

Old Phillip Street

C J Bannon QC adds to John Bryson's interesting article in the Autumn 2012 issue of Bar News.

Coming up from Circular Quay in the morning before the lower part of Phillip St was diverted into Elizabeth Street, one could see the sun shining on the spire of St James. Bryson mentions the violin maker, Smith, whose shop had a stone step jutting into the footpath. His instruments were highly regarded by the musical profession (see article SMH 5/5/12 p.9). Passing the beautiful Chief Secretary's building which later housed the office of the governor and also the Industrial Court one came to Chalfont Chambers and Diggers Inn, which housed Reg Marr, Des Healy and others, Chalfont was the home of distinguished barristers. The fifth floor housed Sir Garfield Barwick, Cyril Walsh, later Sir Cyril, a man of penetrating knowledge and wisdom, Hugh Maguire, Colin Bowie, Eric Clegg, known as the tired lion, Des Ward, John McKeon, H. Reimer ('Chippy') and William Sheehan. It was alleged that when Sheehan became attorney general he offered judicial appointments to all members of his old floor except 'Chippy', too old, and Des Ward, too young. Des later had an important career on the District Court and became chairman of the Parole Board. There was also the huge bulk of Ron Austin who squeezed himself into the clerk's box. On the sixth floor was Alan Taylor, later Sir Alan of the mellifluous voice. He later flourished as a High Court judge as well as being an excellent tennis player at the net.

The old Selborne Chambers was the home of Jack Shand QC on the ground floor, together with Tony Larkins QC, and John Evans, a sound equity counsel who died prematurely, Morton Brewster, my old colleague Jim Linton, and Clifford Collins who was the editor of the Law Book Company's *Land Laws Service*, were also on the floor. Cliff's chambers were stuffed full of piles of file and papers. When I wanted a copy of an unreported decision of Roper J. I went to Cliff. To my astonishment he went straight to one such pile and immediately produced it from the middle.

On the first floor of Selbourne, resided Jack Cassidy QC Charles (Gerry) McLelland QC and Martin Hardie QC.

Passing Dr Fiaschi's place with the statue of the pig, (if my memory serves me correctly) one came to Denman Chambers where I found my lot. In the basement were Chester Porter, Cal Callaway and John Lincoln enjoying a damp environment. Chester Porter became a leader of the criminal law bar. His wise words on the criminal law are expressed in his book *Walking on Water*. Ted

Jones (the angry penguin) and Jack Hiatt were also in the building. On the ground floor were Clive Teece QC, the doyen of the bar who gazed from a large window monitoring the barristers passing by. In his lectures on ethics, Clive impressed us with the duty to refer to each other by our surnames only. As Clive was old enough to be my grandfather, I felt unable to call him Teece. Instead I smiled at him and called him nothing.

He played a leading role in the Red Book Case concerning Anglican ritual and liturgy. Those chambers were later occupied by Bruce Macfarlan QC. Conferring with him on a Sunday afternoon as was his wont, led to an invitation later to a drink at the gracious old Union Club, sadly demolished. Bruce had a key to the club's wicket gate.

Also fronting Phillip St were the chambers of Vernon Treatt, but as he was away in politics, the chambers were occupied by Frank Treatt.

The next room fronting Phillip St was Canaway's. Canaway was the author of a book on crown lands. He was well on into his 90s and lived at the Australian Club, but visited chambers every day to make tea and to occupy the only toilet on the floor, just before barristers left for court. Behind these gentlemen on the ground floor were Victor Windeyer QC later on the High Court, a man of great learning who could always be seen assiduously noting up his law reports. If my memory serves me right, Ted St John, Hawdon Wilson, Trevor Martin and Lenny Badham QC were also on the ground floor. Len Badham sported a white homburg hat and could be seen any day walking up Martin Place in the morning and conducting a spirited conversation with himself.

Ted St John was the son of an Anglican clergyman and brother-in-law to the head of The Kings School. When the headmaster was dismissed, Ted acted for him in proceedings for wrongful dismissal and I think, successfully. Ted later entered the federal parliament as the Liberal member for Warringah. He went close to overturning a Coalition government with his speech on the *Voyager* inquiry which had been conducted by Mr Justice Spicer. Ted forced a further inquiry into the sinking of the *Voyager* and the eventual vindication of the commander of the aircraft carrier HMAS *Melbourne*. Ted was a bright barrister who fought his cases like a knight on a white charger. Cromwell would have

welcomed him as a Roundhead. Later Ted joined the Supreme Court but resigned and returned to the bar.

On the first floor, Dr HV Evatt had his chambers, but as he was away in politics, his chambers were occupied by his brother Clive. Next to Clive was Gordon Wallace QC whose law reports resembled the American Case Book by Day. One note would say Aye and another Nay. Opposite Gordon was Alan Bridge. Eric Miller, Ted Lusher, Harold Mason, Ken Aspry, Tony Mason and Wally South were also at various times members of the first floor. As we all know, Tony Mason - now Sir Anthony, became Chief Justice. Apart from his judicial eminence, Mason possesses a sharp wit characterised in the story of another member of the bar being blown up over a gas porthole, the allegedly potable Mortein Spray, and other accounts which may keep for another day. Wally South possessed a spittoon in his chambers and was understood to be engaged in selling cemetery plots. Ken Aspry was an imposing and rambunctious performer in the equity bar, and later became a model judge on the Court of Appeal.

Eric Miller QC was a powerfully built man of considerable intellect and an exponent of long-winded cases before juries. He overcame all the antipathetical utterances of the trial judges, coming in victorious in spite of the summings up. Eric was a leading Catholic. A photograph of himself with Cardinal Gilroy sat on his mantelpiece. When political issues arose Clive Evatt would enter Miller's chambers and point to the photo asking what were the views of the cardinal. When the chief justiceship fell vacant, Eric was a strong contender but the appointment went to Les Herron. On the floor at one time was Harold Mason QC, known as the bishop because of his halo of white hair and rubicund appearance. Harold commanded the Equity Court along with his opponent, Claude Weston QC. Presiding over the first floor was the clerk Jack Craig - a peppery redhead. Jack had the ability to make some female articulated clerks cry.

On the second floor was found Alroy Maitland Cohen, a member of Royal Sydney Golf Club, and editor of the *Local Government Reports*. It was a long time since Alroy had appeared in a court. He was a small man and a devout orthodox Jew. It was hard to believe that in the First World War he had been a messenger with the Australian Forces in France ducking from one bomb crater to another. By his will he bequeathed his set

of local government reports to the Jewish University in Haifa. Alroy loved art. On one occasion he took me to the Art Gallery to gaze upon a plaster replica of the Gates of the Baptistery of Florence Cathedral. These featured bas reliefs of Old Testament Prophets.

Bob Ellicott shared chambers with Alroy. Opposite Alroy was Trevor Ziems. Trevor successfully lent his name to a High Court decision on the duties of prosecutors. Ziems suffered matrimonial difficulties. When a current wife rang the floor clerk, Dorothy Slater, and said 'is the bastard in?' Dot consulted the floor chairman who said 'answer yes or no'.

Alan Lloyd who had been adjutant general was on the floor and shared his chambers with Russell Le Gay Brereton who later went on the Supreme Court. Opposite him was Andy Watt. His chambers were later occupied by Bob Smith, author of a standard work on Stamp and other duties and then by my brother-in-law Bill Perignon who went on the District Court and then on the Industrial Court. Next to him was Laurie Regan who went to Kenya as a British judge imposing heavy sentences on members of the Mau Mau uprising. They were all released after six months. The adjoining room was occupied by Nigel Bowen. There is no need for me to recount his illustrious career. Nigel went into politics for a while but fortunately for the law, was defeated by one vote for the leadership of the Liberal Party. Returning to chambers after the vote, he looked rather wan, but I was able to lift his spirits with a large tumbler of Johnny Walker Black. Nigel was one of the most able counsel of his day. Born in Canada, he attended The Kings School and was proficient in Latin. He had the advantage of a warm and constructive personality.

The oblong room next to Nigel's was the home of Fred Myers. He was most helpful to junior barristers on the floor but was somewhat like dynamite on the bench. Michael Helsham could handle him with an attitude of great humility. Frank Hutley could not. Amongst others I suffered under Freddie who was referred to by some counsel as 'funnelweb'. It has to be remembered that as a colonel in the army, he crossed the Kokoda Trail dragging his club foot. When Myers went on the bench the next occupiers of the room were John Kerr and Hal Wootten. Wootten went on the bench but retired in 1983 to become dean of the Faculty of Law at the University of NSW. My friend Ken Pawley shared chambers on the Floor with one Gough Whitlam, but

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Gough was lured away by the phantom light on the hill.

Kerr and Wootten left Denman for the tenth Floor of the new Wentworth when it was completed, and I came to occupy their room. Together with Gough Whitlam they joined Paul Toose, Bill Cantor, Herman Jenkins, Alan Bagot, Marcel Pile, and Bert Wright to form the new Tenth Floor of Wentworth. I failed to mention that Ken Handley, Paul Nash, and Michael Grove were also on the Tenth floor of Wentworth.

John Kerr became chief Justice in 1972, and was later appointed as governor-general at the instigation of his friend Gough Whitlam. In 1975, he dismissed Gough's government. The Senate adjourned the question of supply and the then treasurer announced that supply would run out on 11th November 1975, the date of the Dismissal. The Dismissal broke up many friendships in the Labor Party. When the new Selborne was completed, Nigel Bowen as head of the floor, moved with Russell Fox, Brian Beaumont, Brian Rayment, Tom Jucovic, Ken Pawley, Bob Lord, Roger Gyles, Michael Robinson, Cal Callaway, Kep Enderby, Bob Ellicott, Stephen Austin and myself to form the new Selborne, Tenth floor.

Later we were joined by George Rummery, Trevor Morling, Peter Hall, and Larry King. Fox and Beaumont joined Nigel on the new Federal Court. Bob Lord became a crown prosecutor and was replaced by David Officer who sadly died as a young man. Morling also went on the Federal Court and was replaced by Brian Tamberlin who joined them on that court as did Roger Gyles. Carl Shannon later came on the floor and later joined the District Court. Ken Pawley was the last appointment of the Whitlam government as a senior judge of the Family Court. Ken was an able barrister who applied the maxim that a good barrister knows

when to sit down. His first wife was Judith Halse Rogers who died in a road accident. He then married Yvonne Swift who was a senior nurse. Ken was an able thespian and radio personality.

Coming to the third floor, there were Phil Addison, Bernie Seletto, John Nolan - a crown prosecutor - J Cordell, Frank McClemens, Russell Fox who shared with David Godfrey Smith, John Todd, John Leaver, and Ray Hamilton. John Leaver a former school teacher enjoyed a practice as junior to Gordon Wallace in liquor cases. Apart from that he had an extensive library of paperbacks on history and other topics. On the third floor I shared with Ray Hamilton, who was in politics. Having shared on the second and third floors I later acquired shares in Denman with the help of an uncle. I had the good fortune to acquire Hamilton's chambers and to share those chambers with my good friend Brian Cohen. Coming to the bar, I read with Dr Frank Louat, an expert in administrative law, and a wine buff. The *Telegraph* alleged that he was a constitutional expert. Louat was in the old University Chambers together with Frank Kitto who later graced the High Court. Merlin Loxton and Sam Redshaw were also there. They enjoyed the services of Tom Ozard, a gentleman and a person of wisdom for whom I had great respect. Oxford Chambers at the corner housed John Holmes and Rae Else Mitchell. Much more could be written about the old Phillip Street and its Denizens, but to paraphrase St John, if all were written the world would be pressed to hold all the stories and future generations may lose interest in those admitted to practice in the days of Sir Frederick Jordan and his successor Sir Kenneth Street.