

Alexander Shand QC (1929–2011)

The following eulogy was delivered by the Hon R V Gyles AO QC at a memorial service for Alec Shand QC in St James Anglican Church on Thursday, 21 July 2011.

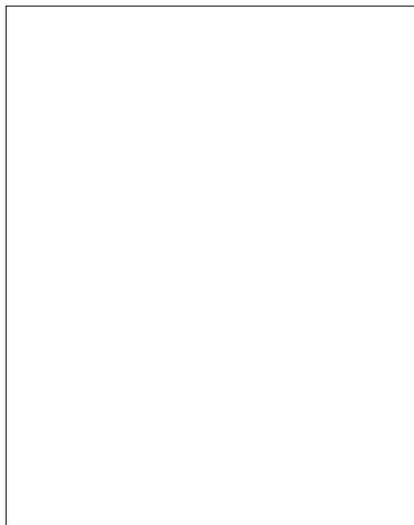


Photo: Palani Mohan / Fairfax Syndication

I first met Alec when, after leaving school in the middle 1950s, I started playing cricket for Lindfield District Cricket Club. Alec and his brother John were regular players. Alec was a left-hand fast medium bowler and a punishing middle order batsman. Any fieldsman who dropped a catch or let a ball through his hands from Alec's bowling experienced the Shand stare and voice that later broke hundreds of witnesses. He was an impressive figure to a young university student.

Alec had recently commenced practise at the bar and when, in due course, I was admitted as a solicitor, I briefed him in a number of matters, including two long-running matrimonial causes. Apart from his effective manner of presentation, his preparation was always thorough. That may have been assisted by the matrimonial clients both being attractive women whose evidence required close proofing in conference.

I fast forward to the middle 1970s. The Moffitt Royal

Commission was underway and I was Dennis Needham's junior assisting the Commissioner Justice Moffitt. Alec had recently taken silk and received the brief to represent the poker machine company, Bally Incorporated, and its principal in Australia, Jack Rooklyn. The Commissioner formed an unfavourable view of Bally's activities very early in the proceedings, and did not hide it. Dennis and I had a ringside seat for many months as Alec set his jaw and traded blow for blow with the Commissioner. Although he did not convert Justice Moffitt to the Bally cause – I doubt that Sir Garfield Barwick at his best could have done that – Alec earned the Commissioner's respect for the steadfast and resourceful defence of his clients.

So began a stellar career as leading counsel. His appearance before the Moffitt Royal Commission was the first of many appearances before commissions and inquiries of all kinds.

Amongst many others, he represented the interests of or associated with prominent individuals as diverse as Neville Wran, Lionel Murphy, Rex Jackson, Brian Burke, Angelo Vasta, George Freeman, Laurie Connell, Boris Ganke, Kerry Packer and Rupert Murdoch – the good, the bad and the ugly.

His legal roots were in the common law jury trial – civil and criminal. He carried his experience in personal injuries, defamation and the criminal law with him as a silk. The leading practice that he developed in defamation led to other fields of law involving the media, including television licensing and

regulation and the arcane area of administrative law.

His growing reputation as an advocate led to his being offered work in commercial causes and equity suits. That reputation travelled, and he appeared in substantial cases in most, if not all, of the Australian jurisdictions and in Fiji. I am not sure how his loyal clerk, Brian Bannon, kept track of him.

Alec appeared in appeals in the Privy Council, the High Court, the Federal Court and the courts of appeal or full courts of the states and territories but, above all, he will be remembered as a first instance advocate of choice for those with their backs to the wall in a difficult case or cause, no matter what or where the court or tribunal.

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Freeman, Laurie Connell, Boris Ganke, Kerry Packer and Rupert Murdoch – the good, the bad and the ugly. I'll warrant Rupert Murdoch would like to have Alex Shand by his side right now. Alec was a celebrity counsel in the best sense of the word.

Why such success? He had a good court presence – he was good

looking, upstanding with a clear and well modulated voice. He was never accused of being an equity whisperer. He had a colourful turn of phrase. One adjective would rarely be enough. He prepared well and mastered the facts. He was courageous, tenacious and determined. He had a good instinct for the strengths and weaknesses of witnesses and cases. Most importantly, his message was always direct, clear and unequivocal. You knew which side Alec was on. That gave his clients and their solicitors great comfort.

I should add that, although Alec was a tough opponent, he was fair and honourable.

Alec was by no means one dimensional. He maintained a lively interest in sport, particularly tennis. He dabbled in business ventures – not always successfully. He was a director of East West Airlines for a number of years, and was chairman until it was swallowed up. He was a director and then chairman of Counsels Chambers Limited. He was the doyen of 7th Floor Selborne Chambers for many years. He put together a macadamia empire near Lismore which led ultimately to his move with Lorraine to that area and to the local chambers. He celebrated 50 continuous years' practise at the bar while at Lismore.

In the 1990s he developed an interest in Aboriginal land rights, particularly in the Kimberley, and became an advocate for that cause from then on.

Some years ago I was in a group, including Alec, having a chat after court. One of those present asked him whether he was interested in judicial appointment. Alec stopped, looked at the enquirer with something approaching disdain, and said 'The Shands are barristers'. A fitting epitaph.

The following eulogy was delivered by the Hon TEF Hughes AO QC at a memorial service for Alec Shand QC in St James Anglican Church on Thursday, 21 July 2011

The paths of Alec Shand and myself first crossed in 1954 when he was admitted to the bar. His redoubtable father asked me to have Alec as a pupil for the compulsory 12 months of reading required of newly admitted barristers. We became members of the first floor of the old Selborne Chambers in Phillip Street. This was a cavernous old building, erected in the second half of the 19th century. The occupants of that floor had included practitioners such as Sir George Rich, Sir Frederick Jordan, Sir Dudley Williams and AB Shand KC, Alec's grandfather. Their ghosts seemed to hover over us.

Alec was an apt pupil. I was in no position, and lacked the ability, to teach him as much as his father could and did. My seniority at the

time of Alec's admission was only five years.

As Alec's practice developed, it became apparent that the forensic characteristics of father and son were in some ways dissimilar. As a cross-examiner JW Shand was venomous; a prominent weapon in his armoury was the technique of getting the cross-examinee to agree with the abstract proposition that

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engagement in a particular species of conduct would be reprehensible and destructive of credibility. From there he would move to extracting

an admission that the witness had in fact engaged in that conduct.

While Alec did not renounce this particular mode of cross-examination, the main difference between father and son in forensic technique lay in the contrast between parental dagger and filial broadsword. I was far too young ever to have seen Alec's grandfather in action, but I suspect that Alec

inherited more grand-parental than parental forensic genes. Whatever the genealogical source or sources, the inheritance was rich.

One of Alec's principal attributes as counsel was his doggedly determined persistence in the pursuit of his client's cause. Witness his role as senior counsel for my friend Neville Wran in the Humphreys Royal Commission conducted by Sir Laurence Street in 1983. Sometimes it was said that at times he was too dogged.

We spent short vacations at Thredbo where we skied together under the tutelage of Austrian instructors, one of whom had been a Luftwaffe pilot.

Criticism of the forensic performance of others is common at the bar. No senior counsel with a busy practice is exempt from it. But Neville Wran voiced no misgivings (if he had any) about Alec's conduct of the case. The client let counsel run it his own way. The outcome was not only an acquittal of the client of any imputation of wrongdoing but an emphatic positive finding that the allegations against Neville Wran had no substance. This was a great triumph for a Premier wrongfully traduced

and for his leading counsel.

The friendship between Alec and myself was cemented by a shared interest in skiing. We spent short vacations at Thredbo where we skied together under the tutelage of Austrian instructors, one of whom had been a Luftwaffe pilot. Alec and I, together with Ian Curlewis, John Holt, John Minter and my brother

Geoffrey were founding members of Crackenback Ski Club, the first club in the Thredbo Valley. We sat on its executive committee together. We built the Club for £5,000. It opened on the August Bank Holiday weekend 1957 in heavy snow. We helped to build the first uphill transportation at Thredbo, the Crackenback Rope Tow, under the leadership of my brother Geoffrey. I recall an occasion when a heavy load of building materials dropped from the tow within inches of where Alec was standing below,

nearly cutting off what became a stellar career at the bar.

Joanna, who is here today, and I had the pleasure of making our rather subterranean apartment at 'Manar', 42 Macleay Street, Potts Point, available for Alec's and Lorraine's wedding reception on 21 March 1959. On that occasion, our daughter Lucy, then less than a year old, made her presence felt by breaking a beautiful vase given to us by Alec as a thank you present.

I remember Alec as a colleague who for many years was in great demand as a formidable leading advocate in important cases. I remember him with affection for our friendship in earlier years.