

The Wisdom of Fools

His Worship, Robert Anthony Dewcliff, sits behind his large desk in his private chambers, behind the East Beach Magistrates Court. He is leaning back in his chair, his hands clasped, except for his index fingers which form a 'steeple'; this he taps against the tip of his nose as he contemplates a photo in a plain timber frame on his desk.

The subjects of the photo are dressed formally, as if they are about to go to a ball. It is an obvious studio shot, with a painted background of a formal garden.

The photo dates from the late 1940s. One of the women, seemingly in her mid-twenties, has a child of around five years on her lap. The child is the infant Robert Dewcliff and the woman is his attractive mother. Others in the photo are his father, grandparents (both sides) and his great-grandfather.

Robert Dewcliff focuses on the grey-haired old man. He is the reason for Robert Dewcliff's feeling of misery right now – it was the old man's unrelenting control over his son and grandson that has led inexorably to his great-grandson's current mood.

The bad mood is also, perhaps more directly, the result of this particular morning's proceedings. Robert Dewcliff called for an adjournment well before the scheduled lunch break, as he felt the tide of misery flow over him. He could no longer listen to the interminable rubbish which the witness was putting forward as sworn evidence.

He studies his great-grandfather's face again. The eyes stare straight at the camera, challenging, daring it to disagree with the subject. Even in this monochrome, it is easy to imagine the cold blue of those eyes, and the slight ruddiness of the cheeks. The hair, thick even in his late seventies, is obviously grey, as is his well-trimmed beard. His shoulders are held square and his chest slightly puffed out.

Robert Dewcliff's gaze slides across to the image of his paternal grandfather – a slightly less severe and younger copy of the old man. And then to his father, not looking at the camera, but slightly to his right, as if waiting for instructions from the two older men. Robert's father, now in his eighties, still often looks as if he is waiting for instructions.

Robert Dewcliff's mood and premature adjournment are the result of the evidence given by one Fabio Retsino, of how he has ended up in his life of petty crime because he has refused to follow in his father's and grandfather's footsteps.

Robert Dewcliff has often fantasised about refusing to fulfil his family's expectations, but he has lacked the courage. He has always wanted to be a clown. As a child he watched, fascinated, the antics of the painted men with the loose clothes and huge shoes, every time he was taken to the circus. He decided then that he wanted to make people laugh and be paid for it. As a child he was good at acting the fool and he was richly rewarded with attention and sweets and hugs and pats on the head.

When he told his father that this was what he wanted to do for the rest of his life, his father laughed (at first) and then grew stern and lectured young Robert on responsibility and upholding the family tradition. When he approached his grandfather, he was surprised at the vehemence of this kindly old man's response.

"Absolutely out of the question, young man! I'm surprised at such foolishness! I *will* not allow it!"

When Robert persisted in talking about it, it was made clear by both men that he would not get a cent from the family unless he went on to study law. In fact, there was a hint from his grandfather that his father may even be kicked out of the firm if young Robert did not fall into line.

Robert Dewcliff closes his eyes and sighs. Would he have ended up like Fabio Retsino if he had followed his heart? Would the difficulty of making a living have cast him into criminality? It is very likely that this was the fear held by his forebears – that there would be a throwback in the family to past, illicit activity.

And here Robert Dewcliff sits, on the other side of the duality.

His ancestors had been fine, upstanding citizens, making a living from the fact that lawlessness was rife in 18th Century France. The men were turnkeys in some of the largest gaols – they had been for generations. Their very name indicated this: *du Clef*, the ones holding the keys.

How easily a coin can flip. One moment his ancestors were at the head of their profession, the next they turned tail. Gerard du Clef, head of the family in pre-revolutionary France, said he smelled it in the wind, that it would become unsafe for them. The turnkeys left with their families and settled in England, most of them in London. Unfortunately there was no ready market for their specialised profession and they found it extremely difficult to survive, let alone live in a manner they were used to.

Gerard found work in a hospital and a small number of the other men managed to find work. However, Gerard's son, Michel, decided to make good use of the knowledge he had gleaned from the prisoners under his care in France, and embarked on a career which involved relieving those who had more than he had, of their surplus. Michel was at heart egalitarian. The fact that he eventually owned more than most of those around him seemed a point lost on him, until he himself was burgled. He made the mistake of complaining to the authorities. They, in turn, went about their business thoroughly and questioned his large collection of valuables. His explanations did not stand up to scrutiny and Michel found himself behind locked doors.

He was not the only member of the once respected family to find himself eventually shipped across to a godforsaken land halfway around the world. He was at various times a resident of Van Diemen's Land, Norfolk Island and Sydney Town. Ironically, through good behaviour, intelligence, ingratiation and good luck, Michel du Clef became an assistant to the governor of one of the colony's gaols. He was in his element. Although he had a wife in London, he knew he would never see her again, and at the age of forty-three he married Mary Elizabeth Pointer. They had eight children, seven of whom survived into adulthood. Michel remained a functionary of the gaol system. Two of his sons took up the law and that tradition was kept alive from father to son through to Robert Dewcliff.

It is a heavy weight on Robert's psyche. While he mostly enjoys his work, he often feels that something is missing in his life. As a compromise, he tries to instil some lightness, even humour, into his Court. However, it is not the same as being a clown, with a painted face and red nose and an appreciative audience laughing uncontrollably.

Robert Dewcliff stands up, stretches and yawns. He cannot keep those in the courtroom waiting any longer. But how can he ensure that some sense of justice comes out of this case? He gives three light taps on the door leading into his end of the courtroom.

"All rise!" The clerk of Courts bellows this out in his strong, rich voice.

The door at the front of the Court opens and Robert Dewcliff comes through and takes his seat on the Bench; everyone else then sits down. He looks around the courtroom. The Prosecutor (Alan Appleby) flips through his notes; Retsino's solicitor (Clive Johnston) is turned in his seat, in conversation with his client; Retsino several times looks up uncomfortably at the Magistrate; members of the public are shuffling in their seats, or talking quietly.

Robert Dewcliff clears his throat. "Stand up please, Mr Retsino."

The Defendant gets to his feet, with unease showing on his face. His solicitor also stands up and addresses the Magistrate. "With respect, your Worship, I feel it is improper that you should have decided this matter already without having heard all the evidence my client wishes to call."

Robert Dewcliff motions to the solicitor to sit down. "I have not decided anything yet, Mr Johnston."

He then turns his attention to the Defendant. "I am not too interested what family tradition you did not want to follow, Mr Retsino. But I am interested to know what career *you* wanted to follow, instead of which you ended up before this Court."

The Defendant blinks and hesitates. "Well Sir, I wanted to go to university and my dad said that I was trying to be too hoity-toity. He said that I was letting down the family and that was I too proud to be a clown."

"Were your parents clowns, Mr Retsino?"

"Yes Sir." The Defendant looks uncomfortable, even embarrassed, at this revelation.

Robert Dewcliff's jaw drops as he stares in disbelief at the man standing before him. Then he starts to laugh... a full-bellied laugh, which echoes around the courtroom. Everyone's eyes are on him, most faces expressing disbelief. Several people start tittering.

The Clerk stands up and is about to call the Court to order, but Robert Dewcliff waves him to sit down. He is still chuckling. "It is okay, John. It is just too ironic. I will tell you about it over lunch."

He then turns his attention back to the Defendant. "I must apologise for that outburst, Mr Retsino. It was not aimed at you and I meant no disrespect to you. Your predicament echoes something in my own life, which I will not go into." He pauses and the Defendant looks a little more at ease.

Robert Dewcliff can't suppress another few chuckles before he can speak again. "How old are you, Mr Retsino?"

"Thirty-four Sir," he replies, obviously wondering where this is leading.

"Do you have a family of your own?"

"No Sir."

Robert Dewcliff stops and ponders for a while, tapping his nose with his 'steepled' fingers. The sense of anticipation in the courtroom is palpable.

He continues. "Do you read much, Mr Retsino?"

"Yes Sir. I love to read."

The solicitor rises and addresses the Magistrate with some exasperation in his voice. "Your Worship, this hardly seems relevant."

Robert Dewcliff responds with a smile, "Indulge me, Mr Johnston."

The solicitor sits down. Robert Dewcliff focuses his attention on the Defendant again. "What in particular do you read?"

"Novels, mostly crime. And..." He hesitates. "I like to read the law reports in the library." He looks embarrassed.

Robert Dewcliff smiles, his hunch confirmed.

"Mr Retsino, I have a proposition to make." He stops to gather his thoughts. Retsino looks expectantly at him and then at his solicitor.

Robert Dewcliff speaks again, this time to ask the Prosecutor and the solicitor to step forward. When they reach the Magistrate's Bench, Robert Dewcliff speaks quietly to them.

"Clive, I know your client has pleaded 'not guilty' and you have not completed the defence case. What I have in mind is that the Defendant plead 'guilty' and..."

Both lawyers start to interrupt him, but he holds up his hand to prevent them. He continues, "...I will impose a non-custodial sentence with conditions."

Clive Johnston opens his mouth, hesitates, then asks, "What conditions do you propose, Robert?"

Robert Dewcliff responds. "I will announce those openly to the Court and then you can consult with your client. He can then agree or disagree. Fair enough Clive? And what about you, Alan?" This last is addressed to the Prosecutor.

Both lawyers think for a while, before both agreeing to this unusual suggestion. They return to their places at the Bar Table. Clive Johnston turns around to the Defendant and asks him to sit down. He then explains to him what the Magistrate has suggested. While this is going on, the buzz of conversation rises in intensity in the public gallery, as people wonder what is going on.

Retsino is almost angry as he says to his solicitor, "But you told me to plead 'not guilty' so that you could try and get me off."

"Sure," Johnston replies, "but I think your chances of getting off are slight and you might well go to gaol for a change. What the Magistrate is offering is to keep you out of gaol, although he said he would put conditions on it. I imagine he'll put you on probation with community service."

"For how long?" his client asks.

"No idea. But he did say it was up to you whether you accept the conditions."

Retsino thought for a while, before asking, "What if I decide not to accept his conditions?"

"He could then decide to lock you up for a while."

Retsino looks shocked at this. Some of those in the gallery are trying to hear what the two are saying. During all this, Robert Dewcliff is in quiet conversation with the Clerk, while the Prosecutor is making notes.

Johnston thinks for some moments, then says to his client, "I know this magistrate. He's always fair and he has a reputation for unusual solutions. He's one of the few magistrates or judges I know who seems genuinely interested in justice." He pauses, then continues, "I think it's worth the risk."

Retsino sits and thinks. He is petrified of going to gaol. Why has he been so stupid? He is intelligent enough to understand that what he did to land up in Court again was largely a protest against his father, for his constant attempts to control his son. And his father has refused, again, to come to Court to support him. He is on his own and needs to take control of his life. He sighs and looks up at his solicitor.

"I suppose I don't have much choice, do I?" he asked.

"You always have a choice, Fabio. You always have a choice. But I know what you mean."

Silence falls between them. Finally Retsino heaves a sigh and says to Johnston, "Okay. I'll take the risk."

Johnston nods, turns toward the front of the Court again and stands up. Robert Dewcliff looks up and an expectant silence falls over the Court.

Johnston speaks. "Your Worship, my client will change his plea to 'guilty' and throw himself upon the mercy of the Court."

"And the mercy of the Court he shall have," Robert Dewcliff replies. He continues. "Mr Retsino."

The latter stands up as his solicitor sits down.

Robert Dewcliff looks at the Defendant steadily, before continuing. "Mr Retsino, what I am about to put to you may seem a strange proposition. I suggest that when I have finished putting it to you, you take some time to think about it. And I am quite happy to hear any response you may have."

The Defendant nods and Robert Dewcliff continues. "It seems to me that the strife you find yourself in (not for the first time), is partly a result of your following the wishes of a demanding father,"

The Defendant looks surprised.

Robert Dewcliff smiles. "I understand that better than you know. It also appears that you have a keen interest in the law – I might even venture to guess that it could be your calling."

The Defendant nods again.

“What I propose is the following. That you be placed on probation for two years. That you immediately seek entry into a law school and that you pursue a degree in law. That, provided you apply yourself assiduously to your studies and pass your first year, your probation will be discharged at that point. I assume that successful completion of your first year of study in a field you are passionate about, will obviate any further supervision by the State.”

Robert Dewcliff pauses to watch the effect of all this on the petty criminal standing before him.

Retsino’s face goes through a series of metamorphoses: incredulity, worry, relief, joy, worry again, puzzlement. He has tears in his eyes as he addresses the Magistrate. “Thank you Sir. I don’t know what to say. How did you know these things?”

Robert Dewcliff smiles and answers, “If you appear before me again, I expect it to be as a lawyer. That will be the thanks I would like. Now, I suggest that you go off with Mr Johnston to discuss what I have put to you and return to this Court later in the day with your answer. We will formally conclude the matter then.”

Robert Dewcliff turns to the Prosecutor. “Mr Appleby, have you any comments to make?”

The prosecutor rises. “Your worship has again shown the wisdom to tread a path none of us would have thought of. I have no objections.”

Robert Dewcliff gives a slow nod of acknowledgement. “Thank you, gentlemen. I adjourn this case to later this day.” He bangs his gavel down lightly on its block and asks the Clerk to announce the next case.

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