

IN MEMORY OF MICHAEL SCOTT

1928-1984

We are here today¹ to celebrate the life of Michael Scott. His name was brought first to my notice by the late Abraham Harari in 1969 who suggested that Michael was one of the reasons why I should accept a position which I had just been offered at the University of Tasmania. Harari, together with Pat Higgins and Michael Scott, provided much of the intellectual dynamism in this Law School in the 1960s — now, sadly, all are gone. Events over the next fourteen years were to prove Abraham Harari more than correct. Michael was to prove one of the major influences on my academic career. Until relatively recently, he read and commented — at times somewhat sorrowingly but never other than kindly — on most of what I had written. His influence on others, both within and without the University community, has been just as profound, as can be immediately seen by the people from all walks of life who are present today.

It is, indeed, the influences to which we are subjected which create our character and personality; Michael's was a many-faceted personality, as befitted a person of such wide and deep training and experience. The son of an Anglican clergyman, he was born in Hull in 1928 — thus, a Yorkshireman and there can be few people whose manner and work so readily refute the platitudinous stereotype of people from that English county. The city of Hull has long been regarded as vigorous and radical in its intellectual life. Hence, in the early years of the English Civil War, the elders of the city closed its gates against the Royalist army, causing it to be the subject of a still well known appeal for divine assistance.² He was educated, first, at two of the peculiarly awful private schools to which some English-speaking parents feel impelled to send their children. (Those of us here who have heard Michael relate some of the stories surrounding them will know exactly what I mean . . .).³ Then, however, he was sent to Hymers School in his native city, a school which was very much part of the intellectual tradition of Hull and, thence, to Queens College Cambridge. At Cambridge, he pursued a brilliant career in, first, Moral Sciences (as Philosophy is known at that University) and then in Law. He was admitted to the English Bar by the Honourable Society of the Inner Temple.

1 Michael Scott, Senior Lecturer in Law in the University of Tasmania, died on 25 August 1984. The following is the edited text of an address delivered on Wednesday 29 August by Frank Bates, Dean of the Faculty of Law.

2 'From Hull, Hell and Halifax, good Lord deliver us !'

3 See F. Bates, 'Parent and Child — Legal Intervention — Another Development' (1978) 56 *Can. B.R.* 516 at p. 521 n. 29.

After a short period in practice as a barrister, he turned to academic life, but it was in the nature of the man that he looked outside the United Kingdom and to Africa. He went first to the University College of Fourah Bay in Sierra Leone and then to the University of Khartoum. It was during this latter period that he developed his interest in Middle Eastern affairs which was to occupy much of his creative life. There can be few people who have written⁴ on that sensitive area with such grace that their opinions have been respected, though not shared (indeed, at the conference which we had been attending at the time of his death, many people who I knew did not share Michael's opinions over that issue were the first to express their sadness and regret). He came to Tasmania in 1960.

During his time here, Michael's major teaching and research interests lay in the highly technical fields of Equity and Real Property. As many of us know from experience, skilful writing in those areas is not easy nor is it so often achieved. However, Michael's article 'Tracing At Common Law' published in 1967⁵ is still widely held up as a model of style and accuracy and is still referred to in all of the literature on the broader area of, what is now called *Restitution*.⁶ One can only regret that he was not permitted to write the major work of legal scholarship to which his talents so suited him.

But academic distinctions cannot, and should not, be the whole story. To me, and many others present today, Michael was not only a scholar but a teacher and friend. As a teacher, perhaps his qualities are best encapsulated by Bertrand Russell, a philosopher whose work Michael greatly admired, writing of his friend and colleague Whitehead, another scholar respected by Michael. Russell wrote,⁷ '[He] was extraordinarily perfect as a teacher. He took a personal interest in those with whom he had to deal and knew both their strong and their weak points. He would elicit from a pupil the best of which a pupil was capable. He was never repressive, or sarcastic, or superior, or any of the things that inferior teachers like to be. I think that in all the abler young [students] with whom he came in contact he inspired, as he did in me, a very real and lasting affection.'

As a colleague, he was always helpful to administrators and encouraging to younger members of staff. His opinion on matters of policy were always valuable and made without cant or the sectarian interest too often present in debate of that nature. Although his later years were clouded by ill health he never attempted to use that as an excuse and, indeed, sought to continue his work as before even though some was

4 See, for example, M. Scott, 'The Law, Israel and the Palestinian Revolution' in *Second International Symposium on Palestine* (1971) 34.

5 M. Scott, 'Tracing at Common Law' (1967) 7 *U.W.A.L.R.* 463.

6 For the most recent instance, see G. H. L. Fridman and J. G. McLeod, *Restitution* (1982) at p. 570.

7 B. Russell, 'Alfred North Whitehead' in *Portraits from Memory and Other Essays* (1956) 92 at p. 97.

physically beyond him. He was also a friend, and many of us, as well as myself, will remember Saturday mornings (and other times besides) where topics of all varieties were discussed and analysed with Michael's wit and incisiveness. He will leave a gap in my life which will never be filled.

But my part is relatively minor — the gap in the lives of a family will always be much greater than in those of a friend. His courageous wife Margaret (herself a considerable scholar and poet) and their children and stepchildren can appreciate his contribution to their own lives far better than the rest of us today.

As we mourn and regret his passing, we *must* also, as I said at the beginning, celebrate and rejoice in his life. Because of it, we are all wiser, perhaps better, and certainly more interesting people. That contribution must not be taken lightly, for it reflects and affirms the humanity of us all and the grandeur of life, particularly the intellectual life, itself.