

Sixty New Barristers Take the Plunge ... and Swim

Philip Greenwood risked life and limb subjecting sixty new barristers to a 3 week full time reading course - and lived to tell the tale! Now read on.....

"Dear Greenwood,

You bastard!

In three weeks I went from an (apparently) normal person to a sleep-deprived, drunken wreck. I think this is called becoming a barrister. This is all your fault.

The worst thing is, I actually enjoyed it ... "

This was one of the cards that I received from the motley crew of sixty readers who went through the August program. A scrappier, less disciplined band you've never seen. These good-for-nothings ranged in age from 26 to 53 years (average age 36 years).

Here they were, coming to the greatest profession on earth, and complaining about being asked to work a mere 20 hours each day.

Little did they know that they were about to embark on one of the most highly sophisticated, carefully prepared and developed, technologically advanced programs of education presently available to the civilised world. The greatest living advocates in Australia (and hence, probably, the world) had banded together to fight the forces of evil.

In an explosive start, the readers were exposed to O'Keefe QC, Tobias QC, the Attorney General, the Solicitor General, Mr Justice Giles and Bennett QC in quick succession.

On the second day, Gee QC, Donohoe QC, Maonachie QC, Greenhill, Levy and a psychologist talked about:

"Documents: how to get them into evidence and make sure they stay there"

"The hearsay rule: what it really means, how to apply it and how to get around it"

"Opinion evidence: the five golden rules"

"Special rules for crime"

"The dreaded prior inconsistent statement"

"Refreshing memory properly"

"The standards of proof: like shifting sands"

"Inferences: making sure the judge draws the right one"

"The reliability and unreliability of eyewitness testimony: now you see it, now you don't"

The turning point came at 4 pm that day. Now it was the readers' turn to do some performing. In they went to courts 7 A-G in the Supreme Court. The teeth started chattering, the knees started shaking, the fingers started fiddling. All the

bravado seemed to have subsided. It was time for the performance. Just a simple exercise of tendering a business record, refreshing memory and dealing with a prior inconsistent statement. Well, we thought it was simple. The response of one of the most experienced solicitors in the group was telling:

"For fifteen years I have done litigation and have been sitting behind barristers tendering documents. They just seemed to hand them up to the judge and they became exhibits. I've never had to think about how it happens and how difficult it can be."

Next morning it was on again. Donohoe QC on Affidavits, Horler QC on Bail and Pleas of Guilty, and Coombs QC on Communication. And in support, we had a little human hand grenade, Marvin Ocker, from Melbourne, to talk about the ins and outs of chunking and neolinguistic programming. By the end of that session in the magnificent Parliament House auditorium, they were splattered all around the walls.

But more was in store. "Witness Preparation" with Nicholas QC, "Interlocutory Applications" with Collins QC, "The Role of Junior Counsel" with Sackar QC, and then it was time again for another performance.

This time to appear on an interlocutory application. The brief to appear in the Supreme Court had arrived late, as usual.

The instructing solicitor, the barrister's lifeline, had gone on holidays, as usual. And no, an adjournment would not be granted, as usual. And yes, the video camera was pointed at you to make you feel as uncomfortable as possible, as usual.

The use of a video recorder is an ingenious form of torture devised by the Americans and adopted by the Victorians. In terms of breaking spirit, it was remarkably effective.

The next day the readers were entertained by Mr Justice Rogers on the Commercial Division, Sir Lawrence Street on ADR, Sheller QC on "Preparation and Presentation of a Legal Argument" and the Chief Justice on "Styles of Advocacy". At the end of that day, submissive and whimpering, they were led into the Bar Common Room and the Bar Council bought them a drink.

It was the end of the first week. Court 19A, which had been generously made available by the High Court for most of the lectures, had become known as "Room 101".

For two more weeks, the process continued. Day in, day



Ms Divine shows her shoe ...

out, they toiled away. Ethics, Examination in chief, Cross examination, Equity, Juries, Criminal trials, Subpoenas, the Local Court, the District Court, the Coroners Court (including the morgue for those who were curious), the Family Court, the Federal Court, the Land and Environment Court, Addressing the court and much, much more.

Then it was time for the grand finale. It was time to run a case in court, all day, in front of a Supreme Court judge.

They had had the brief for over two weeks and they still screamed "More time".

Half the readers had received briefs to appear for either the plaintiff or the defendant in a straightforward common law case: *Blue Fantasy Motel Pty Limited v Reliable Fire Insurance Ltd* (author, Kelly).

Ms Simper, the proprietor of the Blue Fantasy Motel at Kings Cross, had suffered a fire at her premises and had claimed on her insurance policy. The insurer had denied liability, claiming that the fire had commenced minutes after the policy expired and in any event was started by a marijuana cigarette. Tilly Divine, a local "dancer", had been "using" the room at the time that the fire started. She had been "with" a new friend she had met who said he was a well-known politician. Constable Bryden had been off duty at the bar opposite and broke into the room when he saw the fire. His sensitive nose was able to detect a sweet, pungent aroma. Mr Barry was a well-known politician but was in bed nearby with his wife at the time.

The other half of the readers received an equity brief, which was, as usual, a little less colourful: *Re Calthrop* (author, Einstein QC).

Before his death, Mr Calthrop had enjoyed the attention and affection of a younger housekeeper, Mrs Montgomery. He enjoyed it so much that he gave her a lot of his wealth. After his death, his relatives were not delighted to find that his estate was less than expected so they sought to set aside the gifts that he had made to Mrs Montgomery. The cleaner, Mrs Holly, was happy to say how manipulative Mrs Montgomery had been. Dr Labb attested to the deceased's fragile state of health before his death. But Mrs Montgomery was staunch in her affections for the deceased, as well as his money, and the solicitor, Mr Lilley, with a bit of a conflict, agreed he had given some independent "advice".

Justices Powell, Kearney, McLelland, Hodgson, Cohen, Brownie, Loveday, Badgery-Parker, Sully and Yeldham QC agreed to suffer for a whole day, as did many members of the junior Bar who acted as instructors and associates at the hearings. Almost all of them had been bribed by the fact that the witnesses' roles were being played by willing and talented young actresses and actors from NIDA. Little more needed to be said.

The hearing commenced at 10 am. As the morning proceeded, a new threat emerged (which should have been fully foreseen) - the Yeldham factor. There was every danger that the case before his Honour would conclude a good three hours ahead of the rest.

The judges, associates and instructors were entertained in the Bar Common Room at lunch. I can no longer remember how many times I was asked by the judges whether or not the actresses would be invited for drinks afterwards. But the best

was yet to come.

Mr Justice Brownie nearly suffered retinal detachment when "his" Tilly Divine entered the witness box. Mr Justice Badgery Parker was no less subtle. He inquired of his Ms Divine about the shoes she was wearing at the time of the incident. No one with experience was unaware of his intentions. And Ms Divine obliged in the witness box by raising her very long leg above her head to show her shoe. It was a breath taking performance by the loud-mouthed, gum-chewing Ms Divine.

Following the hearing, a dinner was held at the Forbes Restaurant for all the readers and actors and their partners and we had the benefit of John "Country" Tankred and his delightful, but unrepeatable, Bengal tiger joke. Stories of what happened after the dinner with at least one actress are yet to be corroborated.

The three weeks together had been an education for all concerned. It had been hard, but everyone seemed to agree it had been a success. Commitment replaced apathy and there was a far keener understanding of how much there is to know.

What was very special was the camaraderie which had developed between the readers. We need more of this generally.

Congratulations to the motley crew and my thanks for your co-operation. □ P.H. Greenwood

Epecially Particular

Coram: Hunt J, *Defamation List* (19 October 1990)

His Honour: (to unidentified solicitor)
Don't you really think asking a request: "State specifically the identity of the persons said to be unknown" is excessive?

Child Custody - Access Disputes ?

For Mediation of Disputes Over Children

Helen Gerondis

FAMILY LAW MEDIATOR

A Kindergarten Teacher before becoming a Lawyer, she has a Grown Up Family and has trained in Divorce Mediation both in Sydney and the United States

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