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## BOOK REVIEW

*Murray Gleeson: The Smiler*

Michael Pelly, The Federation Press, Sydney 2014  
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GRANT BAILEY\*

All Australian lawyers are familiar with the work of Murray Gleeson, Chief Justice of the High Court until 2008 and previously, Chief Justice of the Supreme Court of New South Wales. Many lawyers are aware of the public persona that earned Gleeson the ironic nickname 'The Smiler'. A few have had the experience of appearing before him. But very few have been privy to citizen Gleeson, as opposed to Chief Justice Gleeson. What drives Murray Gleeson? What sort of person is he?

*Murray Gleeson: The Smiler* provides us with a few glimpses, which is perhaps as many as we are likely to get. Michael Pelly gives a good account of Gleeson's childhood and schooling; his early years as a practitioner; his period as a leading barrister and finally, his judicial career. But we never really get to know Gleeson the man. It is due to Gleeson's reticence, and not any failing of his biographer, that we still know little about the man and next to nothing about his attitudes on non-law subjects. What is important to him on a personal level? What are his views on such contemporary issues as the environment and terrorist threats? What does he consider vital for the future prosperity of Australia?

Michael Pelly's biography was undertaken with the approval of his subject, which is fortunate since without it we may not have had this book at all. Although Gleeson did give extensive interviews, his greatest assistance was in allowing access to his family who provide most of the interesting insights. They make it clear that at home, Gleeson was not the most enthusiastic participant in family get-togethers, often leaving a gathering early to go back to his study. He was also something of a hypochondriac and justified his frequent absences on the basis that he could not afford to get sick. He was also a touch squeamish, with his wife Robyn recalling the birth of their first child: 'Murray took me to the hospital, left, and then appeared some hours later in a back-to-front hospital gown. He turned a nasty shade

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of green and disappeared again until after the birth'. Perhaps less understandable was the new father's refusal to change nappies ('Never change a nappy, because once you change one nappy you are known as a nappy changer, available on request') or his earlier insistence that 'Barrister's wives don't work'. Nevertheless, for reasons of pragmatism or otherwise, Gleeson's views on some matters (such as the place of women) have evidently changed over the years. That is just as well, for his eldest daughter Jacqueline is not only a mother but also a judge of the Federal Court of Australia.

The book provides an interesting overview of Gleeson's work, first as a legal practitioner (he became a QC at the spectacularly early age of 36) and later as a judge. As a young barrister he quickly developed a busy practice, the more impressive considering the 'galaxy of talent' which surrounded him at the Sydney bar, including Laurence Street (his tutor), William Deane (who guaranteed a loan of £1000 to the fledgling barrister) and Anthony Mason. Not many people would be aware of Gleeson's role in the dismissal of the Whitlam government (he was one of three barristers briefed to advise the Liberal Party on the powers of the Governor-General).

Politically, Gleeson has never worn his beliefs on his sleeve, although his views on taxation reform (particularly those expressed in what has become known as his 'human rights for tax evaders' speech to the International Commission of Jurists in 1988) indicate some sympathy with conservative ideology. Taxation cases, as well as commercial causes, suited Gleeson's preference for cold analysis of impersonal topics. An example of the latter was *Port Jackson Stevedoring Pty Ltd v Salmond & Spraggon* (The New York Star) which Gleeson took to the Privy Council and won. Gleeson said of the case:

It was the sort of case that would interest practically nobody but me. There was not even an ounce of human interest, which made it good. It was about two insurance companies fighting it out over money and not very much money at that. It was stripped of any complications that might come from weepy people.

That Gleeson was not sympathetic to people had been recognised early by his father, the owner of a service station, who noticed that the future Chief Justice was not pleasant to his customers (the young Gleeson filled cars during his school holidays).

Pelly's coverage of Gleeson's judicial work strikes a balance between a focus on the issues of the major cases and an analysis of the judgments. A more extensive collection of Gleeson's writings would have better

illustrated the force of his expressive skills but would also have alienated the lay reader. Overall, the balance is appropriate. The reader gets an understanding of the range and complexity of cases in the highest courts that may be deepened with further reading.

Pelly indicates that Gleeson's High Court judgments 'reflect a judicial philosophy grounded in a belief that the court should be reluctant to invalidate legislation or develop the law'. Some lawyers might express the same concept in less neutral terms. Pelly is perhaps less cagey in describing Gleeson's intent, upon being appointed to the High Court, on 'restoring the reputation of strict and complete legalism' advocated by Sir Owen Dixon. Gleeson himself was prepared to laugh about his legal conservatism; in answer to a law student's question how the Gleeson High Court should be characterised, he responded 'The bleeding heart court'.

*Murray Gleeson: The Smiler* is, to be sure, a most enjoyable biography, well-researched and engagingly written. To wish that Gleeson had opened up more to his biographer is to praise what Michael Pelly has managed to coax from his enigmatic subject and from those who know him.