

Meet the Hampels

THEY HAVE BEEN TOGETHER FOR 25 YEARS AND ARE ONE OF AUSTRALIA'S MOST NOTABLE LEGAL DUOS. RETIRED SUPREME COURT JUDGE PROFESSOR GEORGE HAMPSEL AM QC AND HIS WIFE, COUNTY COURT JUDGE FELICITY HAMPSEL SC, TOOK TIME OUT TO TALK TO THE YLJ.



CAREER PATH: County Court Judge Felicity Hampsel recommends lawyers spend time working as a judge's associate before going to the Bar.

How did you come to teach advocacy?

PROFESSOR: It's staggering to me that the legal profession allows people to hold themselves out as advocates and just pick up their skills as they go along. Initially, my ideas about teaching were drawn from my experiences at the Bar. Over time, it became clear advocacy consisted of skills, techniques and disciplines that could be taught and developed. Now, advocacy training has grown into an extensive body of practical knowledge.

JUDGE: I fell into advocacy teaching because of George, but I found I enjoyed teaching and had an aptitude for it. I have enjoyed the opportunities to teach in Australia and overseas for so many years.

Do you notice a difference between Australian advocates and other advocates?

JUDGE: I generally find Australian advocates are respectful, but more independent and ready to stand up to the bench, whereas advocates from the UK or Singapore are more deferential to hierarchy. In terms of advocacy, the English are more concise, Americans are very fluent and Singaporeans are hard-working and prepared.

In The Hague and Rwanda, the advocates were drawn from both common law and civil jurisdictions. Their advocacy combined different practices but what was common to all was the sense of importance in what they were doing.

What's one thing the public might be surprised to know about judges?

PROFESSOR: There is a perception judges are soft on criminals but judges are unlikely to be more

“Empathy and compassion are an essential part of being a judge. You have to be impartial, but this doesn't mean you have to be robbed of humanity.” – Judge Felicity Hampel

sympathetic than the public. In fact, recent experiments in which judges and members of the public were asked to consider sentences resulted in tougher sentences by judges.

Did you ever look back and wonder if you got a decision wrong?

PROFESSOR: Sentencing is probably the most difficult aspect of impartial decision-making. Within the range of discretion allowed, I always tried to deal with issues in a constructive, compassionate manner. I would worry before I handed down my decision so that, afterwards, there was nothing to worry about.

Has a case ever driven you to tears?

JUDGE: Yes. Some cases really touch you. Empathy and compassion are an essential part of being a judge. You have

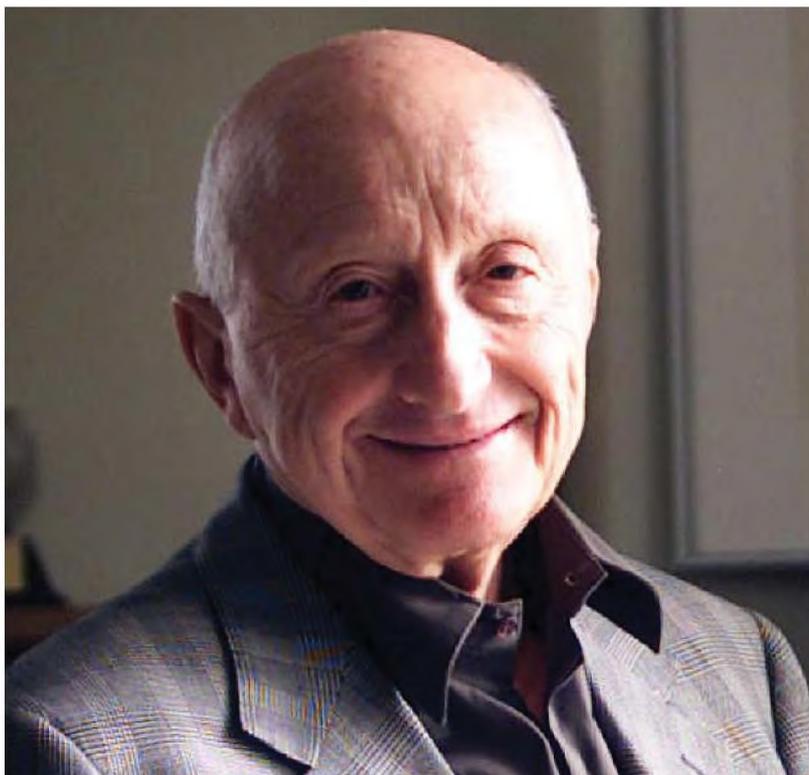
to be impartial, but this doesn't mean you have to be robbed of humanity.

What is the most frequent mistake that you see lawyers make?

JUDGE: It's easy for lawyers involved in litigation to get emotionally involved. As a judge, I want to know what the legal issue is rather than who was late serving documents. I'm not interested in point-scoring between advocates.

Any advice for young lawyers wanting to go to the Bar?

JUDGE: I didn't know enough about preparation of cases, getting briefs and managing the business of being a barrister before going to the Bar. I would advise others to gain more experience, to have some savings, to have a greater understanding of the practice of the law, to know more people and to have earned their respect. It would also be



FOCUSED: Professor George Hampel says commitment is vital for success in the law.

of assistance to be a judge's associate before going to the Bar because you are exposed to a variety of cases and to how judges react in their role.

You have held distinguished positions within the law. Did you create these opportunities or were they the result of chance?

JUDGE: It's important to be open to opportunities and where they may take you. I had lots of out-of-left-field opportunities that led to very rewarding experiences. For example, although I had been a commercial solicitor, when I went to the Bar I found it hard to get commercial briefs. Out of the blue, I was offered a brief before the Equal Opportunity Tribunal (as it then was). The anti-discrimination jurisdiction was just beginning and I was very lucky to be involved at the start of the development of human rights jurisprudence in Australia.

PROFESSOR: I enjoy being good at what I do and it's my commitment that helped me to succeed. I've also been involved in broader professional activities by being on bodies such as the Victorian Bar Council, Council of Legal Education, Legal Practice Board and Law Council of Australia. This allowed

me to broaden my field of contact within the profession, which created opportunities for me. I have been lucky, but luck needs some assistance from commitment and hard work.

Do you ever look to each other for advice about work?

PROFESSOR: We're always discussing our work. Occasionally, we disagree but we both have great respect for each other's opinions and intellect. Initially, I was unsure of the need for a Bill or Charter of Human Rights. It was Felicity who eventually persuaded me of its value. She helped me to see that the common law, which I still respect, cannot sufficiently deal with difficult human rights issues and is too slow to react to social change.

JUDGE: I am heartened to hear I have won George over to my way of thinking on the Charter of Human Rights! George has had an enormous influence on my thinking. I use him as a sounding board. It can be a difficult balance between giving advice yet not giving the answer. George will not tell me what to do but will ask me questions which help me reason it through myself.

Given you both work together and have careers in the law, how do you maintain a balance?

JUDGE: It's important to do things that have nothing to do with law. We love doing physical activities. We ski, and have just taken up surfing. I have a veggie garden in the country which I potter about in. George takes off on his tractor and attacks fallen trees with his chainsaw.

PROFESSOR: We have many friends within the legal fraternity but we try to reach beyond the law. We've been fortunate to make friends from different professions around the world, mainly through our teaching.

Which of your roles in the legal profession have you found most rewarding?

PROFESSOR: Probably, I have most enjoyed teaching. I started as a tutor at Melbourne University, then a ski instructor and, for the past 40 years, teaching advocacy. I enjoy the responses from those I teach.

JUDGE: As with George, I've loved every part of my career. I have found the Law Reform Commission incredibly rewarding, as it gave me the capacity to reflect on the law and the way it operates, and to consider how it can be changed or improved. As a barrister, and as a judge, you are confined to the law as it applies to the instant case. ●

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AT A GLANCE

Professor George Hampel AM QC

Admitted to the Victorian Bar (1958)

Appointed Queen's Counsel (1976)

Justice of the Supreme Court of Victoria (1983-2000)

Chairman – Australian Advocacy Institute, Leo Cussen Institute and the Victorian Bar Readers' Course

Appointed Professor of Advocacy and Trial Practice, Monash University (2000)

Order of Australia for development of advocacy training and service to legal institutions

Centenary of Federation Medal

Judge Felicity Hampel SC

Admitted to the Bar (1981)

Appointed Queen's Counsel (1996)

Appointed to the Victorian County Court (2005)

Appointed vice-president of Victorian Civil and Administrative Tribunal (2010)

Member – Australian Advocacy Institute Board and Management Committee, Victorian Law Reform Commission

The Hampels have extensive advocacy teaching experience. They have devised and delivered advocacy skills programs in Australia and internationally, including the training of prosecutors in war crimes tribunals for the former Yugoslavia and Rwanda.