

MASTER BROOKE

A tribute by Dr Christopher Brooke given at the funeral service for Master Brooke at St Luke's Church, Chelsea on 20 February 2018



Henry “*labour[ed] night and day*”, as we’ve just been singing. He didn’t work hard because he had to – and we know that because he went on working for more a decade after he ‘retired’ (with ‘retired’ in inverted commas). He didn’t work to get away from his family, because he liked them, and they liked him – more on this a little later. I don’t think he was motivated primarily by guilt, either, relating to the privileged life that he led. And he wasn’t really working as a way of distracting himself from the anxieties we all have from time to time about whether anything means anything at all. Karl Marx – who once lived a few minutes’ walk from here, on Anderson Street – says that when we work on our own projects (these are his words), “*the result is the self-realization and objectification of the subject, therefore real freedom, whose activity is precisely labour*”. That’s a bit obscure, to be sure, but it gets at something important. Henry worked hard because he wanted to, because that’s the kind of person that he had disciplined himself to be, because he had worthwhile things to be getting on with, because he was the right person to be getting on with those things, and because it was the best use of the time that had been given to him.

It was not all work, even if it mostly was. There was also a lifelong interest in cricket. This stretched from the War, when the ordinary rhythms of domestic and international competition had been suspended, avidly reading his older brother Peter’s copy of Plum Warner’s *Cricket Between Two Wars* about matches that had been played well before he was born, through to visits to Lord’s with his grandson Wilf more than 70 years later; with a lot of volumes of *Wisden* in between – first of all, as birthday presents from his godfather and then, for 30 years, from his father-in-law, another Wilfrid. Henry had himself been a decent middle-order batsman, once upon a time, though with a bad habit of playing across the line. An impossible ball he faced from the Middlesex leg-spinner R V C Robins that pitched at a right angle was one that he remembered for the rest of his life. On his most recent birthday, he wrote on his blog that he was 81 not out; but he wasn’t able to add to his score before – as he himself would have put it, we can be quite sure of this – Old Father Time removed the bails.

But apart from cricket, and walking in the Alps for his summer holidays, Henry didn’t really have hobbies. There was an experiment with keeping tropical fish in the early 1990s. But the piscine mortality rate was high, and the tank was never reassembled after the move to Chelsea. Nor was he especially good around the house. On one occasion when Biddu was visiting her relatives in Newcastle, Caroline remembers finding him at home alone looking for the stopcock: he was trying to use the washing machine and was working

through the manual from the beginning – except that its opening pages contained the installation instructions. When he went into hospital last month, he was advised that when he came out, he shouldn’t do the hoovering for a bit. Biddu said she thought that there was not much danger of that.

One of the curiosities about Henry’s occasional stays in hospital is that he didn’t mind eating hospital food. In part, this was generational: he belonged to the cohort who grew up with wartime rationing and post-war austerity. The food in those years was often appalling but it meant that those who had experienced it could eat anything after that uncomplainingly (though his sister Honor has a memory of quite a small Henry announcing that “*I will not eat marrow on this or any other day!*”). But it was more because he was so very good at being institutionalised. His life passed from one kind of institution to another: from prep school and public school, to National Service with the Royal Engineers, to Balliol College, to the Bar, and then on to the judiciary (with its Judges’ Lodgings) – and he generally flourished in these settings. His association with Balliol bookended his adult life: he was four years there as an undergraduate student of classical literature, ancient history and philosophy; and for the last four years of his life, he was an Honorary Fellow of the College, a status he very much enjoyed – though he would worry when he turned up to events there that he would be old and deaf and dull and that nobody would want to talk to him; and then he would always have a whale of a time, and come away buzzing, though there was also the occasion that he fell down the steps of the Hall after a long dinner and banged his head, and had to spend the night in A&E at the John Radcliffe. In later years, he was in and out of the Chelsea and Westminster, and he ended his life, appropriately enough, in another Great British institution – Bart’s Hospital Ward 1C – in the generous care of just the kind of dedicated public servant that, in a somewhat different register, he had been himself.

Henry drew a lot from the institutions that structured his life, but he never wanted them to remain as they were. A committee for Henry was an engine-room for driving change. He chaired the Bar’s IT committee, its race relations committee, the Ethnic Minorities Advisory Committee of the Judicial Studies Board and the Law Commission – in all four cases pushing to modernise aspects of the archaic legal world. His grandest monument on the technological side is the BAILII website, a fantastic resource for lawyers, students, but above all for citizens; and he said that he thought his 1993 Kapila Lecture, which explored strategies for overcoming racial and other cultural prejudices in court, was the best thing that he ever wrote. In retirement – again, imagine the inverted commas – he worked for Prisoners of Conscience, the Public Law

Project, the Harrow Law Centre, the Free Representation Unit, JUSTICE, the Bingham Centre, Prisoners Abroad, Zacchaeus 2000, the Slynn Foundation, Law for Life, Peace Brigades International and for the Republic of Albania, which made him – splendidly – a Knight of the Order of Skanderbeg.

But he was also, of course, a judge – and a good judge, too. His opinion in the conjoined twins case is already a classic and much commented-upon piece of judicial reasoning. His judgment in *Greene v Associated Newspapers* is an important defence of the freedom of the press. And if some of his finest judgments, such as that in the case of the Luton girl who wanted to wear her jilbab to school, were overturned by the House of Lords, this in part owed to the fact that Henry believed – admirably – that the Human Rights Act made more stringent demands on routine administrative procedure than they did. An Oxford law don recently told me that he used the cases where Brooke LJ was reversed in his teaching (these are his words) “because law students tend to assume that when the House of Lords overturns the Court of Appeal it always had the better arguments, whilst your father’s outstanding and humane judgments provide a nice antidote”.

Henry was careful of course to keep out of party politics while he was on the bench. But there was nevertheless a distinctive and unusual party-political trajectory. He began his life as the

been training as a Mediator and was putting the various things he’d been learning into practice, and so started leaning forwards, making eye contact and nodding, whenever anyone spoke to him. It was very disconcerting, and Bidy didn’t like it one bit, but happily things quickly reverted to normal. Jane recalls that when she was first going out with Michael, the four of them went together to a pub in Pimlico, and she found herself thinking that she hoped that Mike would look at her in 30 years’ time the way that Henry was then looking at Bidy. “I was bats about Bidy when I met her,” he once said, not that many years ago, and then he added, “I still am.”

Henry liked going to parties – other people’s, and his own. In his last dozen years, these latter were quinquennial birthday affairs – at 70, at Brooks’s Club in St James’s, which also marked his retirement and 40th wedding anniversary; at 75, in a pavilion at London Zoo, just along from the emu; and at 80, in the gorgeous Conservatory at the Barbican Centre. Around that 80th birthday, he was systematically disentangling himself from his various organisational commitments, resigning and retiring from things, as patron, chair or trustee. Nevertheless, in his final 18 months or so, he continued to work, and he really poured himself into Willy Bach’s Commission on Access to Justice for the Fabian Society. It was just the right job for him, at just the right time: he still had the energy, it was stuff he could mostly do from his desk

“A committee for Henry was an engine-room for driving change”

child of not one but two Conservative politicians – and later was the brother of a third. Peter was reminiscing to me about Henry’s participation in the public inquiry concerning ward boundary changes in Camden in the mid-1960s, remarking that “he had not in my view crossed the Rubicon at that stage”. But by the early 1980s, he was active in the SDP–Liberal Alliance, as it then was, in Richmond; and much later he was part of the mass influx of new members into the Labour Party following the 2015 general election, perhaps the least likely Corbynista of them all. Did his politics change? I’m not sure they did, much; rather, the kind of commitment to human rights and the rule of law that Henry took so seriously was increasingly unfashionable amongst the political class, with Home Office ministers, in particular, so frequently a disgrace; and that commitment ended up with him in a more leftish place than he otherwise might ever have chosen to occupy. One of his final campaigns was in support of the North Kensington Law Centre, in the aftermath of the terrible fire at Grenfell Tower, just three miles away from this Church; and only last October, he spoke at a Labour Party Conference fringe meeting at the Brighton Holiday Inn – really not something that I ever thought he would do.

Henry’s home life was contented. He loved his four children, and we loved him in return. He loved his seven grandchildren, too – though I have to report that he used to behave *very* badly in the café that the youngest, five-year-old Lucy runs, trying to order off-menu, and making complaints about the speed of service, so much so that Lucy occasionally (and correctly) had to ban him. He loved in particular his three daughters-in-law – Julie, Jane and Josephine – and his son-in-law, Adam, because they would listen to what he had to say with far greater care than did his own, highly talkative offspring. Above all, he loved Bidy – lovely Bidy – who has lost her mate of more than half a century. Henry and Bidy really were the most tremendous advertisement for what married life might be. One rare disharmonious moment came when Henry had

at home, it gave him material to stick on his website, and it was all in the service of a cause that was so dear to him. It’s not too much at all, I think, to say that with the publication of the Bach Report, Henry’s life-work really was done.

But there was one last thing. Given his Stakhanovite work habits and meticulous attention to detail, you will not be at all surprised to hear that Henry left careful instructions, “to be opened only in the event of my death” and dated the day before he went into hospital. Mortality had been on his mind. So many people have remarked on his kindness since he died, and this was his final act of kindness to his own family. We wouldn’t have known what to do. This is the funeral he wanted – here at St Luke’s, where Charles Dickens married Kate Hogarth in April 1836 (and at the end of his life, he had been writing essays for his blog on legal themes in Dickens’s novels). And, with what I thought a P G Wodehousian touch, he left us what he would have called “short notes” on various clergymen he knew, ranking them in order of suitability for conducting the service – and I’m pleased to say that the Reverend Canon Nick Sagovsky, here with us today, was top of the pops. Our final hymn, ‘Guide Me, O Thou Great Redeemer’, was Henry’s specific request, in honour of his own mother, a Welshwoman.

Now, though, it is time for me to sum up, deliver a judgment, and pray that it won’t be overturned in the divine Court of Appeal. In the early 1980s, as many people here will know, Henry served as Counsel to the Sizewell B nuclear reactor public inquiry. It went on for a very long time, and when it ended, the commemorative sweatshirt – in honour of the idiosyncratic way in which people often spoke at that inquiry – carried the slogan, “I’ve acceptably met the criteria.”

And, my goodness, Henry did.

**The Rt Hon Sir Henry Brooke CMG, 19 July 1936–
29 January 2018.**

Dr Christopher Brooke