

Professor Michael Furmston

(1933-2020)

**Professor of English Contract
Law, Academic, Author
and Commentator**

Professor Michael Furmston was one of the common law world's most eminent scholars of English contract law since the 1970s. His list of publications, articles, textbooks and editorials proved that he was a pre-eminent academic lawyer from another time. He enjoyed such a long career in the United Kingdom and abroad, that it should be noted his publication list is relatively short; but his writing endured, and was highly sought after for his analyses. Superior courts all over the common law world for some 50 years echoed his sentiments, and to this day continue to do so.

He was the eponymous author of *Cheshire, Fifoot and Furmston Law of Contract*, which went into ten editions. The magisterial work is a mainstay in the Common Law world for students and practitioners alike. He handled six editions of Butterworth's Law of Contract, and in collaboration with others, he edited at least five editions of contract law casebooks. Professor Furmston commenced a peripatetic career in the 1970s teaching the law of contracts and other university law subjects, at Birmingham University and The Queen's University Belfast, before taking a fellowship and appointment at Lincoln College, Oxford in 1964, where he became a university lecturer the following year. In 1978, he took a Chair at the University of Bristol, and became Dean of the Faculty twice, and at that university, in his last three years, he held the position of Pro-Vice Chancellor.

By 1998, after a distinguished academic career, he took a number of visiting posts in the UK. The odyssey continued. Retirement seemed like a phase to him – to be taken in several stages. He was invited by the newly established Singapore Management University to set up their law school. He was Dean from 2007 to 2012. He had a great attachment to Singapore. By that time, the Professor had a reputation which preceded him, and accordingly, SMU benefited from that.

In 2015, he was required to retire for a second time, but he did not retreat into obscurity. He was retained by the Centre for Commercial Law and Justice at Sunway University in Kuala Lumpur, Malaysia, where he continued to teach and write until recently. The Professor loved travelling and



teaching and had a particular predilection for the hot, balmy countries – such a contrast to where he lived in England, the picturesque south-west county of Somerset (in fact near Cheddar Gorge). It happened to be his fellow colleagues at Sunway who rushed him to hospital on 28 June, in the middle of the COVID-19 pandemic, where he died of heart failure.

Michael Furmston always presented as a robust, jolly, open-faced professor of English contract law. Unmistakably, he was a bon vivant academic and practitioner from another time. He had the unusual habit of tripping over items of furniture on or near podiums, and it was last occasion, that tendency manifested. His hale and hearty visage did not reveal his underlying condition.

On several occasions Michael Furmston travelled to Australia and taught contract

law at various universities, including the University of Sydney. Notably, he co-authored with Professor Greg Tolhurst, who held the Chair in Commercial Law at the University of Sydney *Contract Formation: Law and Practice* (2010) (2016) and *Privity of Contract* (2015) through Oxford University Press. In fact, he was a much-loved travelling academic, who could often be seen hailing cabs with great gusto or sitting in restaurants in company, throughout the world.

The Professor was an enthusiast of construction law and, naturally, was fascinated by the factual detail of these cases, such that he co-edited five editions of the *Building and Construction Casebook* with Vincent Powell-Smith, and for at least two decades, edited some 154 volumes of the Construction Law Reports. His encyclopaedic knowledge of contract law cases was aided by a fine memory.



Incidentally, in his latter years at Bristol, the Professor practised briefly at the Bar, and appeared in the most celebrated case, *Ruxley v Forsyth*, which was the swimming pool case, and the very subject on which he gave many, many lectures to staff and students around the world. The case is often still referred to and lives on in the memory of most construction lawyers. He was an associate member of Keating Chambers until his death, and he was an elected Bencher at Gray's Inn in 1998.

The Professor's scholarly predilections were manifest and from another time. He was a traditional, black-letter lawyer and wherever he went, impressed that upon his colleagues and students. He loved the company of students and encouraged them to go forth into the world to practise. More often than not, his analysis of contract law cases and lawyerly procedures was sharp and

perceptive as ever.

The Professor had wide-ranging interests and in many ways was a consummate academic. For instance, his contract with SMU contained special clauses that allowed him to return to England whenever a Test cricket match was being played. He was an enthusiast of cricket and held that most civilised of club memberships at Lord's where he loved the Long room at the Pavillion. Most did not know, but he was a champion chess player. It will come as no surprise that the Professor loved to combine travel, culture and excellent gastronomy. For instance, his many trips to Rome to take part in UNIDROIT Working Groups on the International Principles of Commercial Contracts, and the like, and also his interest in EU institutions, were all attended by a full appreciation of the gastronomic delights of the country he

happened to be in – Italy, France, Germany or Sweden. He was a raconteur and had a brilliant sense of timing in story telling. He was a delightful friend and advisor to many lawyers and he often met his former students in England. Ever the bon viveur, he was constantly planning his next lecture abroad and his next publication. He was really the perfect eminent academic visitor to a Law Faculty anywhere in the world.

While living out his academic career, his family was always his most important life interest. His wife Ashley, whom he married in 1964, and their 10 children, latterly lived in picturesque Somerset UK. Their loss is felt by all and shared by many colleagues around the world.

Kevin Tang
8 Wentworth Chambers

The Hon. Trevor Rees Morling QC

(1927 – 2020)

Barrister, Queen's Counsel and
Judge of the Federal Court of Australia



The Honourable Trevor Morling QC, the notable mediator and distinguished judge of the Federal Court of Australia and one-time President of the NSW Bar, died on 2 August 2020, aged 92 years. He was at the forefront of the law in this state for more than 60 years.

Morling QC was born on October 12, 1927. He came from modest circumstances and parents who lived through the Great Depression. His early years in Ashfield were family-oriented and thrifty. His father, the Reverend George Morling, was a prominent figure in the Baptist movement in Australia, and was one of the youngest and longest-standing principals of the NSW Baptist College. Morling QC maintained a lifetime of devotion.

Morling QC attended Fort Street High School and graduated with a Bachelor of Arts and a Bachelor of Laws from the University of Sydney. Morling QC spent a year as associate to Mr Justice Sugerma of the NSW Supreme Court, taking over the role from his lifelong friend The Hon Bob Ellicott QC. Mr Justice Sugerma sat on the Land and Valuation Court in addition to the NSW Supreme Court (tumultuous years), and this proved to be a valuable experience as Morling QC became familiar with the procedures and practitioners of that Court. He would rise over time to be a leader of the Bar.

Morling QC commenced practice at the Bar in 1951, and built up a strong general commercial practice with a focus on land

and valuation work. He practiced from the Tenth Floor. Shortly after, he married his wife, Ruth Mildred, in 1955. By 1968, he was in Silk, through which he would earn his pre-eminent reputation. He was the most sought-after QC in land and valuation matters in NSW, and appeared interstate in the High Court of Australia and had a vast and coveted practice in the Privy Council. During the time that Morling QC was in practice, he had an uncanny way of doing a short mention in Sydney's Queen's Square in the morning, and then deftly appearing in Melbourne that afternoon, closing a case before the Victorian Supreme Court. The miles he travelled were only topped by the sheer number of cases he appeared in during any week. Morling QC single-handedly



developed the law in land and valuation throughout the 1970s and 1980s, such that the reports are replete with his name as leading counsel. He was most certainly a high-flyer, and remembered fondly by fellow counsel of that generation. He was always affably reserved.

Morling QC was Chairman of Counsel's Chambers Limited (CCL) from 1974 to 1978 and served as the President of the NSW Bar Association from November 1977 to December 1979, following immediately after Doug McGregor QC. He was a robust President of the NSW Bar, at a time when the giants of the Bar, Sir Maurice Byers QC, The Honourable Gordon Samuels AC QC, and The Honourable GD Needham QC, still circulated the halls. He was followed in that role by none other than The Honourable RP Meagher QC. He was also President of the Australian Bar Association in 1978.

In 1981, Morling QC was Deputy President of the Administrative Appeals Tribunal, and was given judicial appointment to the Federal Court of Australia by Sir Nigel Bowen in that same year. Morling QC sat on the Federal Court for a dozen years also sitting as an additional Justice of the Supreme Court of the Australian Capital Territory and, from 1991, as an additional Justice of the Supreme Court of the Northern Territory. In his judgment in *Australian Federation of Consumer Organisations Inc v Tobacco Institute of Australia Ltd*, he presciently observed the

harmful consequences of passive smoking, long before British American Tobacco cases and the like endorsed a culture of awareness and deterrence.

In 1986-1987, with Sir Nigel Bowen, the Chief Justice's permission, Morling QC took on the role of Royal Commissioner of the Inquiry of the Convictions against Lindy and Michael Chamberlain, in a highly controversial case which entered the realm of legend in Australian popular culture. He was a witness of our times. Nevertheless, despite these circumstances, he conducted the Commission with aplomb. Post-judicial life beckoned and Morling QC was busier than ever.

Morling QC is remembered for not only being a highly competent and sought-after barrister and judge, but he was, before his time, mobile and highly well-travelled, having served across the Pacific. He was appointed a Justice of the Supreme Court of Norfolk Island in 1984, the Chief Justice of that Court in 1990, Justice of the Court of Appeal of Tonga in 1990, Justice of the Court of Appeal of Western Samoa in 1991, and Judge of the Court of Appeal of Vanuatu in 1991. He had a great affinity with the balmy climate of the South Pacific.

In 1993, he retired from the Federal Court to act as an arbitrator in a large and intriguing dispute between Britain and Iran over an arms contract with the deposed Shah Mohammad Pahlavi. This marked a significant shift in his professional life, where he began a stellar career as an arbitrator and a mediator. It is no exaggeration to say that he was the mediator of choice in Sydney for more than a decade, with an interstate and international reputation. He was often seen in the big end of town rushing between mediations in his post-judicial career, often from one boardroom to another, in the company of captains of industry. It was at his insistence that the Australian Commercial Disputes Centre and the Australian International Disputes Centre were established.

Morling QC had a strong commitment to public service. It was his professional forte. He was a member of the Takeovers Panel

from 1994 to 1996, and the Chair of the Australian Electoral Commission from 1998 to 2003.

Even in his latter years Morling QC was a hard worker, interested in the fairness and justice of a case. Morling QC was never an overbearing, pretentious or a tempestuous practitioner. He was cool and generally reserved with the odd chuckle when appropriate. His demeanour was more judicial than not. He had an unmistakeable warmth of personality and was prone to understatement. Morling QC observed in others a quiet sobriety which aligned with his own demeanour and character. He loved the company of young solicitors and barristers, especially in his years as a mediator when he met many. He was often seen waving and fraternising with lawyers two or more generations after his. He was a friend of the Honourable Brian Tamberlin QC, the Honourable Noel Hemmings QC and the late the Honourable Bryan Beaumont QC, not to mention the Honourable Murray Tobias QC and the Honourable Roger Gyles QC (once his reader and floor colleague). They all had a great respect and reverence for Morling QC, and to a great extent admired Morling QC's humble and quiet nature. Former President of the Bar, John Coombs QC went so far as to observe of Morling QC that he possessed a "[...] reliable, sometimes wicked, sense of humour". He could be quick with a joke and never forgot the human interest of the Bar and its work. Above all, Morling QC will be remembered as a skilled, learned and kindly man.

Morling QC is survived by David and Christine, Robert and Elizabeth. He was the much-loved sibling of Dorothy, Elaine, Gordon and William, who all pre-deceased him. He was the grandfather of Martin, George, Edward, Annabelle, Henry, William, Peter and Alice, and the brother-in-law of Roslyn and Roger. Latterly, his wife of 65 years, Ruth, a most elegant and loving companion, died in May of this year.

Kevin Tang

8 Wentworth Chambers



The Honourable David Levine AO RFD QC

*τὸν κρατοῦντα μαλθακῶς
θεὸς πρόσωθεν εὐμενῶς
προσδέχεται.*

*God from afar looks graciously
upon a gentle master.*

Aeschylus, Agamemnon, line 951-2.

The Honourable David Levine AO RFD QC died, aged 75 years, on 11 May 2020. Levine QC was a traditional man of letters and became a pre-eminent practitioner in Defamation, eventually becoming the List Judge of that List in the Supreme Court of NSW.

In 1962 Levine QC commenced at the University of Sydney, studying for an Arts/Law degree. He was the University Union's Secretary for the debating society. He was an active participant in Union debating, and in one such debate in the mid-1960s, after commenting on the Malayan confrontation, he was accused of being an ASIO agent by another student. Levine QC is recorded as having said that although he was not, he had never been so flattered in his life.

Levine QC attempted to detach himself from all matters political, and devoted himself completely to the practice of the law. Sheepishly, he maintained that he was interested in good government and took a passing interest in engagement in any discourse or discussion in politics. Levine QC graduated with the BA in 1964 and then the LLB in 1969. He commenced articles of clerkship at the Messrs Peck & Draper, and then he progressed to the company of the Messrs Stephen Jacques & Stephen. This is where his career in litigation, and especially defamation, flourished.

Levine QC was called to the Bar in 1971. He was a member of 12th Floor Wentworth before becoming a founding member of Blackstone Chambers. At the Bar, he was known foremost as a publisher's advocate, and he represented the interests of Fairfax, the ABC, Channels 7 and 10, all at a time when free speech and consciousness thereof were nascent. His pupil-master was David Yeldham (later QC and a Supreme Court judge). Levine QC greatly admired his pupil-master, and was also a great devotee of the late Honourable David Hunt QC (later a Supreme Court Judge). Levine QC would himself sit on the Supreme Court eventually, and he would inherit from the Honourable David Hunt QC that famous old list.

Levine QC kept exceptional company at the NSW Bar. He fought cases with and against the Honourable TEF Hughes AO QC, and the patrician Alec Shand QC. Levine QC is rumoured to have said that he erred on the side of caution, rather than advance to higher levels of bravado, in that company. Many colleagues remember him as an affable and friendly man capable of warmth and good feeling.

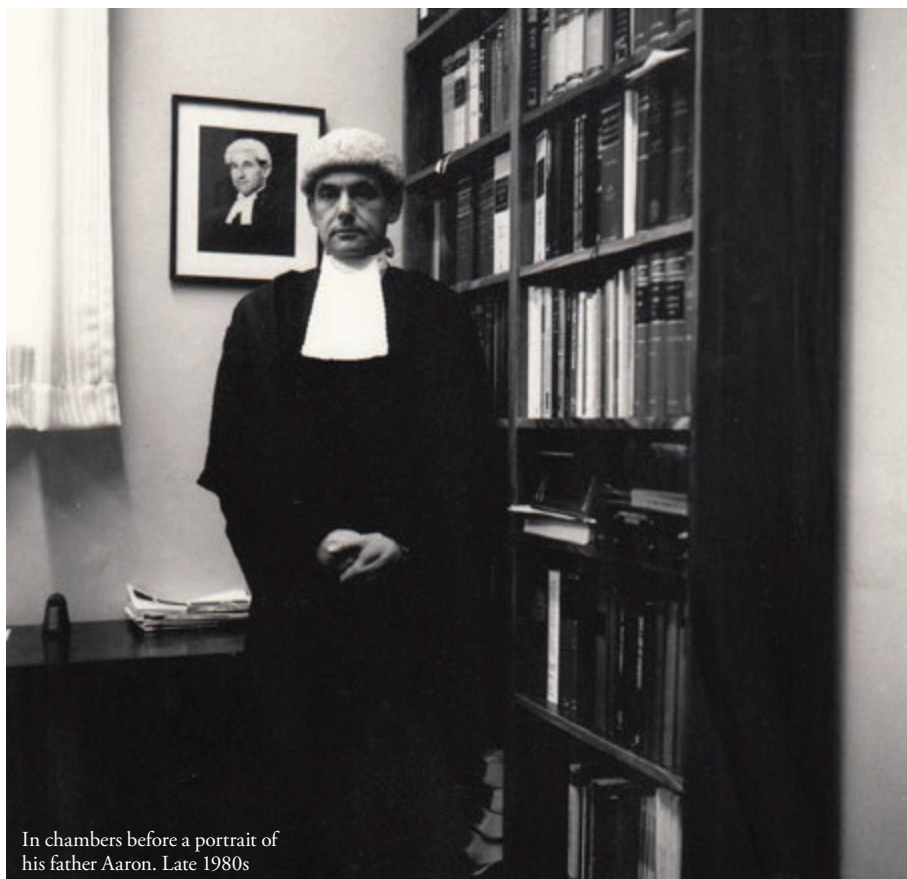
He was the pre-eminent defamation silk, an area which has always been rarefied. He saw the developments in the common law of damages for hurt feelings, disappointment and the advent of garden-variety celebrity as it took form.

In 1984, Levine QC took silk, and not three years later, he was offered judicial appointment to the District Court where his late father Aaron Levine had sat as a judge. The Honourable Terry Sheahan, the Attorney-General at the time, attended his swearing in. As history often repeats itself, even Sheahan recalled that his father, Billy Sheahan QC, had sworn in Levine QC's father Aaron. *Plus ça change...*

Like his father Aaron, Levine QC inherited an appreciation for English literature. He was a consummate bibliophile of the first order. Levine QC kept a library of leatherbound volumes as fine as anyone could have in the English-speaking world. Among his floor-to-ceiling library of some 16,000 books were the highly coveted editions usually contested by international collectors printed on vellum from another time. Within those tomes were the lines of Portia's speech about the quality of mercy and justice from *The Merchant of Venice*, which inspired his father and in turn him. Levine QC carried those lines in his mind throughout his life, and like the Bard himself wrote and quoted in judgments his observations of his fellow man under the Rule of Law.

Like Portia, Levine QC's appreciation of the quality of mercy in human beings was golden. Levine QC excelled in Latin, Classical Greek and Ancient History at school. Decades later Levine QC was still able to recite slabs of text, in hexameters, like many a scholar, of the *Aeneid* and from Ovid, committed to memory while a boy. He also possessed a beautiful edition of Marcel Proust's *A la recherche du temps perdu* which he cherished, another great author who committed to paper memories and impressions of things past.

At the District Court, and also following his elevation in 1992 to the Supreme Court, Levine QC cherished the country circuits. He instilled intense loyalty in his staff and remained a close friend and mentor to several of his associates and tipstaffs. He treated with dignity and humanity those in



In chambers before a portrait of his father Aaron. Late 1980s

the criminal trials over which he presided. In the case involving the killing of teenager Jasmin Lodge, while the media and defence had focussed on her role as a sex-worker, he remarked at the sentencing that 'her life was as precious as the life of any other member of the community.'

As the judge in charge of the defamation list, Levine QC endeavoured to reduce the length of trials and resolve cases as efficiently as possible, in order to cut through unnecessary technicalities and limit the waste of resources. He created a robustly fair atmosphere in his courtroom, particularly for younger or less experienced counsel. Levine QC notoriously heard Australia's longest-ever defamation case in the Supreme Court of NSW, *Marsden v Amalgamated Television Services Pty Ltd* [2001] NSWSC 510. The hearing lasted 30 months from first hearing to judgment and ran over some 200 days in court. As gruelling as this process was, Levine QC presided attentively and fairly, and delivered an extremely comprehensive judgment of over 2300 pages, demonstrating his dexterity and accuracy in the administration of justice.

Levine QC never tired of public service, even in his post-judicial years from 2005 onwards. He is remembered for his role as Inspector of the ICAC's blistering investigations, scrutinising barristers and judicial colleagues. He was fearless. In 2006, Levine QC was appointed Chair

of the Serious Offenders Review Council, which advised on the security classification, placement and management of inmates. For 32 years he was member of the NSW Navy Legal Panel. He was the President of the Defence Force Board of Inquiry into the crash of Black Hawk 221. Even in these difficult instances, Levine QC's eminent qualities of warmth and humanity shone through.

In addition to the judicial burden which he bore with distinction, Levine QC zealously supported the Arts, having served as Chair of the Friends of the State Library of NSW, a councillor of the NSW Art Gallery Society and as a governor of the University of Sydney's Nicholson Museum.

Levine QC was married to Agnes for over 50 years, and the two proved to be an unparalleled partnership; their home was convivial, full of insightful and witty conversation. As a couple, they were a delightful company. Levine QC is survived by Agnes, his sister Prudence, his daughters Naomi and Judith, his son Aaron, and seven grandchildren.

Levine QC will be remembered for his wry sense of humour, his kind and compassionate manner on the bench, and his magnificent collection of books.

Kevin Tang
8 Wentworth Chambers

The Hon David Andrew Ipp AO QC

(1938 – 2020)



NSW Court of Appeal, mid 2000s



David Andrew Ipp was born in 1938 into a Jewish family in Johannesburg. His father was a shopkeeper, and he was raised in wartime austerity. He really only wanted to play cricket for South Africa, but a bout of polio as a ten year old ended that dream. This bout of illness, however, had a profound affect on his life as confinement at home to convalesce meant he had little else to do but read books. Ipp became a voracious reader, something that stayed with him for life, and upon reading books of great trials of the 19th century, he became interested in a career in the law at a young age.

As legal practitioners had to be proficient in both official languages, he chose the University of Stellenbosch, an Afrikaans university in a picturesque historical town near Cape Town, for his studies. Five happy years followed and it was there that he met his future wife. After qualifying he went to work at one of the leading firms in Johannesburg as a solicitor but was drawn back to Cape Town where he was called to the Bar in 1973 and established a national practice in maritime insurance and commercial law.

The political regime was always a serious concern and so in 1981 the family moved with their three school age children to Perth, where Ipp worked as an in-house counsel at the establishment firm of Parker and Parker.

In 1984 he was called to the independent Western Australian Bar and he took silk in 1985. He was briefed in some of the most important cases of the day. In 1989 Ipp was appointed to the Supreme Court of Western Australia immediately after the minimum qualification period.

Ipp sat in crime, common law, equity, appeals, and travelled around the State on circuit. He introduced case management, and was unusually and aggressively efficient. New procedures and practices were implemented, strict timetables imposed, and compliance policed. His Chief Justice, David Malcolm, described Ipp as '*a mover and shaker*'; the local profession used other, more earthy, language.

Around 2000 there was agreement that a separate Court of Appeal was required in Western Australia, and the project was handed to Ipp (together with a suggestion that he would be appointed its President). Chief Justice James Spigelman encouraged Ipp to come to New South Wales as part of Ipp's '*research*'. Another move came about and in 2001 Ipp was appointed as a Justice

of Appeal in New South Wales.

The NSW Court of Appeal has always been a very busy court and Ipp found the work constantly intellectually challenging. The environment suited him. He would later say that when he came to Sydney he quickly made some of the best friends of his life. Ipp was a dynamic force, usually the first to circulate a draft judgment, and commonly writing for the whole Court. He produced complex judgments with remarkable speed – his ambition was to produce a judgment within one week after a hearing. Ipp headed up a wing of the Court known as the *'Panzer Division'* given the task of dealing swiftly with the more urgent cases.

In 2002 an unusual offer was made to Ipp to chair a committee appointed by the federal government to report on Australian tort law reform. The offer was unusual because, as Ipp explained privately, he had been trained in Roman Dutch law, not the common law, and had never practised tort law. The Committee produced a report commonly referred to as the *'Ipp Report'*, which despite his personal reservations, contains a superb exposition of Australian tort law.

The legislative response disappointed him. The first recommendation of the Committee – described as the *'overarching recommendation'* – was that statutory changes should not be made unless introduced uniformly throughout Australia, thus preserving the benefits of the single common law. Instead, changes were made piecemeal, differing from State to State, effectively undermining the report. And, as Ipp himself found as a judge, the legislative changes were sometimes expressed in terms which were difficult to apply in practice.

On many occasions Ipp would say, and he would wish it to be repeated now – *David Ipp did not draft the Civil Liability Act.*

Then, in 2009, he was asked to become the Commissioner at the Independent Commission Against Corruption. He was an inspired choice, free of political affiliations and not associated with any powerful interest groups in New South Wales.

ICAC had been moribund. It was common knowledge that potential lines of inquiry involving powerful politicians had been left to lie dormant because they were thought to be too hot, especially as the same politicians controlled ICAC's budget. That, of course, would not deter David Ipp; that would only encourage him.

Ipp's tenure at ICAC was explosive. His desire to expose abuse and corruption in government had been triggered, long before, in South Africa. Several great and famous investigations were launched which carved their way through politics and corrupt politicians, and upset many lucrative financial deals.

In 2013 Ipp resigned from ICAC, principally

due to the recurrence of serious back pain. In a busy semi-retirement he conducted several inquiries, including in relation to the attempted murder of Tony Mokbel. He remained tireless in his anti-corruption work, founding the Centre for Public Integrity, and relentlessly pressuring politicians for a national integrity commission. He found the inaction on that issue disturbing.

There was a fallout from Ipp's success at ICAC. In 2014 some businessmen unsuccessfully accused him of bias. Their claim was booted out of Court. In 2015 Eddie Obeid and his sons sued Ipp alleging he was guilty of malfeasance in his public office as the ICAC Commissioner. Ipp thought the allegations were a joke. The matter went to trial, but was dismissed out of hand with an indemnity costs order – the trial judge describing the allegations as *'inappropriate', 'unjustifiable', 'unmaintainable and irresponsibly made'*.

Ipp's profound impact upon Australian law is all the more remarkable for the fact that he was trained in Dutch Roman law – a distinctly different discipline. Ipp claimed that when he arrived in Perth and heard his legal colleagues referring to *'equity'* he simply assumed they were talking about some insurance company. His judgments cover every conceivable legal field. A full catalogue would take pages, but his



Cape Town Bar 1980

judgments on criminal law and sentencing¹, insurance², jurisdiction³, and commercial law⁴, are worthy of particular note. Add to this that Ipp produced judgments touching upon almost every aspect of the law of torts – so many excellent judgments that it is impossible here to list them. And it is notable that he overcame his early scepticism to produce masterful judgments in the field of equity. His decision in *Permanent Building Society v Wheeler* (1994) 11 WAR 187 was subsequently picked up and applied in the House of Lords⁵.

Ipp's contribution did not solely reside in the caselaw, he was a regular contributor to



On appointment to WA Supreme Court, 1989

academic journals on diverse topics – see, for example, his article *'Lawyers' duties to the Court'* published in the *Law Quarterly Review* in 1998 and his provocative *'Must a prosecutor believe the accused is guilty? Or, was Sir Frederick Jordan being recalcitrant?'* published in the *Australian Law Journal* in 2005.

Earlier we mentioned something about Ipp on the Bench. There is no point being delicate because Ipp recognised he was demanding and sometimes difficult. Chief Justice Spigelman compared Ipp in Court with a predator on the high veldt, and that is apt. He could be demanding of counsel, especially where counsel was poorly prepared or the argument was loose. Ipp prepared for every appeal, and he expected the same of others, demanding intellectual rigour, nothing less. He engaged in debate with counsel to an unusually high degree – it is true that the President of the Court of Appeal had to intercede on at least one occasion to allow counsel to finish announcing an appearance before Ipp completed his first question.

All of that said, he was never personally rude nor demeaning, and he could be kind when he saw a barrister struggling with a difficult brief or difficult client.

And if it is of any comfort to the profession, it can now be revealed that Ipp could be just as hard and just as demanding on his judicial colleagues.

It also needs to be known that Ipp was a totally different person the instant he left the Bench. His company was a joy. He was always ready to laugh, and when he laughed it was notable – he had a loud, braying, infectious laugh. He constantly looked for a brighter side to matters, and usually found it. He was wonderful company, caring, inquisitive, interested, interesting, and never dull. He was a genuine intellectual and a lifelong scholar. He had a deep knowledge of history, science and government.

Although he would claim that he was



proud to be an Australian, he was unable to shrug off his past. He continued to barrack for South African cricket and rugby teams when they played Australia (a long standing \$5 bet per match left Justice Murray Tobias seriously out-of-pocket). The most obvious holdover was his accent – which (contrary to his belief) was very strong. His accent could create confusion in the Courtroom: On one occasion while receiving submissions on the calculus necessary to determine whether a duty of care had been breached, Ipp said loudly to counsel that his submission was *'Shirt, pure Shirt'* – leading to some discomfort until it was realised Ipp was referring to the name of a case.

In the end, everything and anything in Ipp's professional life was secondary to his love and affection for Erina. They were a team. They were happily married for 56 years. Theirs was a long marriage punctuated by challenges and change which was successful because they were so very

close. He was a warm, loving and nurturing husband to Erina, father to Graeme, Tessa and Stephen, and grandfather of four.

Typically, Ipp wanted no fanfare once he was gone. He wanted no funeral or other memorial and was cremated in a private service. We imagine he was primarily concerned that time spent at such an occasion could be better used writing outstanding judgments.

**The Hon Keith Mason AC QC,
Geoffrey Watson SC, Stephen Ipp**

ENDNOTES

- 1 *Jarvis v The Queen* (1993) 20 WAR 201; *R v Liddington* (1997) 18 WAR 394
- 2 *Speno Rail Maintenance Australia Pty Ltd v Hammersley Iron Pty Ltd* (2000) 23 WAR 291
- 3 *Orellana-Fuentes v Standard Knitting Mill Pty Limited* (2003) 57 NSWLR 282; *Air Link Pty Ltd v Paterson* (2003) 58 NSWLR 388
- 4 *Ingot Capital Investments Pty Ltd v Macquarie Equity Capital Markets Ltd* (2008) 252 ALR 659
- 5 See also his decision on equitable compensation in the context of corporate misfeasance in *Biala Pty Ltd v Mallina Holdings Ltd* (1994) 13 WAR 11

