

The Hon Morris David 'Dusty' Ireland QC (1928-2018)



The Honourable Morris David 'Dusty' Ireland died aged 90 on 26 July 2018 at Mudgee in NSW. Dusty was a well-known, much loved and distinguished barrister, a queen's counsel and a Supreme Court Judge. He is remembered as an ebullient gentleman, a learned and sensible lawyer and judge with a deep connection to rural NSW and people. Dusty was a late bloomer, having come to the law later than usual. Dusty had no ordinary life.

In fact, Dusty had lived lifetimes before making Queens Square a professional stamping ground. He had seen the sights of the world and even helped build some icons of Twentieth Century modernity.

Morris David Ireland was born on 14 June 1928 in Victoria. His mother and father lived at Cowra in the Central West of NSW and he started life in a family which well knew the sober years of the Great Depression. He was educated at Knox Grammar School at Wahroonga.

Dusty reached for the stars from the very beginning. As a four year-old at home in Cowra NSW, Dusty's father introduced him to Charles Kingsford Smith, the aviator. That day, Dusty sat on his father's lap in the small propeller plane and together with Kingsford Smith, they flew into the history books. It was possibly the first recorded joy flight. This would become a theme in his life.

Then, as a 13 year-old boy, he recalled peering out of the windows of the Clifton Gardens Hotel with his father (where they stayed when they sojourned in the City) and seeing the American heavy cruiser *The Chicago* moored in Sydney Harbour. On that very night 31 May 1942, three Japanese midget submarines attempted to enter Sydney Harbour by stealth. The famous incident led to 28 sailors being killed during the night when one Japanese submarine fired a torpedo hitting the HMAS *Kuttabul*.

When Dusty turned 16, his father allowed him to leave school without the Leaving Certificate. He made his own way after that. Dusty was a jackeroo for two years, then for six years he was a merchant naval officer

(second officer). After the war, he sailed into Hiroshima Bay on the first western merchant vessel to moor after the atomic bomb blast. Dusty observed of Hiroshima a curious normality. It looked perfect to the country boy's eyes. After the merchant navy, Dusty reverted to the land which he loved.



Dusty was a grazier in the Rylstone district for 10 years and then became a manager at Shorncliffe Pty Ltd, a firm of civil engineers constructing roads.

By 1968, he was an unqualified engineer at Favco Industries Pty Ltd, supervising the construction of the cranes which were used to build the Twin Towers of the World Trade Centre in New York City, which were the focus of the 9/11 unprecedented attacks – his employer held the monopoly on the self-lifting crane design.

In the late 1960s, Dusty took the NSW Barristers Admission Board classes while a commercial manager at Favco Industries. He was determined to be a barrister. In order to do this, he took the Leaving Certificate (certain subjects) back at Knox. *Alea iacta est*. The rest is history.

Dusty was admitted to the bar on 5 December 1969. It was a magnificent time to arrive in Phillip Street, amid the crescendo of the post war promise of untold economic prosperity and then rush headlong into the tumultuous commercial upheavals which punctuated the 1970s, 1980s and 1990s. His pupil master was David Yeldham QC (later a Supreme Court judge). He took chambers on the Twelfth Floor of Wentworth Chambers in the great years with Moreton Rolfe QC, Bill Caldwell QC, a younger MA Pembroke and Mervyn Finlay QC and BT Sully QC and a younger Michael Kirby. The west corridor was where Denys Needham QC practised and once upon a time KR Handley QC among other such radicals. David Nock SC was his friend and so too was the late Hon BSJ O'Keefe QC. Dusty practised all over the country including at the infamous Broken Hill assizes (on each list day, according to the lore, Dusty settled over two hundred personal injury cases before morning tea). Dusty's practice comprised a curious blend of common law, crime and equity – he loved the human aspect of his cases and personal stories of his clients and thoroughly

enjoyed being an advocate. Dusty was a *rara avis*. He did not dabble. Dusty was a master of the common law jury trial, so-called. The cases were often about catastrophic industrial and mining accidents. Dusty could talk to a jury and even mesmerise them effortlessly. Nowadays this is a lost art. He was a Bar Councillor in 1982 and 1983 and he was an early influence in the fledgling bar readers course in those years. By 30 October 1985, Dusty was in silk, practising in the style of a queen's counsel.

In 1989, Dusty was appointed an acting Supreme Court judge. On 18 May 1992, he became a permanent judge of the court. During the 1990s, he sat on complex criminal trials. Ever the trail blazer, Dusty sat on the hearing where for the first time, DNA evidence was brought before the courts in

a novel attempt to identify murderers in a large group of balaclava-clad men.

The answer lay in saliva tests on the balaclavas which the bandits wore. It was, as Cicero termed it, a *gre[x] siccariorum* [Cicero MT *Pro Sex. Roscio Amerino*], a flock of murderers or a group of masked bandits - out of



that flock of murderers, who did the deed? Dusty would decide that on the evidence and with a police escort for security. Dusty was the first at so many things throughout his life. He retired from the court on 9 June 2000, after nine years sitting full-time as a judge. Thereafter, Dusty sat as an acting judge of the court in the trial division and in the NSW Court of Appeal, from time to time.

Dusty retired to Mudgee, more precisely to the village of Lue, which he loved. He was back and forth between the city and the country for a time. He always had a longing for country NSW. At times, he could be seen in Queens Square when he sojourned in the city. By chance, having spoken with the Hon PA Bergin SC the Commercial List judge at the time, he attended the Commercial Causes Centenary Dinner in 2003. Dusty loved engaging with people (friends, family and strangers) and he did so with a quaint *bonhomie*, a pleasant turn of phrase and with a certain friendliness reminiscent of a bygone era of Australia.

Dusty was a devotee of the Australian Ballet and loved to attend the Opera House with his wife Jane for its performances. He also enjoyed golf and surfing (after many years holidaying at Narooma on the South Coast). The law was one aspect, albeit a significant one, in his life. Dusty was possessed of a certain authoritative voice, an unequalled stamina and a zest for life. Dusty also had a long and abiding devotion to education having been on the council of his beloved Knox Grammar School and also of Pymble Ladies' College. Education had enabled all the remarkable events and

achievements in Dusty's life.

Dusty's funeral was held at St John the Baptist Church at Mudgee. A memorial service was held in late August for him at the Knox School Chapel in Sydney. Many lawyers gathered to farewell Dusty at the Knox Chapel; *inter alios* the Hon Murray Gleeson QC and former Supreme Court judges: Robert Shallcross Hulme QC, JRT Wood QC, Moreton Rolfe QC, John Bryson QC, Trevor Morling QC, Terry Cole QC, Peter Barr QC, David Kirby QC, the Hon WV Windeyer and with Justice Michael Pembroke, Justice Carolyn Simpson, not to mention the bancs of old solicitors and counsel who filed into the chapel to strains of the bagpipes in the fading afternoon light.

Dusty is survived by Jane his second spouse and his large family which he cherished: Wendy and Bob, Angus and Irene and Jenny. He was stepfather to Samantha, Melissa and Remy and Lucy and Jeremy. There are all of his grandchildren who recall him lovingly: Lydia, Felicity, Kate, David, Lachlan, Sarah, Elise, Simone, Owen, Meiba, Jen, Pepon and Boitne. The affliction of Huntington's Disease claimed Marie



his first wife, and then it took his two sons John and David. They died far too young. As an example to us all, Dusty had the fullest life, it was well lived and he was a delight to all those who knew him. He was learned and kind. He left no stone unturned. His story was extraordinary.

By Kevin Tang

Clive Evatt (1931 - 2018)

Clive Andreas Evatt, barrister and Renaissance man, died on Friday, 3 August, 2018. Born in 1931, he was the only son of Clive Raleigh Evatt QC, a famous barrister and a minister in a number of state governments, and Marjorie Hannah Andreas, the daughter of a prominent businessman. Evatt jnr's uncle was Dr H V Evatt, a former High Court justice. His sister, Elizabeth, won the University Medal for Law and became the first chief judge of the Family Court of Australia. His sister, Penelope, took a different course, became an architect and married the famous architect, Harry Seidler.

Given the family background in the law, it was almost inevitable that Evatt jnr would become a barrister. But law was never his only interest. During his university days, he developed a passionate interest in opera and ballet, literature and classical music and paintings. After leaving university, he also began betting on horses in a systematic way and was extraordinarily successful, winning a seven figure sum in the period 1960-1976, equivalent to many millions of dollars today. In 1972, he opened the *avant garde* Hogarth Galleries which largely pioneered the sale of Aboriginal paintings in Sydney.

Evatt was admitted to the bar in 1956. 'Young Clive' (as he was known in recognition of his father) remained an institution at the Sydney defamation bar until his death. Experienced practitioners knew that beneath his disarming exterior, behind the injured wildebeest appearance of the shuffling old man with a cane, lay a uniquely dangerous opponent. More than any counsel of his era, Evatt knew how to strip his case back to the barest essentials, paring away everything unnecessary to his client's success before the jury. With unsettling frankness and a mischievous glint in his eye, he was unembarrassed about abandoning any part of his case on which the witnesses were not 'coming up to proof'.

Evatt's preferred approach to the notorious technical complexity of the law of defamation was not to engage with it. In pre-trial applications in the Defamation List, his favourite response to thorny arguments raised for the defendant was, 'Well, there's a lot for your Honour to think about there' — effectively shifting to the court the obligation to answer the point.

Where Evatt excelled was in a jury trial. He had an uncanny ability to connect with and charm jurors 40, 50, even 60 years his junior. Unlike his opponents, he would lead all the evidence he needed from a witness in five or 10 minutes. He was also savvy enough to decline to call a plaintiff to give evidence in his own case in chief whenever he thought cross-examination might damage the plaintiff, something most practitioners would