

Meaghertyrdom

Speech by BMJ Toomey QC on 10 September 1993 at the Clerks' Dinner

Roderick Pitt Meagher - the only Judge to have a CBD street named after him - was born of rich but honest parents on 17 March 1932 - St Patrick's Day. The midwife who delivered him was disappointed that there was no silver spoon in his mouth but while inspecting him to see that he was intact found instead, clutched in his tiny hand, an exquisitely enamelled silver French snuff box.

When he was two years old a tendency which has marked His Honour's life first became apparent. After his mother had chastised him for prattling she was staggered to hear the following words fall from his cherubic lips: He said "*Bwevwis esse labowo, obscuwus fio - Howace.*" You will note that the little fellow had then, as now, an engaging, indeed some would say delicious, lisp. The Horace referred to is, of course, the Latin poet, not the Sydney barrister and patron of the arts Horace Millar. Of His Honour's legendary friendship with the latter I shall speak later.

The phrase enunciated by His Honour means "*It is when I struggle to be brief that I become unintelligible*". Jumping ahead momentarily, it may be said to explain His Honour's densely obscure judgments - usually dissenting and never longer than two hundred words - in myriad quantum appeals. The combination of his lisp and his life long struggle against brevity also explains the phrase which often appears in his oral, but never his written, judgments where he refers to the submissions of counsel as "pithy".

But, you say, surely the question which really arises is: How could His Honour speak classical Latin at the age of two? That question troubled me too, but intensive research with the two Judges upon whom His Honour has modelled himself - President Michael Kirby of the Court of Appeal and Justice Marcus Einfeld of the Federal Court - has given me the answer.

It appears that when His Honour was nearly two years old he was playing in the garden of the family mansion at Darling Point when a flying saucer landed beside him. Its occupants were so captivated by the chubby and beautiful little fellow that they kidnapped him for a week and tutored him in Latin, Greek, the dialects of Ancient Hibernia and differential calculus. This experience is the explanation for His Honour's well-known tolerance - he learnt in that week that just because aliens have several heads, six arms and an astonishing variety of sexual organs does not mean that they are not really nice persons. Even more importantly for his future life, he learned that difficulty in expressing oneself in English does not mean that one is not a thoroughly credible and decent chap, to be accepted without question when one swears that a bruise on the buttock has caused one to suffer devastating and irreversible brain damage.

But, I hear you asking, how can Toomey know these things, even if he has spoken to Justices Kirby and Einfeld? Well, the fact is that Einfeld J told me that he had dismissed an application by the Department of Immigration to have the aliens deported as illegal immigrants - the basis it seems was that the Department had not supplied each of the thirty-seven aliens with a Martian interpreter and had thus denied them natural justice. And President Kirby gave a speech on ABC Radio in which he recounted the incident with the young Roddy Meagher as part of a plea for greater understanding of foreign and different cultures. Of course, anyone so sparing and selective in his public utterances as the President must be

taken to be careful of exact accuracy on the rare occasions when he does speak. There is in any event powerful circumstantial evidence to support the story - those who have heard His Honour say that he does, indeed, speak Greek and Latin as though he had learned them on another planet.

As he grew up His Honour became an enthusiastic sportsman. He was captain of rugby at Riverview - a forward of such untrammelled ferocity that Joey's offered him a scholarship. They persisted with this even when they found he could read, but His Honour's wealth was so great he was able to tell them he would reject the Catholics and remain with the Jesuits. His other sporting interests were mud wrestling and buck jumping. He is still, I am told, frequently seen as a spectator at women's mud wrestling events.

At Sydney University the extraordinary and long lasting effects of the aliens' teaching methods were demonstrated when His Honour won a medal or two for such subjects as Consumerism, Female Homosexuality and the Law, and the Praxis of Poverty Law in Shopfront Legal Centres. In the last subject he was the proud winner of the Bert & Elizabeth Evatt Prize for Sensitivity in the Law.

Laden with honours (and still, fortunately, with private wealth) His Honour came to the Bar. His love of humanity, especially disadvantaged humanity, drew His Honour inevitably to the Workers' Compensation Commission. A personal magnet in this direction was, as I have said, his legendary friendship with Horace Armitage Millar. On almost any day until his appointment to the Bench His Honour could be seen fully robed, usually in the full bottomed wig which he affected when appearing before the Commission, walking arm and arm down Macquarie Street with Horry Millar - one with a partly eaten meat pie in his right hand, the other with a partly eaten Big Mac in his left.

His Honour's true democracy was demonstrated in one of his probing cross-examinations of an illiterate Mongolian peasant who claimed not to remember having seen a doctor in Macquarie Street or even to know the building in which the doctor had his rooms. His Honour devastated him with the flashing question - "*You know, the building just next to the Australian Club*". As he rose in his profession, taking silk in 1974, His Honour became a sought after public speaker. No doubt he was usually asked because of the moderation and love of his fellow man which shone through his public words. Of teachers at law schools, for instance, he said:

"At any of the various institutions [in] Australia [which] actually purported to teach practical skills one finds to an alarming degree [that the staff] are failed practitioners, usually psychopaths and sometimes alcoholics as well."

The thorough, judicious and reasoned expression of cautious views such as those led to His Honour being appointed to the Court of Appeal in 1989. Since I have at least once case reserved before him I think it prudent to say no more than that His Honour has conducted himself on the Bench exactly as those who knew him expected he would. Finally, let me say, misquoting Voltaire, that if Roderick Pitt Meagher did not exist it would be necessary to invent him. Ladies and gentlemen I ask you to rise and toast the misanthropic, the eclectic, the esoteric, the indispensable, the unique Mr Justice Meagher. □