

Eulogy for The Hon. John Slattery

Inside each one of us we carry an image, an image of my father John. Every one of those images is subtly different. Some of our images are of his laughter, some reflect the warmth of his friendship with us, some convey his good judgment, courtesy and fairness on the Bench, some reveal his unforced humility and compassion for others, and some his extraordinary memory.

But I am sure we all have one image of John in common: it is what happened when he met each one of us. He would light up and he would ask and talk about us, about our lives, our families, our careers, and our interests. He always wanted to know more about us and to celebrate the milestones in our lives, before we could ever ask about his. His natural generosity of spirit was always uplifting. He made us feel better about ourselves.

The events that brought my father to legal Sydney would be impossible in some societies. But they are for us a recognisably Australian story: a story of a fair opportunity given which he turned to advantage by his good character, by his hard work and by his faith in God and man.

John Slattery was born at home in Lambs Valley on the Hunter River, near Lochinvar on 4 August 1918. His father John Thomas Slattery a dairy farmer and his mother Alice were both of Irish descent. Dad was the eldest of four children, with younger siblings Patricia, Kevin and Lily. His father's family had settled in the Hunter Valley as refugees from the Irish potato famines after 1848, near Branxton, a district reminding them of home. His mother's family, the Morans, were descendants of Irish convicts who had settled in the 1830s, not far away at Hinton near Morpeth.

By the time of his death dad was a remarkably modern 96-year-old. He could use email, internet banking and accessed his favourite old movies on Apple TV. But the Hunter Valley of dad's birth was a very different place. He rode his horse from home to a one-room primary school at Stanhope 2 miles away. He studied by kerosene

lamp until electricity was locally connected during his primary school years. But he loved the land and people of the Hunter and constantly returned there throughout his life to be with them and later to administer justice to them. And John was a special last link to that Irish Heritage he so cherished. He always remembered one of those original 1848 immigrants, his great-great Aunt, Catherine Hogan, who died in 1928 when he was 10, and after whom he named my late eldest sister, Catherine.

Being born on a dairy farm is not the most obvious starting point to becoming the Supreme Court's Chief Judge in Common Law. But three remarkable steps changed the course of dad's life to allow that to occur. The first occurred within his family. His mother and her twin sister Lily Moran were the last of a 19th century family of thirteen children. The genius of this large family was that the older siblings took semi-parental responsibility for the younger ones. One of Alice's older sisters Janet Tidy was a teacher. She and her husband recognised that this boy born on the farm had a special intellect. So in John's late primary school years she persuaded John's mother Alice to allow him to go to Waverley College in Sydney. Alice's own generosity of spirit and her faith in the judgment of her older sister allowed her to let him go. Family folklore is that he hid under the bed and had to be prized out, for the journey into his new life.

But Alice's older sister was right. Dad lived with his aunt Lily in Bondi Junction and attended school at Waverley, where he flourished as a student and keen rugby and cricket player. But in order to earn a living he had to leave Waverley only with the Intermediate Certificate. At this moment he was given his second opportunity. The Christian Brothers at Waverley offered to coach him at night for the Leaving Certificate, whilst he worked during the day. He was grateful throughout his life to Brother Lacey, a senior Brother at the school whose personal coaching allowed him to matriculate. He always maintained his affection for the School. On matriculation he decided to study law.

Then his third great career opportunity arrived. In 1942 a friend retired as the Associate to the then Chief Justice, Sir Frederick Jordan. He recommended dad as his replacement and Sir Frederick accepted him. But if dad had any doubts about his career before 1942, the next three years spent watching Sir Frederick's Mozartian

legal intelligence at work put any such doubts to rest. He had great affection for Sir Frederick.

But Sir Frederick was also Lieutenant Governor. In mid 1944 the then State Governor, left Australia and was not replaced for about the last fifteen months of the War. So Sir Frederick became Acting Governor. Thus the boy from the Hunter dairy farm, as well as being an Associate, was appointed as the principal private secretary to the Lieutenant-Governor of New South Wales.

His time at Government House changed John further. Firstly it gave him respect for protocol and ceremonial dignity that was evident throughout his whole judicial career. A remarkable feature of his career on the bench is that no one can ever recall him losing his composure. And he had absorbed from Sir Frederick a powerful sense of the independence of the judiciary, and judicial courage, so evident later in his life.

But more importantly this period also brought him to our mother Margaret. Dad and mum always remembered their introduction on a White City tennis court on a Sunday afternoon in 1944. The matchmakers were Margaret's older sister Rita and her husband, Tom Burke an old Waverley boy. John and Margaret were married on the 9th of May 1946, founding a extraordinary partnership of love, demonstrable affection, powerful mutual respect and mutually reinforcing energy, a partnership that has benefited everyone of us, and which reached its 68th Anniversary.

But it is perhaps a wonder they ever married. What mum perhaps didn't realise at first is that dad's wonderful sense of humour was inherited. He came from a family of Irish practical jokers: yes, the kind of family that welcomed out-of-town visitors by putting frogs in their beds - just to get a reaction. And on her first trip to Lambs Valley to "meet the family" that's just what they did to mum.

Between 1948 and 1956 mum and dad had us four children Catherine, Helen, Susan and me. We each have our own early childhood memories. Mine are of enduring happiness within a disciplined 1950s and early 1960s household. Whatever his work obligations were, dad always managed to juggle everything to be home for dinner, to take mum to the races on Saturday, and then on Sunday take the family to Mass, have

a family BBQ and play games. And he was always calm and focussed on the family. Perhaps because of their first courtship meeting, tennis became the default family sport. We children remember endless beach holidays with the black and white television on, and somehow always showing Australia winning the Davis Cup.

But marriage coincided with another great change in 1946. Dad left Sir Frederick for the uncertainty of the Bar. He soon developed a wide common law practice. From 1946 to 1970 he practised successfully from Chalfont Chambers and later from 3rd Floor Wentworth Chambers. He maintained an enduring affection for jury trials. Not surprisingly, from what we know of him he related naturally to juries, both as a barrister and then later as a judge. He could project empathy across a Courtroom, just as he did in his friendships with us. But he travelled on circuit often and on Friday nights we little ones often joyfully met his Fokker Friendship in our pyjamas at the single building that was then Kingsford Smith airport, before going for a treat of fish and chips.

Dad dwelt upon one case from his years as a barrister: *Mace v Murray*. He was closely attached to his memory of it and it stands as a testament both to his generosity and his tenacity. Joan Murray was a bus conductress who had a child out of wedlock. In what is a very modern story, adoption authorities pressured her to consent to adopt out the child – a boy. The Maces were the adoptive parents. Joan could not afford a lawyer. So dad acted for her pro bono to try and set aside her consent to the adoption. He failed at first instance. But by then the case had become a cause celebre, with the Daily Telegraph intervening to support the Maces and the Truth supporting Joan Murray. Later led by Jack Shand QC, dad won the case in the New South Wales Full Court but lost it in the High Court and Privy Council. But importantly dad's original volunteer legal work meant that Joan Murray's son always knew who she was and that she still wanted him back. Dad was very happy when he discovered long afterwards that the adult son had been reunited with Joan.

Dad chuckled about one issue on his appointment. Before 1970 a Catholic had not been appointed to the Supreme Court Bench for years. Amazing as it might seem to us now the Government had received complaints about this. In 1969 the then Attorney-General famously declared his future judicial appointment intentions in Parliament,

“The next one will be a Catholic”, he said. And so he was. But over the next eighteen years by their professional excellence and personal integrity dad and the judges of the Court from his and many other faiths helped quell such debates. He was delighted in 1988, the year he retired and when the State’s first Catholic Chief Justice Murray Gleeson was appointed, that the issue had completely disappeared.

But despite that my father’s faith and weekly religious practice were a mainspring of his life. He loved the Church and he loved this Church where he and mum attended Mass and prayed for 38 years and where many of their grandchildren were baptised. He helped lead the liturgy here, took the Eucharist to the sick and served on Parish Pastoral Councils, as he had done in his and mum’s previous parishes, of Chatswood and Wahroonga.

He was a proud founding member of the St Thomas More Society of Catholic Lawyers. He was the last surviving attendee of its first meeting in August 1945. He served as its President throughout the 1970’s and provided leadership to the Society for years afterwards. He attended virtually every opening of Law Term Red Mass from the early 1940s, the last being earlier this year, with his grandsons William and Edward.

But mum and dad’s religion was not unquestioning. More than one Jesuit priest remembers being asked at home dinners to debate issues such as the future possibility of women priests in the Church.

1970 was a remarkable year for mum and dad. As the photo on the back of today’s order of service shows, when he went to the Bench the family had almost all left school. Dad then wanted mum’s own extraordinary talent to shine too. So with his clear encouragement about the same time mum soon launched her own public career. He delighted in her successes in promoting through the Australian Parents Council the rights of children attending Independent Schools and the rights and wellbeing of women through the Women’s Action Alliance. His judicial restraint kept him well out of her political limelight. She met Prime Ministers, Education Ministers and Opposition Leaders through the 1970s and 80s, whilst he happily made Dennis Thatcher jokes about himself. But behind the scenes he helped her with advice, for

example, to tweak proposed legislative amendments, including one which added the well-known words “contribution in the capacity of homemaker and parent” to s 79 of the *Family Law Act*, so as to ensure that stay-at-home parents were fairly treated in divorce financial settlements.

Dad flourished as a judge, especially in the criminal law. Most Fridays from 1974 to 1988 he could be seen sitting with his good friend Sir Laurence Street in the Court of Criminal Appeal. Together they delivered ex tempore oral judgments, disposing of the lists within the day, something that is almost unthinkable now. But his forte was in trial work and with juries.

Dad’s judicial style was simple: he applied a veritable force field of courtesy and reason to subdue the anger, the greed, and the various forms of barbarism and negligence that bring people into Courtrooms.

But John’s judicial courtesy could never be mistaken for weakness. One man on trial for murder of his wife found this out. He escaped custody and tried to physically attack dad in the Courtroom during a break in proceedings. Now this was not a very smart idea. He was later convicted of murder, and given 20 years. Then dad added on an extra three years for attacking the trial judge.

Dad never joked in Court. He saved his impish sense of humour for outside the Courtroom, where we could all enjoy it. He closely followed current controversies of State and Federal politics, which were often the occasion for his jokes. Only in April this year on being invited to a family function, when he was told we would be serving him Grange Hermitage, he thoughtfully paused and said “I will accept nothing less than the year 1959”.

One of dad’s murder trials stood out. After he returned to the Court as an Acting Judge, he tried the two murderers of Dr Victor Chang. Getting this particular trial right worried him and typically he discussed the facts of the case with family, so at the end he could explain it all to the jury with complete clarity. Like all judges he was troubled by both the loss of talented human life in such cases but equally anxious to ensure a fair trial for the accused, which in that trial he certainly achieved.

How does humility show itself in one who rose as high as dad? The answer is: in extraordinary ways. Let me give you just two examples. In 1984, the position of Chief Judge at Common Law fell vacant on the death of Justice Colin Begg. The then Labor Government wanted to appoint dad to replace him, ahead of another more senior judge, Jack Lee. Dad did not want to accept any appointment that would cause future rancour within the Court. So he went to Jack Lee and told him what the Government proposed and asked him “Did he mind the appointment?” Jack Lee waved him forward graciously. No one was happier than dad when on his retirement in 1988 Jack replaced him as Chief Judge.

The other example of dad’s humility is the way he treated everyone who worked with him. In the 1970s and 80s he knew both by face and name all the Court’s many Associates, Tipstaves and Sheriff’s Officers. He knew the names of his Court cleaners, and their spouses and the names and ages of their children. And he celebrated in his chambers the admission to legal practice of their children. He did all of this simply because of his affection for people, his affection for us. He turned his prodigious memory to that end. And prodigious it was. Let me just share with you: there is nothing quite like being reminded by a 95 year old of something you have forgotten.

Apart from his trial work dad became a constant figure helping to investigate and solve this State’s occasional political, criminal and corruption problems. He sat as the State’s court of disputed returns for all its electoral disputes between 1971 and 1991. He headed a Special Commission of Inquiry into allegations of corruption against Rex Jackson a corrective services Minister, which led to Jackson’s later conviction. His 1991 Royal Commission report laid to rest public anger about the psychiatric treatment of deep sleep therapy at Chelmsford Private Hospital, and which led to sweeping reforms to the practice of psychiatry in Australia. He found there was no reason to disturb Andrew Kalezich’s conviction for the murder of his wife, Megan. Amazingly he heard his last public inquiry at the age of 85: an ICAC inquiry, into corruption at Liverpool Council, allegedly involving members of the Obeid family.

But behind all his judicial gravitas dad was having plenty of family fun. The children all married: Catherine to Robert Francis, Helen to Peter Sjoquist, Susan to Bill O'Hare and I to Melissa Walsh. John and Margaret soon had fourteen grandchildren and two great grandchildren. He loved their company and was a constant favourite to play "What's the time Mr Wolf?" As they grew up he amazed them in different ways. They all remember going to sporting events with him. He and mum were constant providers of food to the little ones, earning the nicknames that the O'Hare's children recall, "Mr BBQ" and "Mrs Ham Sandwich". But they all delighted when he winked and waved at them, as he left the Bench. David Francis remembers visiting him during the Kalezich inquiry. Although he sat solemnly on the Bench he invited them into chambers during an adjournment, took off his judicial robes, gave them all flavoured milk and played games. Philippa Sjoquist remembers dad pied piper-like leading a procession of little grandchildren up to the local school with their tricycles, and playing on the swings, and then, when she asked a question he seated the little group of elves in a circle and carefully explained to them the difference between the mental elements in the crimes of murder and manslaughter. Geoffrey O'Hare who had his buck's party at Rosehill Racecourse recently, remembers John was so familiar with current racing form that his tips secured many winners on the day.

John encouraged his younger grandchildren to call him by his first name and so they did. This caused some amusing moments. Dad loved to tell the story, that when Melissa's and my daughter, Sarah, was in chambers with him one day, a solicitor came in and the solicitor addressed John as "judge". Sarah turned to the solicitor and said "Don't you know his name is John".

John was always used to doing extra work in his career. During his judicial years he served on as chairman of the Parole Board and was a director of the Langton Clinic Rehabilitation Centre for Victims of Drug Abuse. But after retirement he served on the Sentencing Council and became chairman of the Croc Festival to assist the work of Peter and Helen Sjoquist. In the latter role he travelled throughout northern Australia to encourage indigenous students to attend school regularly, to make healthy life choices and achieve their potential. He loved the work and became a natural ambassador for reconciliation in this country.

Finally, although mum and dad carried such things fairly lightly, they each hold high Honours or Commissions through both the Australian and the Papal Honours systems, and from Her Majesty the Queen, an achievement as a couple that is perhaps unique in Australia. This simple observation is perhaps its own testament to the inclusiveness and creativity of their great partnership.

Dad's good health was legendary. And the legend was true. He was born at home. He had no childhood ailments or surgery. His first overnight stay in hospital was only in 2011, at the age of 93. His cholesterol level was so low that doctors checked results for computer error. He attended every Bench and Bar Dinner until he was 94. We were all perhaps tempted to think he would always be here with us. So well known was his good health within the profession that when I was appointed to the Court in 2009 the then Chief Justice quipped to his fellow judges at the announcement, saying "The Government has just appointed Slattery to the Court – Michael, not Jack".

Dad was born in the same year and only two weeks after Nelson Mandela. In dad's later years he watched the tolling of that great man's years with his own. But in recent months dad had increasing weakness of the heart. Fortunately, until only days before his death his great mind was entirely unaffected.

He was conscious of death. But just as you would expect, he joked about it. Typically, using sporting analogies, he described his outlook in recent years as being "in the nervous 90's". And when his knees began to swell in hospital, he looked down at them and said "Oh well, I suppose they'll put me in the forwards now". Only two weeks ago his son-in-law Peter saw him reading a paper in hospital and asked him "What are you reading John?" he looked up and said "The death notices". Then John paused and added "Just checking I'm not there".

But he was thinking of mum right until the end. By sheer force of will he maintained his health long enough to be discharged from Royal North Shore Hospital, so they could both settle into Pathways the aged care facility, where he died last Friday in the very best of care.

Like the Saint he so much admired, Thomas More, John was born for friendship. With our mother Margaret he made a rare contribution to Australian public life. But for us most of all he was a wonderful husband, father, grandfather, great grandfather, brother, uncle and friend. He graced our history. And for those of us, who knew and loved him, he graced our lives.

5 September 2014

St Mary's Church, North Sydney

The Hon. Justice Michael Slattery