

Dr John Kennedy McLaughlin AM, KCSG, KGCHS, PhD

A Remembrance

As John would have said: Greetings!

I am Richard d'Apice and I was proud that John McLaughlin was a friend of my family and myself for over 60 years. I welcome you all, fellow friends to this celebration of his life and commendation of his soul to the Eternal Father.

It is my pleasure to put his life in context. I will be followed by his brother, Dr Robert McLaughlin with a more personal portrait and by the Honourable Mr Justice François Kunc who will recall his judicial and Church lives which I will only touch upon.

Following this Mass, there will be a private internment near his parents at Rookwood Necropolis.

A wake will be held at the 18 Footers Sailing Club on Double Bay. All who can do so are urged to attend the wake and to share memories of John – the more amusing and irreverent the better.

John was born at Wagga Wagga in the Riverina District on 3 July 1938 the second of the two sons of the late Michael McLaughlin, a teacher, and of Dr Linda McGee, an early woman graduate of Medicine at the University of Sydney.

He received his secondary education in the care of the Christian Brothers completing his Leaving Certificate at Waverley College in 1954. It was a connection he cherished and maintained for the rest of his life, ultimately serving on the College Board from 2006.

Immediately after leaving school, he enrolled in the combined Arts-Law course at Sydney University, graduating Bachelor of Arts in 1958 and Bachelor of Laws in 1961. He took an active part on undergraduate life through the Arts Society and other undergraduate societies as well as the Students' Union and the Student Representative Council. It was there that he made many friendships of a lifetime including those with the late Stephen Wilson, the late Peter Wilensky and the late Vincent John Flynn as well as the surviving Michael Kirby, Bhodan Bilinsky and Bob Wallace. He also met my brother, Tony d'Apice, and through him, became a close friend of my family.

I well remember meeting him at the age of 16 in my last year at school when he was improbably part of the Sydney University Surf Club and the unlikely owner of a surf board. He and other members of that short-lived club were frequent visitors to our home at Pymble after their regular excursions to the Northern Beaches.

John was to return to Sydney University as a post graduate student earning a Master of Laws degree (with first Class Honours) in 1974 for his thesis on *The Magistracy in New South Wales (1788-1850)*. In retirement, he returned again to post-graduate study, this time at Monash University where he earned a Doctorate in Philosophy for his thesis on *The Immigration of Irish Lawyers to Australia in the Nineteenth Century: Causes and Consequences*.

But that was far in the future. In his last years at the Law School, he became Associate to the Honourable Mr Justice Cyril Walsh then of the Supreme Court of New South Wales and later of the High Court of Australia.

Soon after his graduation, John was admitted as a barrister in April 1961 reading with John (Jack) Slattery who became a lifelong friend. He was to remain at the Bar for 28 years until his appointment

to the Supreme Court of New South Wales, first as an Acting Master, then as a substantive Master and finally as an Associate Judge from which he retired in 2010 having reached the statutory age of senility although, as events were to show, not the age of intellectual senility.

John enjoyed participating in legal education and, in particular, served as a resident Tutor in Law at St Paul's College at Sydney University establishing a connection with both College and students which gave him great pleasure and companionship up to his death. He was instrumental in the establishment of the Glendonbrook Scholarship program at that College and was justifiably proud of the success of the Scholars.

His 50 years of service on the Standing Committee of Convocation later the Alumni Council of Sydney University and his other contributions to that University were acknowledged by his appointment as a Fellow of the University in 2009.

Time does not permit a full recital of his many contributions to the community but they, added to his service to the judiciary and the law were recognised by his appointment as a Member of the Order of Australia in 2014. Those contributions included work with, and offices held in, the Royal Australian Historical Society, the Waverley Historical Society, the Society of Australian Genealogists, the Australian Dictionary of Biography, the Supreme Court Heritage Committee, the St Thomas More Society, the Glendonbrook Foundation, the Archdiocesan Honours Advisory Committee and the Association of Papal Orders.

He was a member of the Foundation Council of the Equestrian Order of the Holy Sepulchre of Jerusalem in New South Wales attaining the rank of Knight Grand Cross.

John's contributions to the life of the Church, including his active participation in the life of this Parish, were recognised by his appointment as a Knight of the Papal Order of St Gregory the Great and his later elevation to the grade of Knight Commander.

He led a very full life.

I admired him and was proud to call him my friend for over 60 years. Loss though his death has been, I am grateful that he died suddenly at home in his own bed in his principal bedchamber and in full possession of his mental faculties.

I now invite Dr Robert McLaughlin to present his appreciation of his brother.

John McLaughlin

A Personal Portrait

As Richard has mentioned, my brother John was born in 1938, in Wagga, to parents of Irish heritage. Our father had been born in Ireland into a committed Catholic family, and our mother was born in Australia to Protestant Irish immigrant parents. John's heritage was to later inform his scholarly interest in Irish history and also genealogy.

I was two years older than John and remember him as a happy child, full of smiles and laughter. He was very close to our mother in particular, and remained so throughout her life. At around age ten he had the misfortune to contract scarlet fever, at that time a serious, sometimes fatal, illness. He made a good recovery, but for years afterwards there was a question-mark over his health.

Our family moved to Sydney in 1941, and John spent his school years at Waverley College. Although not a physically powerful youth, he threw himself into the challenging sports programs at Waverley, as well as the cadet corps. In his early teens he joined a local Scout troop.

At the young age of 16 John commenced the Arts-Law program at Sydney University. It is worth recording that he never had any doubts about the profession he intended to pursue—he was always going to be a lawyer. But it's also noteworthy that his university education included a strong history component. He developed a lifelong love of history and, as we know, he was later to complete two distinguished research degrees in legal history, thus blending his two great loves.

While he was at Sydney University a more confident, active side to his personality began to emerge. He became involved in student affairs, in particular the Arts Society. This was an augury of his future. Throughout his life he was always busy in a great many organisations, and was extremely generous with his time and energy—not to overlook his considerable administrative talents.

Another side to John was his taste for travel. He would regularly arrange to go overseas during the law holiday period, visiting numerous countries, from Mexico and the United States to Great Britain and various destinations in Europe. He would usually contrive a week or so on the Greek island of Mykonos, as well as a sojourn in London, where he had many friends. He often commented that he knew the London Underground "like the back of his hand". He also spent considerable time in Ireland, where he pursued genealogical research into our ancestors. His Irish connections turned out to be particularly useful in his groundbreaking research for his PhD.

I have always thought of John as a 19th Century figure—he would have fitted very well into the world of Queen Victoria and the British Empire. There was something about the culture of that age, its formality and gentility, which he loved, and in many ways embodied. It was expressed, for example, in the decoration of his terrace house, with its gilded cornices,

elegant furnishings and paintings, and stylish “reception rooms”. And of course the legal profession, with all its traditions and ceremonies, suited him perfectly.

In the same vein, John never seemed entirely comfortable in our present age. He fitted awkwardly into the world of high technology. No one could accuse John of being enamoured with technology—indeed one might have called him a Luddite. He freely admitted that he had never mastered his computer, and he always seemed to be having trouble with his telephone.

Despite John’s telephonic challenges, he engaged in frequent long phone conversations, and in my exchanges with him over many years, his contributions were always full of wit and anecdote.

Similarly, my family and I fondly recall many high teas shared around John’s dining table, and featuring his famous cucumber sandwiches, with their carefully marinated cucumbers, hand-rolled fresh white bread and just the right amount of white pepper, served alongside perfectly brewed Prince of Wales tea and a collection of John’s amusing stories and sprinklings of his erudition.

Family was very important to John. As a young man living with our parents, he never left the family home without kissing both our mother and father goodbye. He was an attentive and caring son, as well as a dutiful nephew to our Aunt Cecily, one of our father’s sisters. Reciprocally, he was also much beloved and admired by his family. It is a matter of deep sadness for myself and my family that in recent years a number of serious health issues prevented us from visiting John as often as we would have liked.

John was a complex figure, a scholar of great erudition with a steadfast commitment to duty and responsibility. He had a cheeky, sometimes even wicked, sense of humour, an elephantine memory, a tenacious grip on his opinions and convictions, and an abiding religious faith.

He enriched the lives of all who knew him. He was widely loved, and now is missed and mourned profoundly.

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The Hon. Dr J. K. McLaughlin AM KCSG KCGHS

Words of remembrance

“...As a person with a truly unique life story, each is called by name, to make a special contribution to the coming of the Kingdom of God. No talent, no matter how small, is to be hidden or left unused”.¹ So wrote St John Paul II on the role of the Catholic lay faithful. John Kennedy McLaughlin fulfilled that calling, in faith and with prodigal service, unstintingly giving of his considerable talents as jurist, historian, dear friend and Catholic gentleman. I am privileged to be able to offer these words of tribute and thanksgiving for his life so well lived.

Richard d’Apice has already sketched John’s career. I would like to begin by filling in Richard’s sketch with this observation by the Hon Michael Kirby. Michael, who it is wonderful to see here today, once said this of John’s career:

“Soon after admission to the Bar, weighty briefs landed on our hero’s table. He was constantly appointed junior to Mr Clive Evatt QC. Whilst this gave him experience beyond his imagination, it entailed certain perils. Mr Evatt was wont not to appear in court, leaving the presentation of cases to his juniors. It was a test of fire. But John McLaughlin survived the test. It trained him in the robust shouting of the defamation Bar. But much of his work took him into the whispering galleries of the equity side, that was his love in the law.”²

To be honest, I can’t imagine John engaged in robust, or any other kind of shouting; but it is more than my judicial reputation is worth to suggest anything other than that Michael Kirby is a witness of unimpeachable credit.

I first met John socially when I was a newly admitted barrister and secretary of the St Thomas More Society. For many years he served as the Society’s returning officer. Professionally, it was in the whispering galleries of the Equity Division that I had the privilege of appearing before him on a number of occasions.

In what with the benefit of hindsight one might think was providential given our subsequent friendship, one of my first appearances after taking silk was in an application in his court. On the morning of the hearing, a message arrived in my chambers that his Honour would be delighted to commence proceedings by taking my bows (for the non-lawyers, a short and arcane ritual in which a new senior counsel informs the court of their appointment). It was not otherwise an application that would have required me to robe, but it was typical of John to afford me that honour.

So it was that I appeared before him in my brand new silk gown and pristine full bottom wig, but with him being even more splendidly attired in ceremonial court dress (but, to his disappointment, still only black robes for an Associate Justice), full bottom wig and white gloves. At morning tea in his chambers later that day, in a phrase he often used of an event that had

¹ Christifideles Laici 56

² Hon. Michael Kirby AC, CMG, ‘Reception on Thursday 14 July 2005 to mark the new titles of the Honourable J K McLaughlin Associate Judge of the Supreme Court of New South Wales’ (Speech, 14 July 2005), p. 2.

been well executed according to his exacting standards, he looked at me and said “My dear boy, a triumph, simply a triumph”. While I would like to think he was referring to my appointment to the Inner Bar, the more probable finding may be that he was referring to the ceremony he had so adroitly initiated.

John on the bench was what you got from him in private life. He was exquisitely courteous and always well prepared. He was undoubtedly learned in the law. His knowledge of legal history was encyclopaedic. He was, above all, an astute judge of character, but respectful and understanding as he duly recognised the innate dignity of those who came before him, whether as litigants, witnesses or members of the profession. That said, he had little time for cant, hypocrisy or time wasting and displeasure was amply conveyed by pursed lips and raised eyebrows.

While judicial duties sometimes required him to make unfavourable findings about those who came before him, a quality which I always deeply admired was his discretion in private conversation. After his retirement from the Court, over tea or a meal he was always keenly interested in the latest Phillip Street or Cathedral House scuttlebutt. But in all those encounters, he assiduously applied the rule that if you could not say something good about someone, you should say nothing. Nevertheless, he left you in no doubt about what he thought: his silences were as deafening as they were damning.

John would have been well familiar with St Paul’s description of the gifts of the spirit and the observation that “the particular way in which the Spirit is given to each person is for a good purpose”.³ While he had many gifts – all of which he would have attributed to his God rather than himself – to me his special gift that he put to such good purpose was his gift for friendship.

We were at least a generation apart in age, but he made friends throughout his life and of all ages. He had an understanding which seems to have passed from so many in our society today that true friendship is neither transactional, competitive nor the occasion for vainglory. Rather it is to be cherished, tended and rejoiced in as an opportunity, in Cardinal Newman’s words, for heart to speak to heart. It was, to recall an observation made this morning by his brother, perhaps what we would see as a nineteenth century view of friendship, but I intend that as a compliment and by no means a criticism. Those of us with whom he shared that gift will be forever grateful.

John’s long life saw many changes in the Catholic Church, in society and in the relationship between them. We are living in a confused cultural moment where someone’s religious faith can be the object of public ridicule, at least embarrassment and often only the grudging concession that it is something best practised in the privacy of one’s own home. There is a growing tendency, not unnoticed by John, that where a person of public achievement is remembered on an occasion such as this, that aspect of their life – often absolutely foundational to their achievement – is ignored or downplayed. Whatever else he may have thought about that, he would have regarded it as a serious departure from proper historical method.

³ 1 Cor 12:7

John's many achievements, and his life in general, were completely informed and inspired by his Catholic faith. One author has suggested that there are three elements to religion: institutional, intellectual and mystical.⁴

There can be no doubt about John's institutional engagement with the Roman Church. It was at every level, beginning here in his parish, but also archdiocesan and international. He lent his skills and his learning to many committees and organisations. He was honoured by his membership of pontifical and religious orders of chivalry, so well represented here today.

He was deeply knowledgeable about the history and pageantry of the Church, and I suspect took a little mischievous pleasure in the discomfort he caused the more modern prelates by greeting them on one knee and kissing their ring. But for John that was just how you did these things properly. But in all seriousness, I am sure John understood those traditions for what they are: historically conditioned and not always successful human attempts to realise the good, the true and the beautiful in this world in anticipation of something unimaginably better in the next.

And while he undoubtedly gave complete intellectual assent to the revealed truths of his faith, he left you in no doubt that the mystical was the most important of all, given lived expression in daily perseverance in the Christian life. For that reason, I included in my opening the description of Catholic gentleman. He was that *par excellence*.

In his judicial life, John often sat on matters which required his judgment to describe someone's home. This is a typical example: "...the Plaintiff and her husband occupy what appears to be a commodious residence of two storeys, comprising four bedchambers, a lounge room, a dining room, a family room, two and a half bathrooms and a double garage".⁵ "Commodious" was a signature McLaughlin word, instantly recognisable as such to any member of the Equity Bar. We will shortly hear the gospel of St John on the subject of the rooms in the Father's house. We can be both sure and certain that John McLaughlin's room in that house is more than commodious and richly deserved.

Requiescat in pace.

The Hon Justice François Kunc KCSG KGCHS

St Francis Church, Paddington

31 March 2023

⁴ Friedrich von Hügel, *The Mystical Element of Religion*.

⁵ *Davis v Jarrett* [2005] NSWSC 90 at [52]