

Anthony John Enright (1945 – 2005)



So soon after the shock and sadness of Peter Hely's death, we have lost yet another respected, valued and loved member of our legal community, Anthony Enright. I have never encountered a person who was so welcoming of death as he was but, as he said, if I had been in his circumstances I would have felt the same way.

Anthony was born in Maitland on 25 August 1945, the second of five children. He attended Marist Brothers' Primary School in Maitland and, for his secondary schooling, Saint Ignatius' College, completing the Leaving Certificate in 1962. He commenced a BA at the University of Newcastle in 1963, after which, in 1964, he entered the Jesuit Seminary at Watsonia in Victoria. He left the Jesuits at the end of the year, returning to Sydney University where he continued to read for the BA LLB. He had a year at St John's College in 1965, where we became friends. In 1966, in his first year at law school he met Paulyne Williams and they married in August 1967. In their early married life they lived at Kirribilli, a bottle throw from Admiralty House. During these years he was associate respectively to Judge Perrignon in the Crown Employees' Appeal Board and the NSW Racing Tribunal and to Nagle J (as he then was) in the Supreme Court.

On graduation he was admitted as a solicitor and joined his father's firm, W J Enright & Sons, in Maitland. The firm had been established by his grandfather in 1896. He remained with the firm as a solicitor until, in May 1978, he went to Darwin where he joined the magistracy, presiding over a wide variety of coronial, criminal and civil work. One case always at the forefront of his recollections involved an assault between neighbours, apparently caused by a sleep-depriving, squawking parrot, silenced when the head of the victim's parrot had 'just

came off' in the assailant's hands. The breadth of Anthony's experiences in Darwin proved a metaphor for his practice at the NSW Bar. In February 1980 he was admitted to the Bar, where he practised until his death.

In his 25 years at the Bar he practised in a variety of fields and jurisdictions – common law, equity (property and commercial), criminal law, family law, building and construction, at all levels from local courts to the Court of Appeal. He practised both in Sydney, and in the country where he was a frequent contributor to the Forbes, Griffith and Maitland Supreme and District Court sittings.

Initially he occupied chambers at Edmund Barton, level 44 MLC Centre. Over time he moved to Ground Floor Windeyer in Macquarie Street where his chambers were furthest from the entrance, uncontaminated by natural light and with a respectable atmosphere of disorganisation, (some) dust and paper mayhem. The state of his chambers, and his handwriting, although small, persuaded me that I was dealing with a person who was not, and would never be, anal, lacking the qualifications for it. But, ironically, his drafting of affidavits and conscientious attention to detail in the conduct of his cases suggested otherwise.

He had an impressive armoury of qualities as a human being which reflected in the practice of his profession – temperance, patience, thought-before-speech, persistence, understanding and a generosity for others. He had a well grounded spirituality and a strong moral sense – a foundation for his discipline. (He used alcohol not only for medicinal purposes, but also to liberate the senses).

Wrapped around these qualities was his style. His humour was larrikin, ranging from sardonic to irreverent wit and he did not shrink from 'taking the piss'. His style in speech was laconic, modest, understated and devoid of pomp or arrogance. He was streetwise. He was a shrewd and able judge of people. He was measured, restrained and humble, making him an effective and persuasive advocate. He was an enthusiastic and very good raconteur. He often looked at you out of the corner of his eye with provocative humour, perhaps a relic of that past time in his life when he drew on a cigarette in the same corner of his mouth. He was avuncular in appearance and presentation – you always wanted to put your arm around him. His dress was sometimes challenged. On occasions he could have been committed for 'unkempt of court' (it was not a question of his carelessness: rather one of priorities...) His walk, somewhat of a plod, belied his athleticism and interest in sports. He was passionate about cricket, and a keen tennis, squash and touch football player until, one by one, these activities became beyond him in the last few years. His attitude to sport and to the practice of his profession reflected his love of a contest – he applied himself as an energetic and tenacious opponent in any such contest (even with his daughters). Just causes tended to attract more energy than he had to spare. When the contest, of whatever nature, had

concluded, he accepted its outcome without rancour or regret and no revisiting, beyond his propensity to be hard on himself for any error he had made.

He combined a number of admirable qualities as a barrister – economy of presentation, ease of expression, candour with the Bench, a keen, alert and compassionate listener (where appropriate), enthusiasm for the law and a robust promoter of his clients' interests. His enthusiasm for a conference with his solicitor (and its subject matter) led him on one occasion to counsel his anxious instructing solicitor not to worry about the fire alarm and to continue with the conference, which was only ultimately interrupted by an engine operating near to or outside Anthony's chambers. Anthony stopped, innocently asking what the noise was. In the absence of a response that satisfied him, he and the solicitor opened the door to find the fire brigade pumping out smoke from the entire Chambers, after extinguishing a fire in another room.

The age of hi-tech didn't touch him; he refused to own a mobile phone but, like cigarettes, he bummed them. One solicitor recalls that Anthony gave out the solicitor's mobile number to the list judge when contact details were required for the allocation of cases. On one occasion the solicitor was contacted by a judge's associate to say that the judge was ready to hear the case but unfortunately he wasn't briefing Anthony, knew nothing about the case and was sitting in his law office in Liverpool! Anthony did not embrace the computer, even for dealing with the GST – he simply squeezed another column on to his exercise book.

A chorus of his instructing solicitors said he was a great barrister – reliable ('never let you down'; 'prepared to accept a broad range of work and...the perfect barrister for a suburban legal practitioner'), solid in legal principle and courteous, punctual and patient with clients. All of those who instructed him regarded him with great affection. Tellingly, he had long associations with all of them. All grin and laugh with pleasure at the mention of his name. All trusted him and his judgement – one describes him as a 'mentor'. Others regard themselves as beneficiaries 'of his wise counsel'. A date set for a brief in his diary stayed there – never flicked. These relationships were achieved not only through his results, but also because of his dignified and respectful manner. Briefed to confirm an opinion already given to the client by his instructing solicitor, Anthony began his advice: 'With respect to my instructing solicitor's well reasoned and cogent advice...I must regretfully come to a different conclusion'.

A verbal advice on evidence to solicitors was often accompanied by a cocked eyebrow and a 'Can you make a few discreet inquiries?' This turned back on Anthony on his deathbed when he was asked by one of his instructing solicitors whether, in the Hereafter, he could make a 'few discreet enquiries' about future winning Lotto ticket numbers back on earth. In hospital at the end, he frequently requested that 'a discreet enquiry' be made about the whereabouts of his medicine, or a bottle.

As a colleague, I worked with him on a number of cases – always a pleasure because he worried about the case, the result and, on appeals, his performance in the trial court. In most of the cases on which I worked with him, any success was substantially due to his enthusiasm and industry. He put up with my anxieties about issues, did more than he was asked to do, created an easy and productive environment for client, solicitors and counsel to interact and always had a valuable and insightful perspective on how a case should be fought, how a witness should be dealt with or how a judge could best be appealed to. This attribute earned him the respect of the Bench as well. Briefed to appear at Eden Local Court to defend a Fisheries Act prosecution with a defence based on his instructing solicitor's absolute confidence that the legislation upon which the prosecution was based was unconstitutional, notice of the point was required to be given to the several Commonwealth and state attorneys-general. The learned presiding magistrate was confronted by the appearance in his court of Leslie Katz, the then solicitor-general for NSW. As Mr Katz proceeded to expound on applicable constitutional principle, Anthony discerned that his Worship may have been awed, if not overwhelmed, by the occasion. In an admirable display of forensic opportunism, Anthony interrupted to suggest that his Worship might be assisted by written submissions, a course with which his Worship enthusiastically agreed. The hearing ended. Anthony's written submissions ultimately conceded that the position of his opponent for the state of NSW was correct. The outcome for the client was that his Worship found the offence as proved but declined to enter a conviction. It is easy to imagine that, from the perspective of the Bench, Anthony was viewed as an able, sensitive and trustworthy advocate, worthy of great respect.

His colleagues at the Bar viewed him in the same way – convivial, generous with his time and library, astute with his counsel and indefatigably conscientious with his work. As an advocate he was not fazed by the aggression or hubris of an opponent, not deterred by unfavourable or 'quicksanded' facts or complex legal principles and not intimidated by the odd outburst of judicial indignation. Late nights at the desk were not uncommon. Nor were late night celebrations after a win. He was no stranger to Chinese restaurants.

His clients were worried about and were made to feel worried about, even in unconventional ways. On one occasion Anthony was conducting a 'test' case in the Supreme Court for a public authority, much hanging on the result from the client's perspective. The conference with the client before the 10:00 am hearing was accordingly and understandably tense. The tension continued until 9:30 am when Anthony began to ask his instructing solicitor (of Italian descent) what part of Italy his family had come from and how he made his pasta sauce (although not, I suspect, totally concerned about the subject matter of his enquiry...). After the conversation, client, solicitor and Anthony went off to court, edified and confident. After

another conference in an equity case, he thanked his client for being so frank and honest with him and for her preparedness to trust him with some of the hurtful and very personal details of her life.

In his last days he worked up until the October long weekend, at which point he was unable to continue. He had worked effectively and with great success for seven years after diagnosis of his terminal illness. His courage shamed our petty preoccupations. He was determined to live a normal life up until this time, to visit as little a burden on his family as possible, to give his youngest daughter Abby away in marriage on 17 September and to see his first grandchild Tzipporah ('Zippie'), born 29 September. He did not fight for life, but fought to leave it, constrained by his strong religious principles...how we all wanted his pain to end, but he faced it with courage and enthusiasm for its conclusion! He was as easy with death as he had been with life although he was, for once, uncomfortable in his own skin. He talked of his death and its timing as if it were a court hearing, scheduled for a couple of weeks hence. ('They're saying November'; 'I'd rather die at home as long as I can use the toilet'). In the Sacred Heart Hospice he had declined to take any food or nourishment, to hasten his end. I was shocked at his courage. But men of the spirit have no fear. Even at the end he

maintained his sense of humour. As I sat by his bed he apologised for his falling asleep during our conversation. He was extremely weak and unable to maintain concentration for any length of time. He looked at me with a dulled twinkle, mentioned that he had been unable to maintain a conversation with friends who had visited him in the previous few days and said 'it is to their detriment that I can't talk to them', giving me a waggish look. I had to agree with him.

His younger brother, the celebrated Australian playwright Nick, died on 31 March 2003 and Anthony attended him over the last period of his life. His father, Walter Anthony died on 17 January 1991.

He is survived by his wife Paulyne, daughters Jane, Rachel and Abby, his mother Joan, his sister Helen, brother Chris (senior lecturer in law at ACU) and brother Ian (a partner at Ebsworth & Ebsworth).

He has made arrangements with a lot of people to meet them in the Hereafter: not all of us will make it, at least to his exclusive address. But it is nice to have been asked. Ave Atque Vale Anthony.

John Timbs QC

The Hon Justice Graham Hill (1938 - 2005)



A memorial service for the Hon Justice Graham Hill was held on 1 September 2005 at St James Church, King Street, Sydney. The following address was delivered by The Hon Michael Black AC, Chief Justice of the Federal Court of Australia.

With the untimely passing of Justice Graham Hill last week, on Wednesday 24 August, the Australian judiciary lost one of its outstanding legal minds. We in the Federal Court lost a superb judge and fine colleague whose contribution to the work of the court judicially and extra-judicially was quite exceptional.

In paying tribute to Graham, it is a daunting task to convey, in brief remarks, an adequate idea of the richness and diversity of his work and his service to the community: as a lawyer, a scholar, a teacher, a leader, a mentor and a member of our court. I can do no more than give an outline of the *public* side of a remarkable life – a life to be celebrated.

Donald Graham Hill was born in Sydney on 1 November 1938. He received his secondary education at Fort Street Boys' High School where, in brilliant company, he was an outstanding student. He then studied arts and law at Sydney University, beginning an association that continued for the rest of his life. Again he showed himself to be an outstanding student. He also became closely involved in the life of the university.