

Interview with Chief Justice Robert French

THE CHIEF JUSTICE OF THE HIGH COURT OF AUSTRALIA QUALIFIES AS THE HIGHEST OF HIGH FLYERS. HE SHARES HIS EXPERIENCES AS A YOUNG LAWYER AND HIS VIEWS ON THE PROFESSION.

What was it like for you working as a young lawyer?

[It was] an enormous learning experience on a variety of levels including the substantive law, the law in its practical dimensions, the interpersonal relations and communications with clients, co-workers, other people in the workplace and learning how to deal with mistakes and failures as well as successes.

What were your biggest challenges in your first years of practice?

I was admitted to practice in 1972 after two years of articles. I was in a small [generalist] firm . . . and I did everything, including conveyancing work and jury trials. The biggest challenge was trying to develop effective work practices in an environment in which I had to deal with a variety of different tasks at the same time.

What projects, causes and recreational activities were you involved in as a young lawyer?

I was involved with the Aboriginal Legal Service as its chairman for three years. I was also elected to local government and became quite involved in the affairs of the local council in the early 1970s.

What [social] needs did you see in the seventies that led you to found the Aboriginal Legal Service?

It wasn't a bolt from the blue sky that led me to the view that there needed to be an Aboriginal Legal Service. It was rather an evolutionary thing. I had been a candidate for political office in 1969. I stood for the federal seat of Fremantle against Kim Beazley's father and I was a law student at the time. Through that I met some people who had been involved with setting up a body called the New Era Aboriginal Fellowship. I became involved with those people and then set up a committee of their organisation which we called the Justice Committee. We started writing letters to the government about things like special training for the police in dealing with Aboriginal people. Generally the answers we received were unencouraging – there's one law for everybody and Aboriginal people aren't any different.

Then we started developing a Duty Counsel service, providing advice and representation for Aboriginal people who required it. That was done on a voluntary basis. The Justice Committee evolved into the Aboriginal Legal Service. When the government changed in 1972, the Aboriginal Legal Service was offered funding to represent Aboriginal people throughout Western

Australia. Certainly there was a sense among a lot of my contemporaries that Aboriginal people were over-represented in prisons, under-represented in courts and treated in a discriminatory fashion in a variety of ways.

Who were your mentors when you were a young lawyer? How did you benefit from their guidance?

In 1972 I had spent two years serving articles under the guidance of the senior partner in a small law firm in Perth. The partner was a true generalist capable of turning his hand to anything. He exhibited the highest professional qualities of competence and courtesy when dealing with other practitioners and clients and in his interpersonal relations within the firm. He did not allow himself to be distracted by ego or become involved in legal game playing. His model of practice is one I have never forgotten. It may seem strange to young lawyers today but, having been admitted in 1972, I became an employed solicitor at the firm and eighteen months later became an income partner. In 1975, with another one of the partners and two other friends, I set up my own law firm. We had to be prepared to turn our hands to anything and to be each other's mentors. Incidentally, that firm



misused today and debased a little by our celebrity culture.

What guidance would you give to young lawyers wanting to make a difference?

The first thing is to be competent. I once heard a sermon by the late Reverend Roger Holloway at Gray's Inn in London about the life of St Paul. The sermon, which was a wonderful example of erudition and wit, ended up with these words, which I commend to young lawyers:

"The life of St Paul tells us that God helps the meek and the humble. He also helps the articulate and the pushy but particularly the competent."

There are some who say, "I'm going to be a public interest lawyer" . . . and [are] burning with social justice, which is a great thing. But sometimes that's coupled with an attitude that technical competence in the law is a kind of pollution of the moral purity of their approach. It isn't; you are useless without technical competence.

The second thing is to look to the wider interests of society, which do not always accord with those of the legal profession. Looking at ourselves from the outside in offers a perspective which may indicate opportunities for beneficial change.

It's sometimes said that "if at first you don't succeed, fail, fail, fail again". What advice do you have in relation to facing failure head-on and turning it into success?

There are some failures you can't turn into success, but what you can do is learn by them and say, "Well, I'm never going to do that again, I've learned from that!". And maybe it's also very useful for young practitioners who might feel stressed by some mistake that they have made to be able to talk about it openly with colleagues and within their own law firm or otherwise.

The range of people that you meet, the drama of the courtroom process, the highs and lows that one experiences in both success and failure, make the law a very special profession.

later became Sly & Weigall, which evolved into Deacons and then Norton Rose.

What was your funniest experience as a young lawyer?

One of my law partners and I had both represented a rather ebullient Swedish "escort" in different pieces of litigation. I represented her unsuccessfully on a charge of aggravated assault occasioned by her kicking the Senior Vice Squad Officer in the shins when he sought entry to her premises. My law partner and I were walking along together in Perth when our common client came into view and, recognising us, called out exuberantly: "My boys!" It was an embarrassing but also rather memorable and amusing moment.

Could you elaborate on your ambitions and aspirations that led you to the High Court?

Appointment to the High Court is generally the result of a combination of circumstances for which it is impossible to plan. My philosophy always was that what I did as a lawyer and later as a judge of the Federal Court should be an end in itself and not a means to an end.

Who is your greatest inspiration? Why?

Other people can provide models of behaviour which may inform our own conduct. I am a little cautious, however, about being "inspired" by others. I think it is a word which is probably overused and

Early experience in advocacy can be a great character builder. If one appeared before a judge in those days and had overlooked something, the judge would send you away feeling about as small as a small insect and he would do it in front of your peers. Many went through that kind of experience and learned from it and developed the ability to be able to appear as advocates and not to be paralysed with fear about the process.

What is your view on the future of the legal landscape and/or the legal profession?

I think the pressure for change in the way that the profession and the courts conduct their business is ongoing and will become more intense in the years ahead. I suspect that in 20 years' time there will have been significant changes both institutionally and in terms of work practices. So far as dispute resolution is concerned, however, there are certain core functions of the courts which, if we are to retain a court system, cannot be dispensed with. They are the functions of examining the evidence, applying the law to it, and determining the rights and obligations of parties. Notwithstanding the rise of alternative dispute resolution, what the courts do is important because it is done in public, and because decisions made in public with publicly accessible reasons affirm the principles of law involved in the case and the rule of law generally.

What do you do for fun?

What I do is fun.

It's been said of you that you have "a diverse range of interests, and I don't mean golf".¹ For example, you've thrown yourself out of aeroplanes.

I've done that once. Once was enough. I wouldn't want to tempt fate twice. I learned

to scuba dive, which was good. I took up marathon running and did four of those in the end. I harbour the fantasy that I might have one more left in me. I should add that when I jumped out of the plane above Cairns, I was attached to a tandem master. Somebody else wore the parachute and pulled the rip cord.

What is your favourite book and favourite food?

I don't think I have a favourite book. My tastes are eclectic. I like literary fiction, non-fiction, history, and science fiction if it's well-written. So far as food is concerned, I don't think that's a matter of interest to anybody.

If you weren't doing what you are doing today, is there anything else you would consider as a profession?

I wanted to be a great theoretical physicist. But I decided at the end of my Science degree that I wasn't going to be. I think the law for me has been probably the best possible profession. I was a generalist as a practitioner. The range of people that you meet, the drama of the courtroom process, the highs and lows that one experiences in both success and failure, make the law a very special profession.

What legacy do you hope to leave as Chief Justice?

Generally speaking I don't think about it much. It is sufficient unto the day to do the job as well as I can. The legacy takes care of itself in the end and is something that other people define. ●

RENA SOLOMONIDIS is a lawyer at Cornwall Stodart. **JAMES BROWN** is a lawyer. Rena and James are also the 2012 co-chairs of the YLS Editorial Committee.

¹ Matthew Knott, "Law enforcers no. 4: Robert French", *The Power Index*, 4 October 2011, www.thepowerindex.com.au/law-enforcers/robert-french.

Chief Justice Robert French at a glance

CAREER

- 1970–72** Articles: Hammond & Associates
- 1972** Admission: Supreme Court of Western Australia
- 1975** Founding partner, Warren McDonald French & Harrison
- 1983** Joined the Western Australian Bar
- 1986–2008** Judge, Federal Court of Australia
- 1994–1998** President, National Native Title Tribunal
- 2003–08** Additional Judge of the Supreme Court of the Australian Capital Territory
- 2003–08** Non-resident Member of the Supreme Court of Fiji
- 2005–08** Presidential Member, Australian Competition Tribunal
- 2006–08** Part-time Commissioner, Australian Law Reform Commission
- 2001–05** President, Australian Association of Constitutional Law
- 2008** Appointed Chief Justice of the High Court of Australia
- 2010** Companion of the Order of Australia (AC)

EDUCATION

- 1965–67** Bachelor of Science, University of Western Australia
- 1967–70** Bachelor of Laws, University of Western Australia