

AUSTRALIAN JOURNAL OF FORENSIC SCIENCES

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Oscar was one of those extraordinary characters of whom you could say he was truly unforgettable.

He had a unique mixture of middle-European charm, Jewish chutzpah and persistence that sometimes bordered on the brink of frenzy. But there is no doubt that the Australian Academy of Forensic Sciences was his creation. Others may have originally conceived the idea. Others certainly gave it the initial respectability of their high offices. But Oscar Schmalzbach soon infiltrated its council, took it over and for decades ran it, virtually as his own.

To me, who as a barrister had but a small practice in the criminal field, Dr Oscar Schmalzbach was originally a distant legend. He was known for his hard-hitting evidence and non-sense opinions in big criminal cases, usually involving

¹ Justice of the High Court of Australia. Past President of the Academy.

murderers of ferocious wickedness. He wrote a book about his court experiences. I read it once. It revealed an expert witness who was never deeply troubled by doubt. His great forensic experience and his appearance made him much in demand, for many years, in cases where the mental capacity of the accused was in question. As to his appearance, it was usually quite extraordinary. He looked, at all times, like a Central Casting version of an eccentric European professor. Clothes were of no great interest to him. His shirt and tie were usually awry. But from out of the chaos of apparent disarray came dark piercing eyes and deep, soulful looks which portrayed the thinking man who was behind the physical trappings.

Oscar loved office and honours. I always suspected that he felt that the medical and scientific professions could not really compete with the legal profession in this regard. Perhaps that is one reason why he cultivated so many judicial and legal friends. Who knows what early experiences of discrimination and humiliation in Poland before the Second World War stamped on him a respect for office and a love of ceremony and recognition?

The Academy was supposed to have successive Presidents who were lawyers, medicos and scientists. But I am afraid that, on Oscar's insistence, lawyers had the inside running. In those days, they tended to collect knighthoods more readily. They could turn up at official functions with more dazzling decorations

than the members of the other professions could usually boast. Oscar loved such human vanities.

He also appreciated the traditions of Government House. He was deferential almost to the point of obsequiousness in the Vice-Regal presence. It was the only time I saw him acting in this mode. Some ancient memory of far-away sovereigns seemed to afflict his mind when the representative of the Queen attended a function at the Academy. And an invitation to the Vice-Regal personage to do so was invariably an excuse for Oscar to attend at Government House *before* the function to brief His Excellency and to attend again *after* the function to express the Academy's thanks. During all the years that we met in the Sebel Town House whilst Oscar Schmalzbach was in charge, the portraits of the Queen and the Duke of Edinburgh were on display, presiding serenely, as it were, over our dinners. It was a symbolic change that did not escape my notice that, almost as soon as Oscar retired, the portraits disappeared. Some unforgiving republican replaced them with drab and eminently forgettable reproductions.

Oscar groomed me to be President of the Academy. The price one paid for this high honour was an obligation to attend countless meetings of the Council and committee meetings. In truth, this was no great burden because the people whom Oscar held in thrall were stimulating, clubbable and a happy mix of professions. It was truly astonishing to see the way in which

Chief Justices and other mighty potentates of courts, hospitals and laboratories - who daily held in awe the flock of subordinates in their own domains - were organised and disciplined, even pushed around, by this remarkable man. We all did his bidding - at least most of the time - because, as if by magic, he bound us together in a most interesting association renewed in scientific sessions and international symposia. He did so by the exciting topics that sprang out of his mind and by the congenial social occasions that always followed their exploration. Let no one say that he lived in the past. A glance at the papers in the *Journal*, which he edited for those long decades, will show the variety and contemporaneity of the topics he chose for our study. He pretended to ask our opinion about the subjects for discussion. But, in general, they were those which he selected. More than often, the speakers were people in the public eye whose contributions he had noticed. Once they were invited, it was difficult for them to escape the Academy. They either caught the infectious enthusiasm of its members or they simply gave up resisting the blandishments of its Secretary-General.

At the scientific sessions I would often see Oscar walking around looking distracted, as if not interested in the actual substance of the discussion. He seemed to be primarily concerned to ensure that everyone was enjoying themselves. He realised, better than most conference organisers, that intellectual fare had to be enlivened with agreeable company and culinary delights. He took a personal interest in the menu of the dinners.

He carefully selected the speakers to propose the toasts to the Academy. He personally took command of the table arrangements. He ensured that "mortal enemies" would sit on the opposite sides of the room. He took pains to arrange members of the Academy and their spouses and partners in a way that mixed the professions and encouraged new friendships. Despite more than occasional appearances of disorder, Oscar Schmalzbach displayed remarkable social graces.

Perhaps you would not always have said this when you had to sit through his "report" at dinner meetings. These rambling speeches would take him off on a reverie of recollections of the Academy in its golden days, ie long before you were admitted. A string of "names" would trip off Oscar's tongue. He was, I regret to say, something of a name-dropper. Yet the names he dropped were of distinguished Australians whom he had dragooned, at some stage, into the life of the Academy.

During later years the Academy moved its office to his rooms in Macquarie Street, Sydney. Those rooms overlooked the Harbour and the Royal Botanical Gardens. The glorious vistas outside were nothing like the scene inside. Oscar's practice had shrunk to a virtual standstill. The Academy was now his all. Chaos and decay in all around we saw in his rooms. There were photographs from the 1940s. Manuscripts from the 1950s. Disordered past copies of the *Journal* from the 1960s.

The place was not a model of discipline. Sometimes I asked myself what it was about Oscar that kept me, in a busy life, rushing to his meetings, more often than not to be upbraided for some imagined slight or insignificant default. Yet despite it all, there was something infectious about Oscar's personality. It is hard to explain. The irritation was actually part of the attraction. Behind the irritation we all knew that he was the vital driving force. It was he who lit the spark at every meeting and kept the Academy a creative and innovative body of intellect.

Upon one matter only did I ever have a serious difference with Oscar. He conceived the idea, during a period when he was serving as President of the Academy, that his inestimable contributions to its activities should be rewarded with election as Life President. Now, in all charity, I should have gone along with this. The Academy was, by this stage, his life. To have made him Life President would not have been such a terrible thing. At the least, it would have saved other worthies (including eventually myself) from that specially terrifying relationship with Oscar - as President to Secretary-General. However, something in my democratic veins (and perhaps a little contrariness) led me to dispute his ambition. There were terrible scenes as Oscar fought valiantly for the Life Presidency. I reminded him, and our colleagues, that only the great Simon Bolivar, liberator of Latin America, had been honoured with Life Presidency of several South American republics. Great and all as Oscar's

achievements were, they could not be measured with those of the blessed Simon.

We joked about Bolivar in the years that followed. For Oscar ultimately gave away his caprice. He surrendered the office of President on time. We heard nothing more about Life Presidency unless, gently to needle him, I would raise it or subtly allude to the South American liberator. When I did so, Oscar would chuckle and I knew that I was forgiven for thwarting his great ambition. He became Secretary-General again. The title did not really matter. Oscar was the Academy and the Academy was Oscar.

I have to admit that when, eventually, Oscar retired, there were painful moments. He knew how important the Academy was to his spirit and well-being. He did not want to let it go. However he was becoming a little forgetful. The speeches in Latin were becoming even longer. If the Academy were to survive, it had to have new blood at the helm. Eventually, Oscar perceived this. But it took some skill on the part of those in charge to manoeuvre him into the honorific position of "Founder".

Something went out of the Academy when Oscar departed. For me, it will never quite be the same again. Yet if it continues, and goes on to attract new members and fresh contemporary themes, it will be a lasting memorial to Oscar

Schmalzbach. The little boy from Poland who, in his youth, escaped in perilous and deadly times through Romania and joined the British Army to fight the tyrants, made wonderful contributions to his adopted country, Australia. Those of us who knew him will never forget him. He was delightful, charming, irritating and infuriating in equal measure. If I close my eyes, I can still hear his voice presenting me, in the Latin he learned at school in pre-War Poland. Lauding me with some ancient tribute written by a poet to a long forgotten Caesar.

Oscar was Oscar. Neither in the Academy, nor elsewhere, will we ever see his like again.