to attorneys and their firms, of whatever size, the citizen should feel less inhibited and more confident that any practitioner or firm can be approached to deal with what is to such member of the community, no doubt an important matter and to deal with it at reasonable cost, with promptitude and courtesy, and with the provision of sound advice and proper direction.

Among the enormous number of members of the profession here today, I am gratified to see so many familiar faces.

Particularly am I pleased to note the presence here of Mr Alec Shand, QC with whom on many occasions I appeared as junior in notable libel actions and from whom I learned so much in the areas of advocacy and court craft.

How nice it is that so many members of my former chambers, Blackstone Chambers, are present. In 1982 Mr Don Grieve, Q.C., whom I have known for 30 years, had the courage, initiative, flair and foresight to establish Blackstone Chambers, the splendid and indeed breathtaking physical environment of which provides a superb home for a superb and talented group of counsel. Not being among them is something I shall miss; having been one of their number is a memory I shall cherish.

There are periods in one's career when the advice, support and guidance of another person can be critical. In that important stage of my career when I was moving into the higher ranks of the Outer Bar I had the good fortune to have as my clerk Mr Greg Isaac of the 12th Floor, Wentworth Chambers. He truly is one of the great Leading clerks in Sydney. I shall always be in his debt for all that he did for me in those special years and ever shall he have my friendship and respect.

Mrs Julianna Harrison is clerk to Blackstone Chambers. She carries out her functions as clerk, administrator, confidante and conciliator with wondrous patience, with charm and efficiency. I feel certain that as the years go by she will have many opportunities to attend such ceremonies as this for the swearing in as judges of persons who like myself have had the pleasure of being in her charge.

This morning's ceremony is of course the happier by reason of the presence of many friends and relatives, for me especially my sister Prudence and her family from Brisbane.

My three children, Naomi, Judith and Aaron have come along. I am proud of them and can promise now to spend more time with them in all their endeavours. They are here to see their father sworn in as a judge. A marvelous excuse of course for not attending other places this morning. To those other places however they shall have to return shortly after the conclusion of these proceedings, and I so Order.

As for my wife, Agnes, I can say no more than that I could have received no more than all she has given me in love, understanding, tolerance and support throughout my career at the Bar during which her bearing as a barrister's wife made my barrister's life the more rewarding and the more enriched.

I am the second generation of my family to have been appointed to this Bench. Indeed, as has been said already, I am the second member of my family to serve during

the tenure of office as Chief Judge of His Honour Judge Staunton. I am also pleased that the Bench this morning is made up of His Honour Judge Thorley and His Honour Judge . Torrington both of whom served with my father.

My late father, Judge Aaron Levine, was a member of this Bench from 1955 to 1972. During that turbulent decade of the 60s he delivered judgments on the crucial issues of freedom of speech and censorship which displayed an enlightened view well in advance of those times he did not live to see. At the end of his career he made rulings on the law of abortion the consequential liberalisation of which to this day is, in some quarters, the subject of passionate debate.

He had a consuming love for the law as an institution and as a discipline. Hence he had a deep knowledge of it, particularly of the criminal law. His belief in the Rule of Law was unshakeable and his expectation of integrity in professional and personal conduct and in the Administration of Justice was uncompromising. He had great personal: moral and intellectual courage. He had however one quality which made him the ideal judicial figure: a quality nurtured in his family heritage and his faith and anchored in his respect for the dignity of his fellow men: that quality was his compassion - his humanity.

If I strive to follow so fine an example, not only will I do honour to his memory but also, I trust, shall I go far in the proper performance of the obligations of the oath it has been my privilege just now to swear." □

## Judge Wheelahan

Chief Judge, Judges, Mr Solicitor, President of the Law Society, members of the profession, ladies and gentlemen and the Redlands contingent.

This event reminds me of award night in the television industry and I have won the gold logie.

I was a steward at a wedding once and I heard the father of the bride say "I have been abundantly clothed in the epaulettes of eulogy:"

I am not sure what he meant but I think it has happened to me.

I am confident that the august presence of the Solicitor General for the State is attributable to the fact that Judge

Levine is being sworn in, but it has a beneficial consequence for us all. It has spared you, and more importantly me, hearing the hurtful remarks which might have been made by the President or, God forbid, President Emeritus Meagher, the latter who insists on describing what is happening today as my "Coronation".

I am informed that Judge Levine has received a confidential letter from Mr Justice Hunt entreating him not to bring all of Sydney's defamation work to this court.

I in turn, have been invited to revitalise the Chancery Jurisdiction of this Court. This I am willing to do on the basis that the originating process clearly reveals the date and place of accident.

The Bar was always an exciting, vital, varied, rewarding and most importantly, an overwhelmingly worthwhile profession. Simply put, I loved it.

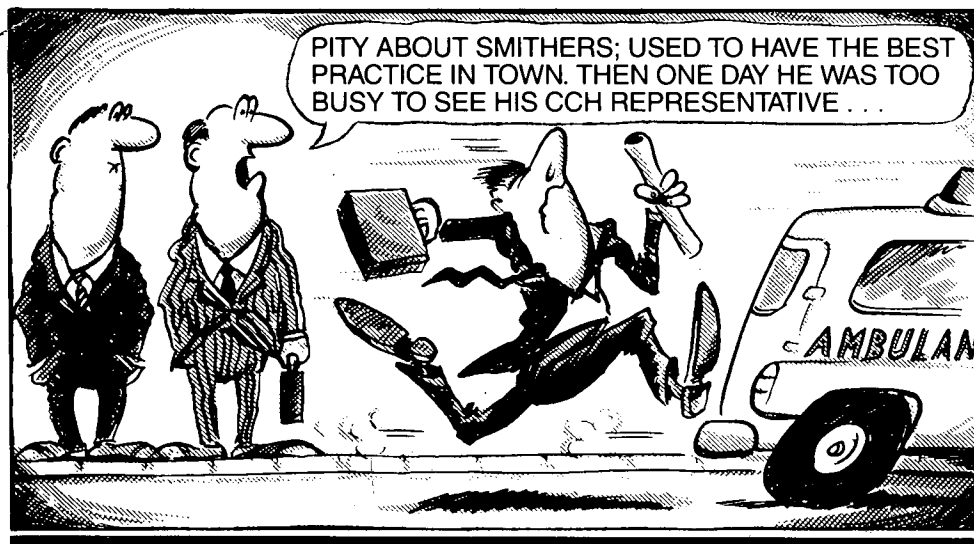
Being appointed provides me with an opportunity to expand and develop my knowledge of and regard for the law.

Justice Samuels, on his appointment, observed that the law was remarkable in that it afforded an opportunity to practitioners to embark on a compelling, useful and exciting career on the Bench at an age when some professions, especially the services, were dispensing with their senior officers.

It is with a great deal of pride that I have accepted an invitation to perform what I regard as probably one of the most important jobs in the country.

It would be inapt, indeed churlish for me not to acknowledge, in broad terms, those who have contributed in large measure to my success at the Bar and, in turn, my elevation to the Bench. Those who are omitted from this litany are and are hereby directed not to be offended.

Bernard Wheelahan Senior had a career in the police force. That combined with his love of the English language provided me with an early interest in the law. The only man who would be happier than I am today, would have been my father. I recall my father imitating Shand Q.C. in the kitchen of the police cottage where we lived in Armidale. The Shand Q.C. referred to is not the show pony who does advertisements for the Wool Corporation and appears on television a lot but his venerated father.



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