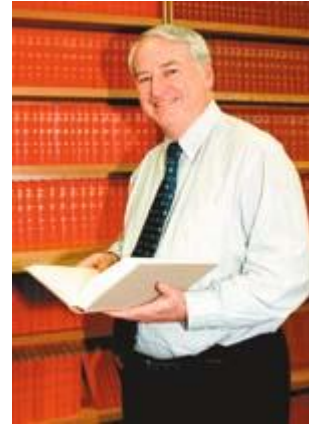### The Honourable Justice
Gerald Edward (Tony) Fitzgerald, A.C.
Biographical note published in *Queensland Bar News*, April 1999

Photograph courtesy of *The Courier-Mail*

On 30 June 1998, Justice Fitzgerald retired as President of the Queensland Court of Appeal, to take up an appointment - initially an acting appointment - in the Court of Appeal Division of the New South Wales Supreme Court. This is the first time since Federation that a Judge of one State Supreme Court has been appointed to the Supreme Court of another State.

This unusual step, involving an apparent "demotion" from the presidency of an appeal court to an acting puisne judgeship, might seem surprising if Justice Fitzgerald's previous professional life had not been characterised by a series of equally idiosyncratic career moves.

His Honour was born on 26 November 1941, and educated at St. Patrick's College, Shorncliffe, and the University of Queensland. After undertaking articles of clerkship under one of the State's most respected commercial lawyers, Mr. Peter Rowland of Feez Ruthning & Co. (now Allen, Allen & Hemsley), Justice Fitzgerald was called to the Bar in 1964. He immediately raised eyebrows within the profession by eschewing briefs in personal injuries and criminal matters - then, as now, the mainstay of practice for many juniors. But as a result, he very quickly established a reputation as one of the State's most capable commercial counsel, regularly appearing as junior to the leading silks of the day. Foremost amongst these was Gerard Brennan Q.C. (now Sir Gerard): in the late 1960s and early 1970s, the team of Brennan and Fitzgerald graced many of Queensland's most complex and difficult commercial disputes.

In 1975, Fitzgerald took silk at the then unprecedentedly early age of 34. Already, he was regarded throughout the profession as an advocate of awesome ability, whether at first instance or on appeal.

The late 1970s was a golden era for the Queensland Bar. Amongst the older generation of silks, there were the likes of Peter Connolly, Gerard Brennan and John Macrossan, followed (in age) by Cedric Hampson, Bruce McPherson and Ian Callinan; the younger group of silks included Bill Pincus, David Jackson, and Geoff Davies, as well as Fitzgerald; and there was an up-and-coming group of commercial juniors led by Paul de Jersey, John Byrne, John Dowsett and Richard Cooper. Amongst this constellation of stars, many considered that Fitzgerald shone the brightest.

But, in another unprecedented career move, Fitzgerald accepted appointment to the Federal Court of Australia in 1981, becoming that Court's youngest appointee at 38. He was the Federal Court's first resident Judge in Brisbane, and quickly set about establishing the reputation of the Federal Court in this State as a hard-working and efficient outpost of the Federal Court's national network. During Fitzgerald's period as the only Brisbane-based Federal Court Judge, the Queensland District Registry constantly out-performed other State Registries in dealing with its judicial work-load and producing decisions which withstood appeal.

At the same time, the then Chief Judge of the Federal Court, Sir Nigel Bowen, held Fitzgerald in such high regard that he frequently sat on the Full Federal Court in other State capitals, where he was allocated the most difficult and challenging appeals.

Then, in another stunning change of direction, Fitzgerald retired from the Federal Court in 1984, to resume practice at the Queensland Bar. But not any ordinary practice. From the moment of his return to the Bar, he made it clear that he would not appear at first instance, concentrating his undisputed talents exclusively on appellate work. Despite restricting his practice in this way, his services were much in demand for appearances in State appeal courts, as well as the High Court and the Privy Council. Perhaps no barrister since Sir Garfield

Barwick had such a busy and successful practice exclusively as an appellate advocate.

In 1987, Justice Fitzgerald's career took a turn which neither he, nor anyone else, could have anticipated, when he was appointed to conduct the Commission of Inquiry into "Possible Illegal Activities and Associated Police Misconduct". Known eponymously as the "Fitzgerald Inquiry", it became a watershed in Queensland's social, political and legal history, as well as a model for similar inquiries in other States. It cannot be doubted that the unexampled success of the Fitzgerald Inquiry was largely (if not exclusively) attributable to the wisdom, persistence and moral courage of its chairman.

The Fitzgerald Inquiry was undoubtedly a "hard act to follow". For a year, Justice Fitzgerald took a consultancy with the firm - Feez Ruthning - where he had completed articles of clerkship a quarter of a century earlier. At the same time, he conducted a Commission of Inquiry into the Conservation, Management and Use of Fraser Island and the Great Sandy Region, as well as accepting the Chair of the Australian Heritage Commission.

Then, with the establishment of the Queensland Court of Appeal in 1991, he was immediately appointed as its first President, quickly renewing the reputation which he had already gained as a Federal Court Judge for the acuity and precision of his legal reasoning. If the experience of appearing in the Fitzgerald court was not always a comfortable one for advocates, it was certainly an intellectual challenge.

One of the mysteries surrounding Justice Fitzgerald is how he came to be known as "Tony". One explanation, which he has not disavowed, is that he was nicknamed "Tony" on his first day at Convent School. Supposedly, when one of the Sisters was told his name, she replied "That's silly. Nobody should be called 'Gerald Fitzgerald'. From now on, you are going to be called 'Tony'." If this story is true, it may be speculated whether the Sister had any premonition that the young boy whom she re-Christened as "Tony" would go on in later life to become one of the defining figures, not only of the Queensland legal profession, but of the Queensland community generally.