



Living Legends of the Bar

The edited speech of Justice Goldberg at the Legends Dinner, the Essoign, Friday 29 August 2003.

Legends in their own time: Jeffrey Sher, Douglas Meagher, Jack Fajgenbaum, Max Perry, Susan Crennan, Hartog Berkeley, George Beaumont and Gerry Nash.

WHEN I was asked to speak about the Living Legends of the Bar we are honouring this evening I wondered — why me? I initially thought that it was probably because, with one exception, I had in the course of my 31 years at the Bar offended each and every one of them on at least one occasion, so that anything I said would just add insult to earlier injury.

But then I reflected that it was probably because I was a judge. It was obviously a task for a judge. Why? The answer is probably found in the writings of two early judges. Sir Mathew Hale, who lived in the 17th Century, is recorded as saying:

But most certainly it is a careful and a difficult employment so that it is a wonder that any prudent man will accept it, and a

greater wonder that any man in his right judgment should desire it or not desire to decline and be delivered from it.

Sir Mathew Hale also observed:

That since it is a business of that importance and yet difficulty a man may be careful to keep a temperate body, with great abstinence and moderation in eating and drinking, and a temperate mind totally abandoning all manner of passion, affection and perturbation that so he may come to the business with clearness of understanding and judgment.

I am conscious of the fact that tonight is not only a night for acknowledgment of achievement but also one for a demonstration of wit. However, I am constrained by the observations of Sir Francis

Bacon, Lord Chancellor of England, who said:

Judges ought to be more learned, than witty, more reverend, than plausible, and more advised, than confident.

I am also constrained tonight by his observation that:

One foul sentence doth more hurt than many foul examples,

and

An overspeaking judge is no well-tuned cymbal.

We are here to honour this evening in absolute order of seniority but in equal order of importance and respect, Hartog



Glen McGowan, Tim North, Graeme Clark, John Larkins QC and Cameron Macaulay.



Michael Flynn, Elizabeth Loftus, Peter Vickery QC and Max Perry.



Simon Wilson QC, Jayne and George Beaumont QC, and Manny Garantziotis S.C.



The scene at the Essoign.

Berkeley, Jeffrey Sher, Douglas Meagher, Jack Fajgenbaum, George Beaumont, Gerry Nash, Susan Crennan and Max Perry. Between them they have clocked up 269 years of practice at the Bar. If laid end to end, I guess they would be laid.

But we are honouring them tonight as “legends” and I wondered what imputation was to be derived from someone being described as a “legend”. In a lay sense I thought that meant that there were myths about them. But since their tools of trade have been words for so many years, I had recourse to the *Oxford English Dictionary*. The very first or primary meaning of “legend” I found was “the story of the life of a saint”. That appealed to me. I reflected on St Hartog, St Jeffrey, St Douglas, even St Susan and ultimately St George! But having cast round for stories I must confess piousness, or should I say piety, [and don’t pick me up John Batt as both are in the Macquarie Dictionary] was not in the forefront of what was collected, apart from Susan Crennan. But that was because of Hartog Berkeley’s response once when he was Solicitor-General and Justice Mary

Gaudron asked him one day, “Why don’t you bring a woman with you to Canberra?” Hartog, conscious of the well-known principle of law that the judge’s point is the best point, asked the Victorian Government to find him a respectable woman. They briefed Sue Crennan, but who else.

But reflecting on piousness reminds me of the time Gerry Nash was appearing before Justice Howard Nathan on an order to review. The point of law to be determined was whether masturbation would constitute prostitution. An undercover policewoman had been approached for a quote: “How much for a hand job?” For some reason which is not clear, Gerry had the matter stood down to undertake some speedy research as to whether masturbation featured in the law reports. He returned some time later and the following exchange occurred:

Nash: “I found three cases of masturbation in the Supreme Court library, Your Honour.”

Nathan J: “Well, Mr Nash I trust that will bring this to a suitable climax.”

Nash: “I’m in Your Honour’s hands.”

But let me turn to more serious matters. Each of our legends is being honoured this evening because they exemplify, in numerous respects, the principles and standards for which an independent Bar stands. Integrity, hard work, ability and an absolute commitment to acting in their client’s interests and not being deterred from standing up to irascible judges. I’m not going to recite their CVs, *Who’s Who* listings, or lists of their committees, cases and professional achievements. That’s all a matter of record. However, I should acknowledge the work each of them has undertaken for the Victorian Bar through the Bar Council, Barristers Chambers Ltd and numerous Bar and Building Committees. Of course, each and every one of them has their own particular idiosyncrasies and some of these will shortly emerge.

HARTOG BERKELEY

Let me begin with Hartog Berkeley. I remember many years ago working as a young junior with Hartog. That most important and religious part of the brief approached — what to mark. We fixed on



Justice Goldberg orates to the throng.



Mary Baczynski with Justice Nathan on his knee.



Mr Justice Batt, Kate McMillan S.C. and Hon. William Kaye AO, QC.

what I thought were the usual type of fees and then Hartog added — sorting papers in brief — \$150. Of course in those days I had to mark $\frac{2}{3}$ myself.

Hartog had the unenviable experience about twelve years ago of being a litigant himself, albeit unwittingly. He or his manager arranged for a contractor to cut down some trees on his farm up Mansfield way on the Rubicon River without the required permit under the planning scheme. Apparently some local councillor wanted to embarrass either the government of the day or its senior legal officer so Hartog was summonsed for cutting down trees without a permit. The case was heard in the Mansfield Magistrates' Court. It was apparently regarded as somewhat newsworthy as Channel 9 flew up a camera crew in a helicopter so that they could take pictures of the disconsolate Berkeley walking out of court having been convicted and no doubt fined. It did not turn out that way.

The earthmoving contractor who had cut down the trees was called by the informant to give evidence as to the cutting down of the trees. In the course of

cross-examination of the contractor he was asked:

Question: Did you have a conversation with the manager?

Answer: Yes.

Question: What did he say?

Answer: Could you come down and look at some very dangerous trees.

Question: What did you do?

Answer: I went with the manager, inspected the trees which were old river red gums.

Question: Were the trees dangerous?

Answer: Yes, they drop boughs, they're known as widow makers. I wouldn't be putting my good cattle under them.

Hartog had some pretty good prize cows in his paddocks, prize cows shelter under trees, boughs on trees sometimes break and fall off the trees, if prize cows are under the boughs when they will fall they will be severely damaged — therefore it is prudent animal husbandry to cut down trees on your property to ensure that your prize cows are not damaged. At the end of the informant's case a submission of no case to answer was made by Berkeley's eminent counsel to the effect

that on the basis of the contractor's evidence, Hartog was entitled to cut down trees on his property because of the exception in the by-law or regulation that you could cut down a tree without a permit when it was dead or dangerous. The Magistrate accepted the submission that Hartog's cows were in potential danger and that accordingly he was entitled to cut down the trees to protect the cows from falling boughs. Hartog even obtained an award of costs and when he walked out of court there was not a camera crew to be seen.

That case demonstrated that Hartog was no different from a common or garden farmer but on occasions he did have delusions of status. On one occasion Hartog and Margaret went to London but they had not booked a hotel. Some Royal Princess was getting married and the hotels were all full. Hotel after hotel gave them the same answer — no room. Finally at the next hotel where he got a knockback, Hartog said, "I'd like to speak to the manager please." The manager appeared. Hartog asked him, "Are you suggesting that if Her Majesty The Queen

came and asked you for a room, you would not be able to find one?" The response was immediate: "No, of course not." Hartog's response, "Well, my good man, I can tell you that Her Majesty is not coming so I'll have her room."

But Hartog also had his tactful and sensitive side. Years ago Michael Dowling sometimes brought his niece, Elizabeth, a solicitor, to lunch and Hartog had met her on many occasions without knowing of their relationship. When Michael Dowling's first daughter was married Hartog was at the wedding, so was Elizabeth, but Hartog had studiously not recognised her. Well into the evening Michael Dowling came upon Hartog and his niece, Elizabeth, was nearby. Michael said "Of course Hartog, you know my niece, Elizabeth." Hartog was visibly relieved and said "Oh, you really are his niece" and was his sociable self again.

Hartog had his own particular style before appellate courts. On one occasion he was appearing before the Full Court with Justice Brooking presiding. Hartog was arguing a quite hopeless case with his usual flare. Brooking J, as usual, went straight to the point: "But Mr Berkeley what about such and such a case. Doesn't that render your argument nugatory?" Hartog responded immediately "Your Honour really shouldn't tease me like that" and without pausing for breath or interruption, went straight back into his argument.

Hartog was a clever counsel. In one case he was fighting Winneke and McPhee in a defamation case. Hartog and Bob Vernon were for the plaintiff. The newspaper had defamed his client who was a milkman in Preston, alleging that he was guilty of a crime. The plaintiff had been cross-examined with vigour by Winneke and McPhee but the paper got it wrong. The son of the plaintiff had been in trouble but not the plaintiff himself. McPhee, in his final address, said to the jury that we all make mistakes and sometimes we even forget our wife's birthday. Hartog turned this proposition of McPhee's to his advantage. He told the jury that we all make mistakes and forget about our wife's birthday, BUT THAT'S ONE WE PAY FOR. Inevitably the jury awarded the plaintiff a big verdict.

It has been said that Hartog has an understanding of members of the opposite sex. This is best demonstrated by the time when as Chairman of the Bar Council he needed a new secretary. His then secretary placed the following advertisement in *The Age*:

Legal secretary required for barrister at Owen Dixon Chambers. Large office with pleasant view. Variety of work, congenial atmosphere. Must be able to work under pressure and negotiate with people at all levels. Salary negotiable.

Hartog decided to be more realistic and open. He placed an advertisement in the same edition and the following appeared in an adjoining column:

Legal secretary required for charming old gentleman at Owen Dixon Chambers — coffee making, typing and shopping. Salary negotiable.

Would you believe the secretary's advertisement got two replies but Hartog's got thirty replies.

JEFFREY SHER

Let me turn to a daunting opponent — Jeffrey Sher.

Jeffrey Sher has built up a well deserved reputation for utter competence and being relentless in the manner in which he runs his trials and, in particular, the way he cross-examines witnesses. He has obviously made a profound impression on many of his opponents over the years. When researching humorous stories for the purpose of this evening's conversation, one senior counsel who wanted himself described as "anonymous", remarked, "Sher has never caused me the slightest amusement in 30 years at the Bar." I think Jeff should take that as a compliment. According to George Hampel, Jeff has an unremitting view of his cases and the causes for whom he appears — the other side in this case is wrong — and unprincipled — and ridiculous — with no hope of success — and there are no weaknesses in his case. I remember one case many years ago which involved National Mutual and AMP and the movement of life assurance agents from one company to another. I forget which way it was. Jeffrey didn't quite achieve the result he anticipated. I may have contributed to the result because I took the view that I should try and unsettle Jeff if it was possible. I took many objections and interrupted him, of course only when it was legitimate and proper to do so. At the end of the case Jeff remarked to me, "Next time I'm opposed to you I'm gonna bring a hammer and nails into court and nail your feet to the floor." I regard this as one of the greatest compliments I have ever received at the Bar.

Jeffrey wasn't always accurate in the prediction of the outcome of his cases.

I recall Jeff Kennett's defamation suit against *The Australian*. It was towards the end of the luncheon adjournment in the Supreme Court. Picture the place: the men's toilet. Sher and Kennett found themselves standing side by side at the urinal. Although in such circumstances it is important to keep "eyes front", one cannot help but see in one's peripheral vision who the other person is. Kennett, ever the friendly and outgoing politician said, "G'day Jeff. Heard about your vineyard — fantastic. Heard it's up for sale." Sher's response: "With the bloody money from this verdict you'll be able to buy it." End of urinal activity and Kennett reports this exchange to Jeremy Ruskin, his counsel, and says, "Looks like we've got them on the run." However, Sher's fears were unfounded and history has recorded that Kennett lost.

The "anonymous" senior counsel may have taken the view that Jeff never caused him the slightest amusement, but Jeff apparently regarded himself as quite humorous. Jeff was opposed to Dick Stanley in the case against the Red Cross which was the first case of an AIDS victim suing the Red Cross over infected blood. Jeff was desperate to get the case away from the jury and made no fewer than six applications for discharge. His best basis was that his instructing solicitors, Arthur Robinson Hedderwicks, had been observing the jury very carefully and the jury didn't laugh at any of Sher's jokes or humorous asides, which clearly showed that they were biased against his client. I think that application failed as well.

Jeff Sher has served on the Bar Council and was on the Bar Council at the time Lionel Murphy was appointed to the High Court. You will recall there was some controversy about his appointment and some barristers wanted to call a general meeting of the Bar. The matter came before the Bar Council. Dick McGarvie was Chairman and Leo Lazarus was Vice Chairman. Dick McGarvie announced the agenda item "High Court appointment" and Sher immediately chimed in "I move that Leo Lazarus be appointed". But Leo missed out.

Sher and McPhee had many battles over the years. They both had well deserved reputations in defamation matters. On one occasion Jeff represented the Commissioner for Police, Kel Glare, in his libel action against the *Herald Sun* for whom McPhee appeared. Frank Vincent was the judge and he had been lecturing in the Readers' Course before court and had told the readers to sit in on the case as they would see how two

top barristers behaved immaculately, notwithstanding the high stakes and high emotions in the case. That is not what occurred. During the hearing McPhee in a successful attempt to distract Jeff Sher, took a ballpoint pen to pieces, extracting the internal parts and blew down the tube. Jeff apparently got quite hysterical. "He's doing it! He's doing it, Your Honour!" Vincent immediately sent the jury out to try and restore order in the court. Sher complained "He was doing it!" McPhee in all innocence said, "I didn't do anything." Sher: "Yes you did." Vincent calmed them down and brought the jury back in to explain that a judge is sometimes like a lion tamer with counsel. I think it probably took someone of Vincent's experience to keep those two under control.

DOUGLAS MEAGHER

Douglas Meagher has a well-earned reputation for getting involved in long cases. The word is out — if you want a long case — get Doug Meagher. Some of his cases have been quite notorious and sometimes Doug is not too far from controversy. He is reported as saying, "A case isn't a case until you've been reported to the Ethics Committee at least once."

Doug Meagher is an enigma to me. I have known him since our law school days but I have had a little difficulty in coming up with amusing anecdotes about him. Either he has been able to engender omerta — a code of silence about himself or, as one person put it — or there are just no funny stories about him. But there are certainly many stories about the long cases in which he has been involved over the years. I am reminded about the Ultra-Tune litigation which went for about six months before Justice Alex Chernov. Before the case began Doug and his junior had a long conference with the instructing solicitor. Towards the end of the conference Doug announced, "I forgot to tell you I don't settle cases." And he didn't. After the fourth month Justice Chernov, being the wise judge that he is, suggested mediation. That proposal was implemented and Doug sat down with his junior and started to draft terms. The junior remarked, "I thought you didn't settle cases." Doug's reply: "That's right, I'm drafting terms of surrender." The mediation was held, no one surrendered. The case went a further two months and Doug's client was successful.

I should point out that Doug has skills that I lust after. No, I'm not referring to his driving skills, which I'm told are less than average, but rather, to his skills as a touch

typist and his computer literacy. I remember back to the Painters and Dockers Inquiry when he was counsel assisting. I think he had an office somewhere near Queens Road, it was certainly out of the city. I remember visiting him on behalf of a client who had been summonsed to appear before the Inquiry. Doug had built up a computer program by which he could tell at the press of a button which barristers had represented any particular person and the persons who each particular barrister represented from time to time. I was offended by the fact that my name was not on the list.

I must say this for Doug, he is not afraid to stand up and be counted. He has appeared in a number of cases where, on one view, it might be said that he was appearing for an unpopular party. However, he is also prepared to stand up against officialdom. He has appeared successfully for a solicitor challenging the powers of the Solicitors' Disciplinary Tribunal ([1988] VR 757). Ten years later he again took on the Law Institute on behalf of a law clerk, but this time unsuccessfully ([1998] 4 VR 324).

I haven't had the pleasure of being driven by Doug, but I am told that is an experience I should avoid. Someone who knows him very well told me that Doug knows two skills for driving — full ahead throttle and full down brake. It is no doubt for that reason that I have received advice that if driving with him as a passenger I should take a cervical collar.

Doug is not fazed by judges. In one case before the Full Federal Court when the Court wanted to move the case to a different date, Doug objected strenuously. It must have been strenuously because afterwards he said to his junior, "Don't ever talk to a judge like that."

MAX PERRY

Max Perry is the only one of our honoured guests who has not attained the exalted rank of senior counsel. In Max's case it doesn't matter — he is in a class of his own, particularly having regard to his commitment to the Leo Cussen course and its participants over the years. I am told that he has never banked any of the cheques he has received over the years for his participation in the Leo Cussen courses, as he regards such a practice as a form of forced saving. Max, have you ever heard of stale cheques?

Every Easter Max buys a job-lot of large chocolate Easter bunnies from Darrell Lea. On one occasion Michael Black, now an eminent Chief Justice, was

robed and on his way to court with a case in each hand. Max was close by with some Easter bunnies. Quick as a flash, Max put a large Easter bunny under each of Michael Black's arms, so Michael had to walk with Easter bunnies sticking out of his arms. How dignified.

I should point out that Max has a driver's licence but doesn't drive. When his reader Diana Rasheva was driving him to court one day she stopped to get petrol. She attended to the petrol, checked the oil and the radiator, etc. A male motorist, seeing Max just sitting there in the passenger seat, said "You'd have to be the laziest, fat **** I'd ever seen." Max responded, "Well if that's the case, you really ought to get out more often."

I should point out that Max says that the six least used words in the English language are, "Why yes Max, I'd like to."

On one occasion Max was the presiding judge in a Readers' Course moot in the Banco Court. A group of Japanese tourists came into the back of the court shortly before the end of argument in a traffic appeal to see Australian justice at work. Max pronounced the death sentence. Somewhere in Japan there is a group of people who think Victoria is really tough on traffic offenders.

One of Max's often repeated pranks is to deliver the line theatrically, "Can you spare \$5 for an old digger?" On one occasion he was robbed and in the County Court lift on his way to court and he came out with this observation. Another barrister immediately interjected, "Don't give it to him. I can get you two old diggers for \$8."

On another occasion Max was appearing in an extradition proceeding before Kevin "Maximum" Mason SM. Max addressed the Magistrate, "My client has heard Your Worship's name. He consents to the extradition — but could he be given a window seat?"

JACK FAJGENBAUM

Jack Fajgenbaum was an academic for quite a few years before coming to the Bar. Perhaps it took him a little longer to build up the successful practice he now has. However, some years ago Jack and Tony Pagone were talking about their practices. Jack in his laconic and resigned end-of-the-world, life-treating-me-unfairly way, said to Tony, "How is it that you have so much work and I don't?" Pagone responded, "What can I say but that it shows the imperfections in the market."

Jack also has the unique ability of being able, unobtrusively, to go to sleep at the



Justice Buchanan and George Beaumont QC.



Jack Chernov, Peter Vickery QC, Jack Rush QC and Judge Davey.



Rosemary and Douglas Meagher QC, Elizabeth Hollingworth S.C., Jenifer Batrouney QC, Kate McMillan S.C., and My Anhtran.

dinner table sitting quite upright. Many pictures verify such conduct.

Jack, of course, knows everything about everyone. As one of his friends put it, he is part of the great human drama — he knows everyone and everyone knows him.

Jack can also sometimes be distracted in the course of his submissions. On one occasion he was opposed to Ray Finkelstein. He put a proposition to the court and Fink remarked in a loud voice “Wrong”. Jack reflected and corrected the proposition. Jack continued, he put another submission on a principle of law and Fink called out again “Wrong”. Jack recoiled and again corrected himself. He started again stating another proposition and again, Fink called out “Wrong”. Whereupon Jack turned to Fink and in frustration cried out, “How come you know everything.”

One of my colleagues, Mark Weinberg, has had a distinguished academic, practising and now judicial career, particularly specialising in criminal law. I always wondered what interested Mark about criminal law. Not so long ago he told me.

He found reading in Jack’s chambers so excruciatingly boring because of the type of work Jack did, particularly in relation to bankruptcy and insolvency, that he turned to a life of crime. However, there must have been something fecund about Jack’s chambers. Why? Because three of his readers, Robin Brett, Leslie Glick and Terry Murphy, celebrated the birth of their first child shortly after reading in Jack’s chambers. And of course Jack and Vivienne had their first child after about 17 years of marriage.

I am a little troubled about referring to Jack Fajgenbaum as a legend because St Jack is stretching the bounds of ecumenism. I also wondered why Jack came to the Bar having chosen what I thought was a permanent academic career. I am told that one of the reasons he left Monash to come to the Bar was that he would be able to wear a suit every day.

Jack Fajgenbaum is a well-known cyclist along the bicycle tracks of Melbourne. I ought to tell you that Jack dresses down for the occasion, which is probably why one observer of his cycling referred to his cycling clothes as “daggy”.

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However, the most severe criticism was reserved for his “out-of-fashion medium length white socks”.

But Jack is also an accomplished runner, or at least was. Around 1980 there was a Fun Run over eight miles, or should I say 13 km, or thereabouts. 13,000 people turned up and Jack finished 6,289, beating Fricke QC (7,287) and Castan (7,794).

GEORGE BEAUMONT

George Beaumont is, in my view, a most misunderstood person. His upfront and



Jeffrey Sher QC. replies



*David Shavin QC,
Pamela Tate S.C. and
Colin Golvan S.C.*



*Vivienne Fajgenbaum,
and Diana and Jeffrey
Sher QC.*



*Jack Fajgenbaum QC,
Judge Hart and Philip
Kennon QC.*

aggressive style disguises considerable ability and strategic judgment. However, I question his judgment. Towards the end of 1979 George asked me if I would lead him in a case in Papua New Guinea which would go for one or two weeks and would probably settle in the first week. In the events which occurred it went for three months and George and I became the most frequent fliers on Air Niugini and Qantas between Port Moresby and Melbourne. There is a lesson to be learned about how I came to be retained. George was being led by a Sydney silk who got upset with the judge one day and muttered, he thought in an undertone, "And this f**kwit calls himself a judge." Next day the transcript appeared with those words indelibly imprinted in the transcript. The moral of the story is keep your thoughts to yourself. The Sydney silk withdrew from the case and I was retained. I always wondered whether George put him up to it.

George has a penchant for first class air travel and what goes with it. On our regular trips to and from Port Moresby in 1979–80 there was a regular fracas on

board. George would order French champagne and usually on Air Niugini they would bring him Australian champagne. George would reject it, vociferously asserting that he knew they had French champagne on board and it must be given to him. It usually was.

George was well-known for his robust style of advocacy. It would often extend to making faces. Howard Nathan was often critical of Beaumont for doing this and would tell Beaumont that he had had enough of his facial gymnastics. George would rise to his feet, screw up his face in the manner that only George could and retort "But I didn't say anything".

George is unashamedly frank and direct in his views which are often said to offend accepted principles of political correctness. When Pamela Tate, now our eminent Victorian Solicitor-General, became Convenor of the Women Barristers Association, she invited George to a WBA cocktail party to celebrate the opening of the legal year. George went and one of his friends asked him whether he had been invited as an exhibit.

George is renowned for his aggressive and punchy style. It probably dates back to his days in primary school where it was said that he could not eat his lunch until after he had had a fight. It is said that even now he prefers a fight to a good feed and that he is uncommonly fond of a good feed.

George Beaumont's penchant for international travel, French wine and a good feed is soon to be interrupted when he becomes a grandfather of triplets by courtesy of his daughter, Kareena. George, are you ready for a change of life?

SUSAN CRENNAN

I went to a person who I thought would be a reliable source for dirt on Susan Crennan but the response was, "No one has anything on Sue — she's squeaky bloody clean." However, I can vouch for the fact that Sue has obvious magnetic abilities other than in relation to law. When we were in London in the middle of 1989 in the middle of Victoria's longest running civil case relating to the separation of oil and water technology on offshore oil platforms (245 sitting days),



Graeme Cantwell, Ray Perry, Diana Rasheva and David Drake.



Lachlan Watts and Chris Connor.



Robin Brett QC and Judge Waldron.



Jeremy Ruskin QC, Caroline Kenny and Richard McGarvie.

Sue persuaded me to go one evening to a discothèque/nightclub in Covent Garden where she was immediately surrounded by milling men. I made sure we were both home and in bed by 10 o'clock. It was during this period that Susan coined what became a standard farewell from her — “flocclater”. For the uninitiated, which I’m sure includes most of you, flocclation is the process of holding particles of aqueous vapour in suspension.

We even went to the learned Solicitor-General for the Commonwealth, David Bennett QC, with whom Sue read in Sydney. The best he could do was tell us that she was “not at all a frivolous young person”. I assume he meant then and now. However, on her first day as a reader with Bennett, who was trying to juggle five equity judges sitting simultaneously at the one time — a standard Sydney Friday — Sue helped him out by doing six mentions in five courts in the one morning. What an athlete!

Susan Crennan is distinguished by becoming the first woman Chairman of the Bar. She is very much a renaissance woman with a passion for English literature and Old Norse. It was always a joy

settling her drafts. We argued more about grammar than we did about law.

In her capacity of Chairman of the Bar, Sue received a number of ethical complaints. The most succinct complaint was in the following form:

Dear Missus,
My barrister his name ****. He no bloody good. He talks stupid. He a bastard. He want me pay \$300.
You fix please.

I’m sure Sue fixed it but I don’t know how.

Susan appeared one day as junior with an eminent silk in the Practice Court on an application for an injunction which had its problems. The application was heard in the morning and judgment was to be given after lunch. The silk told Sue, “If we get this injunction I’ll bare my bum in Bourke Street.” Sue went back after lunch to hear the judgment and came back to report to the silk the crowds were gathering outside Myers in Bourke Street for him. You will be pleased to know that modesty prevailed and the silk reneged on his promise.

In the mid 80s there was a substantial

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corporations case before Barry Beach. About ten silks and ten juniors were lined up and the silks approached Barry’s associate to ask if they needed to robe. Word came back that they did not need to robe, so long as they all wore matching socks. Why Barry was concerned about socks was not clear. Sue asked her leader, Douglas Graham QC to seek leave for her to appear un-socked but he declined to do



so. History does not recall whether Barry Beach objected to Sue's legs.

GERRY NASH

Gerry Nash had a distinguished academic career but I'd forgotten that he practised at the Bar before expanding on his academic career. Gerry came to the Bar in 1959 and shared one room with young Hartog Berkeley in Condon Chambers at 469 Chancery Lane. It was opposite the back entrance of Selbourne Chambers. Then, as now, accommodation for barristers was scarce and Mr Condon, the solicitor, let out rooms in his office. On the ground floor there were four small rooms. Gerry and Hartog shared one, Allayne Kiddle occupied another. My subsequent researches have disclosed that the other two were occupied by Garrick Gray and Garth Buckner. When you entered the ground floor there was a printer on the left for whom you rang a bell for service, and there were the barristers on the right, and heaven knows what you had to do to attract their attention. Probably wave a brief.

I am told that when Gerry was appointed as Foundation Professor and

Dean at the University in Papua New Guinea Law School in 1966 the headline in *The Sun Newspaper* was "Professor at 32 and he's modest". What made him change?

Gerry had an extensive academic career before coming to the Bar both in Papua New Guinea and at Melbourne and Monash University where he became Dean. On one occasion his academic career and Bar practice clashed. George Hampel was sitting in the Practice Court hearing an application for an order nisi to review a decision from the Magistrates' Court. Jack Hammond was for the applicant and Hartog led Gerry for the successful informant. After Hartog made his submission, Hammond argued that what Hartog had said was contrary to the treatise of his learned junior, Nash on Magistrates' Courts. Hammond said that he realised one could not rely on a text until the author was dead, but that his learned friend was not looking too well. Hartog responded vigorously: "He might as well be dead! Certainly he's wrong, and I'm not responsible for the silly things my juniors write in their books." History does not record what Hampel J did.

I am reminded about the time Gerry was at a County Court Civil Call over. Many counsel were trying to get their cases listed and it was a problem if your case was going to take too long. Gerry reduced his assessment of time for his defamation case from four-to-five days to a day or two. The judge, a little perplexed, asked: "How so?" Nash's immediate response: "It's only a little reputation, Your Honour." History does not record the outcome.

On one occasion Susan Crennan was opposed to Gerry before Justice Howard Nathan. It was a very hot day and Gerry was suffering very much in the heat, being fully robed. He knew Howard Nathan's views about robes and had worked hard

I am told that when Gerry was appointed as Foundation Professor and Dean at the University in Papua New Guinea Law School in 1966 the headline in *The Sun Newspaper* was "Professor at 32 and he's modest". What made him change?

when on the Bar Council for their elimination. So he asked the judge whether, as similar heat was forecast for the following day, would it be necessary to wear robes. Howard's response, "Mr Nash you can come in feathers if you like." Tempting though it was, the former founding Dean of the Papua New Guinea Law School restrained himself from wearing a feathered headdress. They robed as usual. My recollection when I was in Papua New Guinea with George Beaumont 20 odd years ago was that there was a form of dress around the lower part of the body called "arse grass". How would Gerry have looked in arse grass?

Let me conclude on this note. Since this is a legal gathering I thought I should be careful not to be obscene. I don't think I have been, but that's for you to judge. The problem is — what is obscenity? I am reminded of the case which was heard in Queensland many years ago around 1968 where an actor was charged with obscenity for using the expression on the stage "f***** *****". (The second word was racist, not regarded as objectionable then but unacceptable today). This gave rise to the porridge definition of obscenity. I think the play was "Norm and Ahmet". The actor was duly convicted and the case went on appeal to the Queensland Court of Criminal Appeal. In the course of argument the learned presiding judge asked counsel — tell me what is the definition of obscenity — what is obscene? Counsel responded that a workable definition of obscenity was what would be your wife's response over the breakfast table. The argument proceeded. That night the judge decided that he would try the workable definition of obscenity the next morning and assess the result. He sat down at breakfast and his wife said "What would you like, dear?" His response was "I'd like some f***** porridge." His wife's response was, "But you don't like porridge, dear." I think the appeal was upheld.

One has to be careful of one's use of language because it means different things to different people. A good example, is the late Queen Mother who had a partiality to gin and tonic and whose staff were composed significantly of men of the gay persuasion. One evening the Queen Mother was lusting for a gin and tonic. She rang for her staff but there was no answer again and again. Finally she got through. She was heard to say, "I don't know what you old Queens are doing down there, but this old Queen needs a gin and tonic."

I think I now need one too. I drink a toast to our eight living legends.