

Bernard John Sharpe (1949–2009)

By Robert Angyall SC



We are gathered here today to mourn the death of Bernard Sharpe, to honour Bernie's memory and to celebrate Bernie's life.

When you research a eulogy, you hope to find some people who will say nice things about the departed person that you can pass on at the funeral to their family and friends.

I have to tell you, that of all the persons I spoke to about Bernie, nobody said anything, nobody said anything ... but nice things about Bernie.

The picture of Bernie that emerged was utterly consistent with the Bernie that I knew. Bernie was the kindest, most decent, and most unassuming person imaginable. I never heard Bernie speak ill of anyone. It's hard to image anyone disliking Bernie.

My job is to tell you about Bernie's life in the law.

I first met Bernie at high school. After doing the School Certificate at Crows Nest Boys' High, he earned a Commonwealth secondary scholarship and came to Shore for the last two years of high school in 1966 and 1967.

We did the very first Higher School Certificate.

Bernie's prowess at tennis already was obvious. He got Tennis Colours at a school where colours were not easy to earn. In our last year, 1967, he was also in the cricket first eleven.

Then it was off to uni and law school. Some of you will find this hard to believe but, at the time, Sydney University Law School was the only law school in New South Wales, so that's where Bernie and I went. Bernie graduated with a BA in 1971 and his law degree in 1974.

Bernie then became a solicitor with Stephen Jacques and Stephens - now Mallesons - in 1973. He worked there until he went to the bar in 1984. He became a litigator and very ably did a broad range of litigation. He became known as the person to whom sensitive work should be sent. In those days, it wasn't thought quite proper for the big firms to do family law so they only did it as a favour to important clients. Bernie became the 'go-to' man for this sort of work, which he did with sensitivity and tact. It was a harbinger of the way his practice developed at the bar.

Bernie went to the bar in 1984 and took chambers on Ninth Floor Windeyer Chambers. In 1993 he joined Sixth and Seventh Floor St James Hall Chambers. He was one of the earliest members of our chambers and, for all of us there, it is going to be very hard to imagine those chambers without Bernie being a part of them.

At the bar, Bernie developed a strong commercial practice, with a loyal following among solicitors. Ian Plowes, who has done so much for Bernie in his last year, was one of those solicitors.

In one of the earliest cases I can find where Bernie appeared, he represented a company director sued on a guarantee by one of the Big Four banks. The bank was represented by Charles Sweeney QC and Philip Dowdy, both of whom became members of our chambers. The case was heard by the chief judge of the Commercial Division.

Bernie claimed that a critical clause in the bank's guarantee was unjust and should be declared void as a result. He was undaunted by the heavy artillery arrayed against him. The result was that Bernie succeeded in having the clause in the guarantee declared void. I understand that, as a result of the case, the bank changed the wording of its guarantee.

Coincidentally, in the last case I could find in which Bernie appeared, he again was opposed to a member of our chambers, this time, David Jay. It took place at the end of last year, just before Bernie became ill.

By this time, Bernie had become a recognised leader in the area of wills and estates. He frequently appeared against senior counsel who specialised in this area. He gave seminars on the law in this area. He had a loyal following among solicitors.

Most of these cases involve disputes within families about how the property of a deceased family member should be distributed. Ancient family disputes are rekindled. Emotions often run high. Bernie was the ideal barrister for this sort of work because, whatever the circumstances, he retained his calm, balanced and kindly outlook.

In the case I just mentioned, Bernie represented an adopted daughter who had been left only \$10,000 by the will

of her adopting mother. The case was a hard one because the only substantial asset in the estate was a house that had been left to a grandchild. If Bernie's client was going to get anything more, the house would have to be sold. Also, there was strong evidence that Bernie's client was being supported by a *de facto* partner and didn't need any more money than her mother's will had given her.

At his 50th birthday party, there were suggestions that he was a confirmed old bachelor. In his speech, Bernie responded by saying that he carried a photograph of a woman around with him in his wallet. Following his speech, at least three women discreetly approached Bernie's clerk and asked if they were the woman in the photograph. She couldn't bring herself to tell them that when Bernie bought the wallet, the photo had come with it.

Despite all this, Bernie succeeded in getting his client a substantial grant. David Jay describes Bernie as having run the case with a completely straight bat – or, in tennis terms, every shot was hit without any spin.

While at the bar, Bernie gave of himself by doing volunteer work. For many years, he was part of a team of barristers who marked the bar exams taken by lawyers applying to become barristers. It was unglamorous and absolutely essential work. Bernie also was nominated by the minister for health to the New South Wales Optical Dispensers Licensing Board – another unglamorous and essential task. As you'd expect, Bernie also extended himself to help his colleagues in chambers. There was an

occasion when the barrister in the room next to Bernie – who long ago left our chambers – was having an affair with an artist. The artist furnished the barrister's room with paintings that were large, colourful and voluptuous. As you can imagine, this presented a problem when the barrister's wife visited his chambers. You've probably guessed what the solution was: Bernie's room suddenly took on the appearance of an art gallery.

I should say a word about Bernie and women. Bernie had a lot of female admirers. At his 50th birthday party, there were suggestions that he was a confirmed old bachelor. In his speech, Bernie responded by saying that he carried a photograph of a woman around with him in his wallet. Following his speech, at least three women discreetly approached Bernie's clerk and asked if they were the woman in the photograph. She couldn't bring herself to tell them that when Bernie bought the wallet, the photo had come with it.

I come back to the nature of the man. Bernie was unfailingly polite, fair, upright and unassuming. His door was always open to other members of chambers who needed advice, especially

more junior members. He always had time for others.

As I said at the beginning, nobody said anything but nice things about Bernie. In a profession where egos often are huge, where everyone is stressed by the demands of appearing in court and where everyone gossips relentlessly, that is quite amazing. It speaks volumes about the essential goodness of Bernie. He was the very definition of a good person.

There is a school of moral philosophy which teaches that the way to determine how to act morally is to follow this rule: act unto others in the way you would wish them to act unto you. They call this the 'Golden Rule'. Bernie's example suggests a better rule, which I will call 'Bernie's Rule': act unto others in the way that Bernie would have acted unto them.

Ladies and gentlemen, in the same way as that photo was a fixture in Bernie's wallet, he was a fixture in our chambers. We find it hard to visualise chambers without Bernie being a part of them. Bernie's life was cut short, untimely and cruelly. We all mourn the loss of Bernie and extend our sincere condolences to his family. Like them, we will miss Bernie terribly.