

A DREAM OF FAIR JUDGES¹
AFTER LORD TENNYSON (A LONG WAY)

By SIR FRANK GAVAN DUFFY, late Chief Justice of the High Court
of Australia.

(Notes by C. J. Ahern, Esquire)

I read, before my eyelids dropped their shade,
The Code of Tenures writ in Law French fair
By him who through the Feudal mazes strayed
Ere Coke and Blackstone were—

Great Littleton, the Lawyer whose sweet breath
Preluded those black-letter tomes that fill
The Learned Courts of Great Elizabeth
With doubts that echo still.

And for a while his "Treatise on the use"
Held me entranced in intellectual pain,
And wonder at the art that can confuse
Things in themselves most plain.

Foeffment and fine, feigned issue, plea of right,
And all the jargon of the Lawyer Priest,
Muddled my mind with surfeit of delight
Like mixed wines at a feast.

And lo! I dreamt that I too had passed out
From the fair fellowship of human kind,
And felt the full immunity from doubt
Of the judicial mind.

All human weakness that can mar a man
Slipped from me like a garment, and I stood
A judge beyond men's blessing or their ban,
Like H——s or like H——d.²

And then methought I sat enthroned afar
Among my peers in scarlet ermine-bound,
Remote from the base rabble of the bar
That stood expectant round.

And a clear undertone from close beside
Thrilled through mine ears in that exalted sphere,
"Welcome, good brother; here thou mayst abide
Free from desire and fear."

1. These verses were first published in *The Summons*, the journal of the Melbourne Articled Clerks' Society, in June, 1892. The author was Mr. Frank Gavan Duffy (afterwards Chief Justice of the High Court of Australia), then a prominent member of the Victorian Bar. The Judges the subject of the poem were the members of the Victorian Supreme Court Bench in the year 1892, viz., Chief Justice Higginbotham and Justices Williams, Holroyd, a'Beckett, Hodges and Hood.

2. "Like H——s or like H——d" referred to Justices Hodges and Hood, the most recent appointments to the Bench.

And by me stood a form I knew of old,³
 With dome-like brow, a sweet mouth firmly set,
 Features clear cut as newly-minted gold,
 And eyes of calm regret.

“I drank delight of battle with my peers,
 My name was once the people’s battle-cry,
 Alas, what is the end of hopes and fears—
 Splendid obscurity!”

His firm tones fell like strokes on silver pure,
 Tones to my weary ear familiar long
 In laboured judgments lucidly obscure,
 Perspicuously wrong.

“What wonder—at thy word on battlefield
 Myself, illustrious Chief, had boldly died.”
 I answered free, and turning I appealed
 To one that stood beside.⁴

But he, with sick and scornful looks averse,
 To its full height his stately stature draws—
 “My prime,” he said, “is blasted with a curse,
 And this man is the cause.

“I am cut off from hope in dull despair,
 A wretched puisne who should be a chief,
 My father suffered so, and now I bear
 Hereditary grief.

“And much it chafes me that I cannot bend
 His will, nor stir the calm propriety
 Of my slow, solemn colleague—Prythee, friend,
 How fares the great Q.C.?⁵

3. This, and the three following verses, and the first and second lines of the fourth following verse, refer to Chief Justice Higginbotham. The first of these four verses is a fine description of the Chief Justice’s personal appearance and was so quoted by the Premier of Victoria within a year after the lines were written, when, on the death of the Chief Justice, Parliament placed on record his great services to the State. The second verse refers to the leading part he played in the political life of Victoria. He was a pronounced democrat. The first and second lines of the third verse accurately describe his wonderful, clear, almost bell-like voice, while the third and fourth lines reflect his lengthy judgments. These lines the Chief Justice bitterly resented, but he never knew who the author was as he died at the close of the year 1892.

4. The last two lines of this verse and the next three verses refer to Mr. Justice Williams, Senior Puisne Judge, who was of very stately appearance. He resented Mr. Higginbotham’s appointment to the Bench ahead of him, and always chafed under the Chief’s seniority when the latter subsequently became Chief Justice. Mr. Justice Williams’ father had been the Senior Puisne Justice of the Supreme Court of Victoria, and was very wrathful when Sir William Stawell, who had been Attorney-General, was appointed as Chief Justice many years earlier. These lines had additional significance when, about seven months after they were published, Chief Justice Higginbotham died, and Dr. Madden (afterwards Sir John Madden) was appointed from the Bar to the position of Chief Justice, and Mr. Justice Williams thereupon wrote a strong letter of protest to the daily press.

5. This last line and the next verse refer to the late Mr. J. L. Purves, Q.C., for long leader of the Victorian Bar, who, with Mr. (afterwards Justice) Williams, shared most of the work at the Common Law Bar for many years, till Mr. Williams was appointed to the Bench. Mr. Purves had a great reputation for boldness in advocacy, coupled with great dramatic power heightened by strong facial expression. This is the only reference in the verses to anyone not a Judge.

“The man, my leader in the olden time,
He of the fluent tongue and brazen brow,
With him I rode on fortune’s neck sublime—
Our paths are parted now.”

“Alas! Alas!” a low voice full of care
Murmured beside me, “turn and look on me;⁶
My youth in drafting settlements did fare,
My prime in Equity.

“And to the dreadful Moloch of the Law
I gave my human heart and brain of fire,
Toiling with stern resolve and modest awe,
And hope that would not tire.

“I won success and wear it—what avails?
’Tis but a right to labour at the oar,
To sift with painful toil discordant tales,
And o’er dull pleadings pore.

“For me life has no leisure and no fun,
No rest from long debate of wrong and right;
Visions of work undone, and to be done
Do haunt me day and night.”

To whom, in accents clear and free from care,
Replied his benchfellow of Equity,⁷

“I am that happy judge whom men call fair,
Take comfort then from me.

“I work, I play, I let the mad world rail,
I never lose my temper or my time,
My judgment and digestion never fail
From merry chime to chime.”

His cheerful words stirred all the silence drear,
Like soft winds waking on a torpid sea;
Sudden I hear a voice that said, “Come here
That I may look on thee.”

I, turning, saw the idol of my youth—⁸
When life had idols in the years gone by—
The man of iron will and fearless truth,
And matchless loyalty.

6. This and the three following verses refer to Mr. Justice Holroyd, a painstaking, careful and slow lawyer, appointed from the Equity Bar, whose industry was very great, and whose work on the equity side is still well remembered.

7. This—also the next verse and the first and second lines of the following verse—refer to Mr. Justice a’Beckett, who was also appointed from the Equity Bar, and whom the Bar and even litigants always regarded as most fair. He was of a bright, happy, good-tempered disposition, did his judicial work well, and took a great interest in sport in his spare hours.

8. The last two lines of this verse and the next six verses refer to Mr. Justice Hodges, who had not been long appointed to the Bench, and with whom the author had often appeared as a junior, and for whom he had, when at the Bar, a great admiration. Mr. Justice Hodges was a man of very handsome and striking appearance, with eyes that flashed in moments of anger, which were frequent. After his appointment to the Bench he became most critical of humanity generally and of the conduct of litigants particularly, and often where he felt compelled to give a party a verdict, deprived him of costs because in some aspect of the litigation he fell short of the judge’s standard.

He, flashing forth a haughty smile, had spoke,
 But that I stayed him with preventing tongue,
 And through all forms with glad impatience broke,
 As if I still were young.

“Oh, master, since the judgment-seat you fill
 What chemic change confuses all your blood,
 That in your eyes the deeds of men are ill,
 And no cause seemeth good?”

“Have all things turned to sinfulness and shame?
 Is there no virtue now outside yourself?
 Is honour dead, and goodness but a name,
 And no God left but pelf?”

“Why greet your former friends with savage sneer,
 Or with contemptuous pity’s chilling frosts?
 Why should all victor litigants appear
 Unworthy to have costs?”

More had I spoken, but his wrathful eyes
 Blazed on me, till I trembled and awoke.
 And lo! my Littleton before me lies,
 And the dull embers smoke.

And so I saw not him who left us last,⁹
 Of whom men murmur with admiring stare,
 “Behold ideal justice, fair and fast”—
 But less fast were more fair.

VIE MANQUÉE.¹⁰

9. The last verse refers to Mr. Justice Hood, who had just recently been appointed to the Bench—the last appointment. He soon established a reputation for quick work on the Bench, and got through his cases very rapidly, for which he was receiving public approval, but there is a critical sting in the last line.

10. The name of the author was for obvious reasons not disclosed for quite a long time and the signature, “Vie Manquée,” had a significance not associated with legal matters. The verses attracted great attention not only in Victoria but in legal circles throughout Australia and in England, and the authorship was at first attributed by literary journals and critics to many persons other than the actual writer.