

## Vale - The Honourable Ian Vitaly Gzell AM QC FTI (Life), 1941-2022<sup>1</sup>

President of The Tax Institute, 1985-1986<sup>2</sup>

Ian Gzell's time as President of this Institute encompassed the beginnings of the vast changes of the Keating era.

He had followed Graham Hill as our President. Together they represented the Institute at the Taxation Summit in 1985,<sup>3</sup> a summit whose seismic changes are still with us.

And that is fitting.

For Gzell's energy and accomplishments seem to us now almost impossible to credit.

Gzell made things happen.

His service to the professions and the arts began immediately.

In 1962, he was gaining support for a new theatre at The University of Queensland. He was Dramsoc President, and Union Theatre Committee Chair.

And he didn't just write a letter to UQ Senate and wait.

An architect was engaged for sketches. Local theatre companies assured the Union they would use the new place.<sup>4</sup>

This is the man destined to be our President.

His service to the Bars of Queensland and New South Wales has been noted elsewhere. It is impossible to summarise. But within 2 years of his 1965 admission as a barrister, Gzell was Secretary of the Bar Association of Queensland.

He continued to serve in responsible and demanding roles, in the law and tax professions, including as President of the Commercial Law Association and Chair of STEP (NSW).<sup>5</sup>

But here I remember his service to this Institute. He served as Queensland Chair, on National Council, and as our President, amongst other active roles.

And few present in China, on those magic days in April 1989, will forget the Institute's conference in Shanghai and Beijing, with business-people and tax professionals. A mission to China, including our Commissioner of Taxation as speaker, was visionary.<sup>6</sup>

Most members now remember Gzell J by his decisions in tax cases, as a Justice of the New South Wales Supreme Court. He served New South Wales well in that role, 2002-2013.

He sat at trial in a ground-breaking payroll tax matter with a surreal name, *Tasty Chicks*.<sup>7</sup>

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<sup>1</sup> Funeral Notice, *Sydney Morning Herald*, 14 January 2023

<sup>2</sup> *Who's Who Australia*, entry for Ian Vitaly Gzell, viewed 13 February 2023

<sup>3</sup> Gzell's obituary for Hill, (2005) 40(4) *Taxation in Australia* 179

<sup>4</sup> Pearn & Fotheringham, "A history of the Avalon Theatre", [viewed 14 February 2023](#)

<sup>5</sup> Obituary circulated by STEP, email 19 January 2023

<sup>6</sup> *Who's Who Australia*, above

<sup>7</sup> *Tasty Chicks Pty Ltd v Chief Commissioner of State Revenue* [2009] NSWSC 1007

But he had already noticed a drafting feature of the State tax appeal provisions in New South Wales, that made it possible to seek full justice in the Court. The Court could effectively compete for business with the Tribunal.<sup>8</sup> And the taxpayers came.

The profession was already aware of the possibility of obtaining declaratory relief in the Supreme Court, in Federal taxes such as GST, though there were natural limits to this adventure.<sup>9</sup>

But he also sat in some of the most high-profile corporate matters of the day, including matters about NRMA, James Hardie, and One.Tel. And he broke ground in a case about rights of a child, conceived from donated material, in a claim against the estate of the donor father.<sup>10</sup>

As judge, you do not choose the cases that come before you. But you can distinguish yourself in their disposition. Gzell J did.

I remember obtaining Gzell QC's advice in the 1990s. I flew to Sydney to meet him. Suave, welcoming, and brief, he already had a draft on his laptop. We discussed some further, abstruse point of law, and I flew back to Brisbane – followed swiftly by his faxed opinion.

On another occasion, he was a speaker at a Law Council conference at the Hyatt Canberra – which happens to be next to the Canberra Croquet Club. Gzell appeared one morning in his whites, and said he had a letter of introduction from his NSW croquet organisation. Off he went to play the Canberrans! It illustrated that, fundamentally, Gzell knew how to get things done. And how to meet new friends.

Gzell continued his interest in the health of the Arts. His service in that sphere was significant.<sup>11</sup> And that begins to tell us something of the wider story.

For this was a practitioner of wide interests, great curiosity, and (above all) – to quote the funeral notice placed in the Sydney Morning Herald –

“A most sociable and agreeable person.”

**David W Marks KC**

**14 February 2023**

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<sup>8</sup> *Affinity Health Ltd v Chief Cmr of State Revenue (NSW)* [2005] NSWSC 663

<sup>9</sup> *Platypus Leasing Inc v Commissioner of Taxation (No 3)* [2005] NSWSC 388; leave to appeal denied [2005] NSWCA 399

<sup>10</sup> “Children of donor win right to inherit”, *The Daily Telegraph* 16 March 2007; [2007] NSWSC 208

<sup>11</sup> See *Who's Who Australia*, above, and the [notice of his appointment](#) to the Supreme Court in the NSW Bar Association journal, *Bar News*, Winter 2002.