



Malcolm Bruce Oakes SC

1949–2023

Kevin Tang
8 Wentworth Chambers

Malcolm Bruce Oakes, a senior silk of the Sydney Bar, died suddenly at home on 20 November 2023 aged 74 years. He was the leader of Tenth Floor Chambers, and throughout his lengthy career he was kind, humble, and modest. He was a fine exponent of the Inner Bar.

Malcolm was born in 1949 in Lismore on the New South Wales Far North Coast, into a joyful family where his father was a local solicitor and his mother a fine English teacher. It was that legendary post war period when Australia fell asleep, and the Menzies era was in full swing. Life was idyllic for the term of his childhood.

Malcolm always liked different cultures. His mother was renowned for her great skill as a teacher and took seriously caring for and advancing the neighbouring Aboriginal settlement and its people. She learnt some

of the local Indigenous language and had a particular fondness for recording and collecting local songs. Malcolm assisted her in that regard, and he spoke of those years fondly. It was perhaps this element of life that made Malcolm so genial, understanding, and kind.

Malcolm loved those years on the North Coast before he moved to Sydney and entered the Law. His taste for the exotic came through with mango trees and his mother’s great sense of occasion and conviviality. Malcolm did exceedingly well at the Leaving Certificate and he was Dux of his year. His mother and father were stunningly pleased. That achievement paved the way for a life elsewhere.

Malcolm arrived in Sydney to read law at the University of Sydney in 1967, residing at St Andrew’s College throughout his degree. He spent the balance of the 1970s as a solicitor at Allen Allen & Hemsley where one of his Master Solicitors was the Honourable William Gummow AC

KC, who became a close friend. In that great tradition, Oakes SC undertook an antipodean sojourn in London at the firm Allen & Overy. From time to time, Malcolm would, in the course of conferences, recall his years as an intrepid traveller, recounting occasions when he conversed with children to practise their English in the main square of Tbilisi in Georgia; walked the small laneways of London; or paced the white sands of Marbella. He looked forward to trips to China and Hong Kong, as he did just recently. Some years ago, he spent some fascinating weeks with his wife Beverley in Sabah Sarawak (North Borneo) to his delight, again in search of people and times past. One could say that Oakes SC’s endless fascination with other people and their stories was something he inherited from his mother.

Oakes SC was called to the Bar in 1980 and read with J P Bryson, later a Queen’s Counsel, judge of the Supreme Court and judge of appeal. He became a lifelong



Malcolm Oakes SC in chambers with his granddaughter Josie Oakes c.2019

friend. After reading on Ten Wentworth, he continued his practice on the Fifth Floor of Garfield Barwick Chambers and then Thirteen Wentworth before returning to the Tenth Floor, where he spent the majority of his career with Ken Hall and, subsequently, under the watchful eye of Di Strathdee and Emma Hoolahan, the clerks of Ten.

Malcolm was a practitioner in general equity, commercial law and corporations. His practice was broad to commence with – a number of solicitors from around New South Wales would regularly brief him. He recalled W V Windeyer (President of the Law Society, later a Master of the Court and a Supreme Court judge) briefing him in claims on wills and estates and curious property matters. He was also led many times by the late Honourable Simon Sheller AO QC (1933–2018) and the late Honourable Dick Conti QC (1937–2016). Oakes SC was a regular in the list before the late Master John McLaughlin (1938–2023). He worked hard and his light shone brightly. He had the quaintest clients in his years as a junior counsel: dairy farming families wrangling over an inheritance, old Australian graziers fighting over land, and also the sweetest old ladies in a spot of trouble, even a compulsive gambler with the odd gold bar. From his earliest time of practice, he loved the ‘lore’ of the Bar, and he contributed to it often.

Oakes SC took silk in 1994. It was during this time that corporations law became his ultimate speciality. He was legendary in that sphere, especially on schemes of arrangement. Nonetheless, he would still take a brief in a case which a junior could

properly describe to him and that he found captivating. His orderly nature was calming as well as effective in court.

At the heart of Oakes SC’s professional identity was a deep sense of competence, kindness, and reverence for learning. Silver-haired, Malcolm exuded a sense of gravitas. His courtcraft was particular. He never uttered a word more than he was required to: in court as in life. Words were used for their precise meaning. He lived by the old adage, ‘Silence is golden’. Otherwise, it was the Lord Denning method of advocacy: ‘Don’t say a thing. You might win.’

He had a quiet sense of joy which was palpable and a certain ebullience. He would show his friends that he cared very much about them by the way he conducted himself and the amount of time and effort he would put in to maintaining his friendships. He was chiefly a great observer of humanity. His sense of fun was exquisite for any junior counsel in his care. He made one work hard but also laugh. He was a thoughtful leader.

Oakes SC was much loved by members of the Bar. He was a tall, robust and dignified man with a baritone voice and a distinctive raucous laugh – but he always had time to listen to a junior and he would drop everything to do so, at any time. Oakes SC would give his own impressions and thoughts first, and then he took time to encourage and help a junior. He would not let his charge go until he was confident that they knew exactly what to do.

As a pastime, Oakes SC loved history. In recent years, after reaching a dead-end on his own family history, he instead turned to researching his children’s Chinese–Australian

heritage as fifth-generation Australians of Chinese descent through their mother and his wife, Beverley. Malcolm was joined in that endeavour by his sister-in-law Alison Choy Flannigan, a solicitor. This interest manifested itself more generally in Oakes SC becoming secretary, treasurer and then latterly vice-president of the Chinese Australian Historical Society (CAHS). It also extended to a great interest in the life of William Jang Sing (‘Bill’) Lee (1912–2010), the first barrister of Chinese descent admitted to the NSW Bar, who practised for years from the Thirteenth Floor of Selborne Chambers. He was fascinated to learn the lore of this pioneering advocate whom he never met. On the mention of Bill Lee, Oakes SC’s quiet and serious nature became at once sparkling and engaging in company.

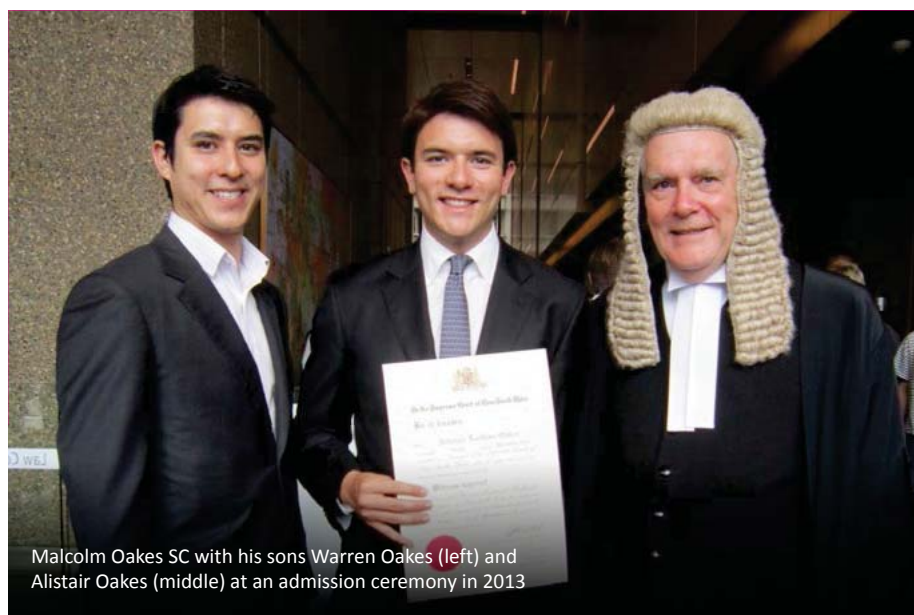
Christ Church St Laurence was filled to capacity for Oakes SC’s funeral on Friday 1 December 2023. All of his friends and relatives attended and a large number of legal practitioners and judges came to bid him farewell, such was the esteem they had for him. Malcolm embodied the Bar. The Bar will miss him.

Malcolm was a loving husband to Beverley, father to William, Warren, Georgie, and Alistair (a barrister) and grandfather to Josie, Teodor, Clementine, Eloise, Lachlan, and Eleanor. His brother Frank and his sister Mary also survive him. They all feel the loss deeply.

Goodnight Malcolm, 晚安啲。

Rest in peace.

BN



Malcolm Oakes SC with his sons Warren Oakes (left) and Alistair Oakes (middle) at an admission ceremony in 2013