

HISTORY OF EBSWORTH & EBSWORTH

Memories of Justice Michael Kirby

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I had completed my articles of clerkship with M A Simon and Company. It was a small firm which acted for trade unions and did a lot of litigation. This brought me into occasional "conflict" with solicitors from Ebsworth & Ebsworth, notably a very young Norman Lyall. But I do not have strong memories of the firm from those times.

Nevertheless, when the time came to look for a position as a fully-fledged solicitor, I responded to a number of advertisements, one of which was from Ebsworth & Ebsworth. The firm was looking for a young practitioner to work in litigation. I knew of its strong reputation in commercial and admiralty work. I had done pretty well in my law course and had images of myself dealing with prestigious work of this character. So I threw my hat in the ring. My aunt Lillian, a lovely woman, typed up a beautiful *résumé* (as we would call it today). I duly received an invitation to go to the firm for an interview. All I had

on offer was my good law degree and enthusiasm to make a fresh start. No family connexions.

I remember walking up Bridge Street to the office which overlooked that wide boulevard. I was interviewed by John Bowen in the front room. His office had a great view of a rather elegant part of Sydney. I remember that he asked me some very curious questions. No-one else who was interviewing me at that time did anything like it. Vividly, I recall that he presented me with a problem under the *Landlord and Tenant Act*. My knowledge of that Act was only marginally greater than that of the *Statute of Mortmain*. I stumbled over a few points of advice which were probably quite wrong. But then I remember him saying, "Why don't we just advise them to change the locks?". This highly practical response offended my theoretical view of the law at that time. I still suspect that his proposal was probably completely unlawful. But it did show me that Ebsworths, and Mr Bowen, were very imaginative lawyers.

I thought that I had really done a poor job in the interview. But those who know John Bowen (and I came to know him well later) realised what a compassionate soul he is. For whatever reason, he subsequently wrote me a letter and offered me a position. I was to start in a few weeks time, early in the new Law Term of 1962.

Sadly for me, events unfolded which changed my life. A Federal election was called by Mr Menzies, the Prime Minister. One of the senior partners of the firm, The Honourable Fred Osborne MP was obliged to undergo the indignity of trying to hold his seat in the Sydney electorate of Evans. There was a big swing against the Menzies government. Indeed, it almost lost office. Mr Osborne lost the seat of Evans. Suddenly a distinguished senior partner of Ebsworths, former Member of Federal Parliament and Federal Minister of the Crown was politically unemployed. Naturally, the firm welcomed him back into the fold.

I cannot believe, even in those austere times, that he was to be paid the salary otherwise set aside for me. Or that he was to perform the lowly beginner's work that John Bowen had in mind for this novice. Perhaps John Bowen was simply kind and had had second thoughts about the *Landlord and Tenant Act*. For whatever reason, I received a hurried telephone call of protested embarrassment. I was told candidly of the new situation and that the offer of employment was withdrawn. I was disappointed. But I had a number of other offers, including one from the doughty Bruce Holcombe of Hickson Lakeman & Holcombe which I accepted. I never regretted my move into that firm which gave me opportunities to be what we would now call an "in-house counsel". But I have often wondered what might have been if I had taken up the offer at Ebsworths and Mr Osborne had held his seat. Perhaps I would have become a

distinguished admiralty lawyer instead of a Justice of the High Court of Australia. Life is like that. Chance events out of one's control mould life's journey. Little did I know that my fate hung, in that election, upon the ill-mannered rejection by a few ungrateful electors of Evans of their dutiful Federal member.