

# The Great Appeaser

The Bar Association's dinner in honour of Chief Justice Gleeson produced the usual grovelling homilies.

## Mr. Senior R.V. Gyles Q.C.

A speech of this type tends to lurch between sycophancy and impertinence. It is one thing to be impertinent about a retiring dignitary. It is quite another to be impertinent about a new Chief Justice who will occupy his position for the next twenty years. I therefore decided that I would handle the sycophancy, and Wheelahan, who follows me, can handle the impertinence. Put another way, I will be the straight man.

Incidentally, it is a pleasure to be sharing the bill with Wheelahan on a grand occasion like this. The last grand occasion upon which I heard him speak was the lavish dinner tendered to him by a large group of friends upon his appointment to the Bench. My invitation to the returning home party must be still in the mail.

When at the Bar the Chief Justice liked to tell the story of the senior silk with aspirations to the Bench who announced one morning in a crowded lift lobby: "I see they have appointed young Bloggs to the Supreme Court!" Malcolm Hardwick was in the vicinity and replied "Yes Bill, he picked himself, there was really nobody else." I had always regarded that story as apocryphal until, in the week after the impending appointment of the new Chief Justice had been announced, I shared a lift with Hardwick and a number of other silk. Somebody said "What do you think of Gleeson's appointment?" Hardwick replied "Picked himself - there was really nobody else." It did cross my mind that there were some Supreme Court judges who might have taken a different view.

But it is true that our guest of honour's appointment was greeted with universal acclaim. I have not heard one critical comment about it. In our profession that is remarkable. It was seen as an appointment based on merit alone.

By the time of his appointment Murray Gleeson was one of the few members of the New South Wales Bar with a truly Australia-wide reputation. He had an enormous practice of great quality. He has been described by one high judicial source as the Barwick of his generation. I would still take that as a high compliment, notwithstanding the post-1975 vendetta waged against that great man.

All of this is well known. What is not so well known is the man behind the professional mask, and rather an intimidating mask it can be. The Chief Justice values his privacy. During his days as President of the Bar, if any controversial matter likely to arouse media interest arose he would leave Chambers, leaving no contact number, and would remain in hiding until it blew over, leaving Registrars, Secretaries and Vice Presidents lamenting. It became so bad that on one occasion the Bar Council passed a resolution requiring the President to make himself available to the media on some issue or other. As there

was no sanction, he disregarded it.

His Honour is a product of the Catholic education system in the days when secular influence was small. He went from the parish school in Wingham on the mid-north coast to St. Joseph's College for his secondary education. I am told the first secular teachers that His Honour encountered were in first year arts at Sydney University. From the sublime to the ridiculous indeed.

My first glimpse of His Honour was in the 1954 Laurence Campbell Oratory Competition. He amazed the pundits who regarded the intellectual interests of St. Joseph's college students as limited to rugby and horse racing by walking off with the prize.

His academic results at school were outstanding, and he played in the competition-winning first eleven as a cautious but technically correct batsman, and a hopeless fieldsman. However, typically, he rose to the occasion and, in the last game for the championship, took the only catch that he had held in the entire competition.



Coombs Q.C., Justice Beaumont and Gyles Q.C.

At University his results were again outstanding - both in Arts and Law - and he graduated with first class honours in Law. He had many distinguished contemporaries including Justices Kirby, Hill, Hodgson, Matthews, Young, Professors Baxt and Peden, Tamberlin QC and many other distinguished members of the profession, and last, but certainly not least, one J.R.A. Dowd.

In view of the debacle which ensued when Mary Gaudron (as she then was) at a dinner like this tried to extract humour from the relationship between an Attorney General and a new appointee to the Bench, I will pass to my next point.

During his last years at the Law School, His Honour was an articled clerk at Murphy and Moloney, and was employed by that firm as a solicitor for a time after graduation.

His Honour is remembered by fellow employees for one, his appalling conveyancing; two, his behaviour at office Christmas parties; and three, his occupation of the "Blue Room".

All particulars of one and two have been refused in order to protect the reputation both of His Honour and Murphy and Moloney, and I thus cannot elaborate.

I was able to find out a little more about the mysterious "Blue Room". It was a traditional articled clerks' bearpit, found in most firms in those days, and would have no chance of passing today's Labour and Industry requirements. It was detached from the remainder of the office. The thing that was remarkable about it (particularly in the early 1960s) was that His Honour shared it with three female articled clerks. I am reliably informed that this caused the lad from Wingham and St. Joseph's a degree of culture shock.

From Murphy and Moloney His Honour obtained at least three things: one, a solid grounding in the practical aspects of the law; two, a good supply of briefs; and three, most importantly for present purposes, a close relationship with Gerry Wells who, after retirement from active practice, was appointed to head the New South Wales Remuneration Tribunal, and who is shortly to make recommendations to the Government on the level of judicial salaries.

So, in 1963 His Honour came to the bar. He took Chambers on the 7th floor of Wentworth, presided over by either the legendary J.W. Smyth QC, or the legendary Fred de Saxe, depending upon one's point of view. At the suggestion of his friend Bill Deane he read with the dashing junior L.W. Street. Apart from a solid grounding from his master in persuasive advocacy with both Judges and (more importantly) solicitors, His Honour then acquired many junior briefs when L.W. Street took silk shortly thereafter. Murray continued his close association with Bill Deane who had a great influence upon him. Bill was also a St. Joseph's boy, and they were introduced by Peter Capelin who had been at school with Murray Gleeson.

However, many take the view that the greatest influence upon the style of Gleeson as an advocate was J.W. Smyth. The cool and unflappable demeanour, the careful preparation and mastery of the facts, the economy of language, the use of silence as a weapon and, above all, a delight in the tactical interplay of a case were the hallmarks of that influence.

His Honour took silk in 1974 after eleven years at the Bar. He quickly developed a superb practice as a leader. He had avoided being typecast as a junior, and his width of experience stood him in good stead as a silk. He was at home at first instance or on appeal, before Judges, juries or lay tribunals, dealing with matters of fact or matters of law, performing in Court or giving advice in Chambers. He had the most meteoric rise at our Bar since his mentor Bill Deane.

What was special about His Honour as an advocate? His legal knowledge and ingenuity, and careful preparation of the facts, can be taken for granted. In my view his special quality was the ability to treat every tribunal before whom he appeared as a jury open to persuasion, and to analyse the case in such a fashion as to make available to the tribunal a simple, appealing and apparently logical path, which would present as the best solution on the merits. He always put what Sir Garfield Barwick called "points of prejudice" - or as Gleeson would call them "points of merit" - to the forefront of his argument, with a disarming and appealing simplicity.

I have already mentioned his appetite for the tactics of a situation. This made him a feared opponent and even more feared as counsel for a co-defendant or co-accused. It also made his advice eagerly sought after by solicitors and their clients. Let me give you some insight to Gleeson in Chambers from a client's viewpoint. I am reading from the House of Representatives Hansard in the debate upon the Report of the Cross Inquiry. The speaker is the Honourable Ian Sinclair.

"The undisputed evidence was that the lunch concluded by 2 p.m. I left the club and went immediately to see my

solicitor, Mr A.T. Scotford, at his office. Within fifteen minutes of the lunch concluding, I repeated to my solicitor the terms of the conversation that had just taken place, namely, that a proposal had been put to me whereby with the passing of money, arrangements could be made with respect to my forthcoming criminal charges. Mr. Scotford made a note about this in his own office diary. On my instructions, he then sought and obtained advice from Mr. Gleeson as to what should be done about the matter. That advice was that nothing should be done about it, and I should "put the matter out of my mind". As the Special Minister of State [Mr. Young] who has some acquaintance with Mr. Gleeson, should be able to confirm, that is typical Gleeson advice."

I had the privilege of serving with His Honour on the Bar Council for several years, including his term as President. He was a most effective President. He was an efficient, no-nonsense administrator, and dealt with matters as they arose. He was an excellent chairman of a meeting - rarely intruding his own view until the critical vote was taken. He had few personal hobbyhorses. The only topic which I can recall always aroused his keen interest was baiting McColl about the notorious painting which Meagher so kindly donated to the Association. He was a skilled negotiator with politicians, Judges, and officials of all types. The cool stare, the quiet logic, and the skilful use of silence were formidable.

His greatest contribution to the Bar during this period was to reach agreement in principle with the then Attorney General Terry Sheahan as to the final disposal of the Law Reform Commission recommendations upon the structure of the profession. The result was not perfect, and we knew it, but it did resolve a situation which required resolution, and did so in a fashion which ensured the continued integrity of the Bar as we know it. It is not so well known that this in no small measure was due to the good personal relationship which His Honour struck up with the Attorney General after his appointment.

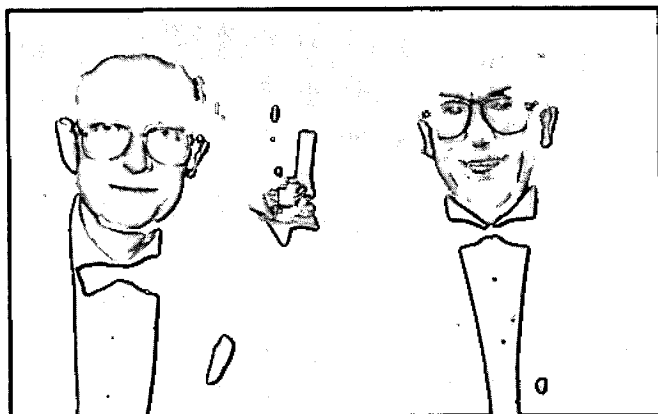
There is much more that could be said about His Honour - wild horses wouldn't drag out of me any details of his visit to Raymonds Revue Bar in London. I could speak of his devotion to various sports, many of which have ended in physical injury to himself; his preoccupation with ailments of all types, fuelled by his long period as a director of the Sickness and Accident Fund; his numerous and continuing incidents in aircraft; the contrast between his financial prudence at home and his sybaritic lifestyle abroad when attending to the requirements of corporate giants; and, on a more serious note, his family and his religion. But enough is enough in a speech like this.

I had thought that I had done a reasonably thorough job of research into His Honour's antecedents. Much of it I knew myself, the rest I obtained from one source and another. Imagine my consternation when, just two days ago, I was glancing at an article on the front page of the Sydney Morning Herald as I ate my rice bubbles. The article was entitled "How Friedrich kept the N.S.C watchdogs at Bay" by David Wilson and Bob Bottom. Roughly halfway through the article I came upon this astonishing revelation.

## Mr. Junior D.A. Wheelahan Q.C.

"As recently as Saturday, March 18 - just three days before he went missing - Mr. Friedrich spent some of the day driving around Inverloch in Gippsland. Was Inverloch an old stamping ground? Or was John Friedrich using the alias of Mr. Murray Gleeson in claiming to own a home in the area? One local resident has matched a picture of Mr. Friedrich to a person he thought was a Mr. Gleeson."

It was immediately apparent to me that my research had not been as thorough or as effective as I had thought. In responding to the toast which Wheelahan and I are to move to His Honour, I trust the Chief Justice will explain to us his amazing double life. □



*Handley Q.C. and Justice McHugh*



*Chief Judge Staunton Q.C. and Justice Matthews*



*Judges Moore and Maguire*

Until tonight the reports about the new Chief Justice have been largely anecdotal. Brace yourselves for revelations empirical.

Tonight you will hear about Gleeson the Great Appeaser - the Neville Chamberlain of negotiators with the then Great Satan of the Law Reform Commission, Prof. Ron ("we'll rub you out") Sackville.

You will hear how the Chief Justice, in order to curry favour with socialist and Tory premiers alike, has masqueraded as a truly great servant of this community.

I speak of none other than Gerry Gleeson.

The socialists recommended Gerry for an Order of Australia but, like the appointment of David Godfrey Smith to the District Court through a typographical error, that most sought after of colonial honours went to our Chief Justice.

Much can be understood about the Chief Justice when it is realised that the full-bottomed wig he wears once belonged to Robert Lindsay Taylor. When worn by the former Chief Judge at Common Law, never once was a merciful or generous notion or idea harboured under it. Indeed under that wig machiavellian plots for the discomfiture of counsel were hatched. How proud His Honour would be to know that the tradition so skilfully created by himself is being continued with such enthusiasm and vigour.

Since the elevation of the Chief Justice many changes have occurred in the Court. He sits in Divisions. He sits in Equity and the Equity poofers, as Mr. Justice McInerney describes all who practise there, are clamouring for the return of Myers J.

He sits in Crime and the hardy, robust practitioners in that jurisdiction are pleading for the return of Mr. Justice O'Brien.

He sits in Common Law. Paraplegics, quadriplegics and brain-damaged infants petition the Government for the appointment of men with the attitude to damages of Mr. Justice Begg.

Seasoned campaigners in the Court of Criminal Appeal recall, with affection, the days when that Court was frequently presided over by Sir Bernard Sugarman.

Judges have told me that especially in the Court of Criminal Appeal members of inner bar, the outer bar and of the criminal community have been reduced to tears following an exchange with the Chief Justice.

This tendency to the lachrymose seems to have developed in this community, historically at least, from the activities of a former and otherwise undistinguished captain of Australian cricket and I refer of course to Kim Hughes. He blubbered and carried on on national television when deprived of the captaincy.

His response to his loss was probably influenced by the fact that he had a girl's name.

A ground swell of sympathy developed for the man. Observing this result the great pragmatist, the Prime Minister, decided to see if it would work for him.

He slobbered and snivelled his way through an interview concerning his family and then, most recently, in a thoroughly unedifying spectacle broke down for the most trivial and