

The life of 'Smiler' Murray Gleeson

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Murray Gleeson during his time as Chief Justice of the High Court of Australia *Photo: Brendan Esposito*

Biography

Murray Gleeson: The Smiler

MICHAEL PELLY

The Federation Press, \$59.95

Murray Gleeson always reminds me of Steve Waugh. Highly talented at what he did, tough as nails, not one to suffer fools gladly, a natural choice for captain. But the title of Michael Pelly's biography, no doubt puzzling to those outside the small world of the Sydney bar, is slightly misleading. Gleeson's nickname at the bar suggests that he seldom smiles. That is true but he does have a good, if very dry, sense of humour.

It all started in 1938 in the small NSW country town of Wingham, where Gleeson was born. At the age of 11 he left home for boarding school in Sydney followed by university law school. He then moved quickly to the bar. Unusually, for what is often a prolix profession, he focused on the main point of cases and seldom used two words where one would do. This is one of the reasons why Gleeson rarely worked late into the night. A lot of barristers burn the midnight oil – at great expense to their clients – working on issues of marginal relevance because they are unable – or unwilling – to identify the heart of the matter.

Gleeson was equally at home in complex commercial litigation or jury trials in defamation and crime. The book gives a very readable account of many of his cases, including his successful defence of National Party minister Ian Sinclair on fraud charges, and his appearance for Labor minister Mick Young, before the Hope royal commission when Young disclosed confidential cabinet information to a friend. In 1988 Gleeson was appointed Chief Justice of New South Wales by the Greiner government and in 1998 Chief Justice of Australia by the Howard government.

One of the real problems of judicial biography is to explain the decisions of courts in a way that is accessible to non-lawyers. Pelly does well with Gleeson's major decisions when presiding in the NSW Court of Appeal and the High Court in Canberra. He has been aided in this task by Gleeson's own writing style, which is sharp and succinct, in contrast to many judges whose dense and lengthy efforts prove the old axiom that it is much harder to write a short judgment than a long one.

The High Court's chief function is, of course, to interpret the constitution. This opaque document leaves a lot of scope for value judgments but Gleeson, unlike many members of the High Court since Federation, always took the view that political questions were better left to elected members of parliament. Proponents for a bill of rights have precisely the opposite view and believe that these issues should be handed over to the courts.

The book details some of the tensions behind the scenes in the High Court, particularly between Gleeson on one side and Justices Michael Kirby and Mary Gaudron on the other. Historically none of this is unusual. Since the court's establishment in 1903 almost all the judges appointed to it have had a very high opinion of their own worth. The Chief Justice may be the administrative head of the court but few have been able to dominate their colleagues, although Gleeson did seem to exercise some intellectual leadership over the court during his decade there.

Gleeson's career indicates a particular problem with modern judicial biography. In the last century many judges had earlier – or sometimes later – careers in politics, for example, Sir Garfield Barwick and H.V. Evatt in Australia and Lord Hailsham and Lord Birkenhead in Britain. This is now a rarity, with politicians starting their political careers at school or university and having no other profession. As a consequence, most judicial careers are now rather one-dimensional and so harder to make attractive to the general reader. Even so, Gleeson has had one of the most interesting careers of the modern style of judges who have spent their entire working life in the law. Judicial biography is a sparse field in Australia so this is a welcome addition and one that tells both lawyers and non-lawyers a lot about the bench and the bar.

This story was found at: <http://www.smh.com.au/entertainment/books/the-life-of-smiler-murray-gleeson-20140627-zso4k.html>