

Colin McDonald QC

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BARBARA BRADSHAW AND FRIENDS ENJOYED A LANGUID SUNDAY LUNCH IN A GLORIOUS TROPICAL GARDEN, ALL IN THE NAME OF INVESTIGATIVE JOURNALISM AND THE STORY OF ONE OF THE TERRITORY'S MORE COLOURFUL LEGAL FIGURES.

The farewell gala dinner for Law Council of Australia President Glenn Ferguson, held at the Australian War Memorial in Canberra also saw the awarding of the prestigious Law Council of Australia's President's medal for 2010 to Colin McDonald QC. The award, which first started in 2007, recognises an Australian Lawyer's outstanding contribution to the legal profession.

In presenting the medal to Colin, Glenn Ferguson noted that Colin is highly respected by his peers in the Australian legal profession. Involved in a number of legal organisations and activities throughout Australia and Southeast Asia, he is one of Australia's most experienced barristers in human rights issues and cross-cultural professional engagement.

Colin received particular praise for his work with Indigenous Australians in the Northern Territory.

He has a well earned reputation of fighting for justice issues for Aboriginal Australians and has also worked extensively in the fields of refugee law, immigration, workers compensation and criminal law.

Described by Glenn Ferguson as an esteemed member of the legal profession and a compassionate lawyer, Colin has given generously throughout his long career to both his colleagues and clients. He has been a great mentor to countless members of the legal profession over the years; many of whom have gone on to become QC's and even judicial members.

Those legal practitioners setting out on their legal career in the Northern Territory can look to Colin as one who had both an eminent and useful career in the Northern Territory (and indeed beyond) and national recognition of that career.

Some people interstate may think

that the Territory is a legal and social, and therefore backwater, and Colin's career certainly shows this need not be the case.

If Colin had remained in practice in Melbourne where he would have undoubtedly done well, but it is arguable that he would not have had the variety of career experiences that he has experienced in the Territory. His work has also extended from the Territory to Indonesia and beyond. As Northern Territory politicians keep on telling us, the Territory is the gateway to Asia.

I interviewed Colin for the purposes of preparing this article as well as using other material (the use is acknowledged and thanks to those sources). I was assisted in the interview by some fellow longstanding, mainly lawyer, members of the "Stuart Park Residents Association. Stuart Park, one of Darwin's more colourful suburbs, is around five minutes from the centre of Darwin and is a mixture of pre cyclone houses, some of which had to be virtually rebuilt after 1974, old slightly grotty flats, new and stylish units and townhouses and some splendid designer houses that could feature in Vogue.

The interview took place over a long and very enjoyable lunch

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Mr Glenn Ferguson and Mr Colin McDonald QC.

prepared by Colin and his assistant. The house, which has seen some great parties, is of pre cyclone design and is full of Indonesian and Aboriginal art and memorabilia. It is complemented by a backyard that is a virtual jungle and full of birds. It would be hard to see Colin move to even one of the more salubrious townhouses or units build in the last few years. He simply would not have room for his very attractive “stuff” and would miss the wildlife.

Colin came from a rural background and studied law and Arts at Melbourne University. He was initially interested in archaeology but the need to pursue a career that offered a steadier income led him to the law.

Importantly, during his course he went to Port Keats (now Wadeye - a place frequently under the national spotlight); the Catholic Church ensuring that it was well run and self supporting but also maintaining its culture. Colin got very interested in the spiritual nature of the culture

with the dreamtime figures still of considerable importance. This interest continued over the next period of his career. The late Professor Stanner, who had done 40 years of fieldwork in the Territory, was a great influence. This interest remained as Colin went through the next stage of his career, and ultimately resulted in his permanent return to the Territory.

Colin went through “good” articles at Russell Kennedy and Cook, and was an Associate for Justice McGarvie. Colin honed his legal skills. He went to the Victorian Bar, initially as a reader for the silk Frank Vincent. In this role he got a very good grounding in criminal law, acting for some clients who became the characters featured in *Underbelly*. Colin then went into The Chambers that were known as “Vatican Chambers” and Colin intended to return there after his stint in the Territory.

In 1981 Colin took over the position of senior lawyer at North Australian

Aboriginal Legal Aid Service (NAALAS) determined to assist Aboriginal people in their pursuit of justice. Life has its moments in NAAJAS’s predecessor. He faced a murder trial within the first five days of his arrival and was fortunate in being able to call on Frank Vincent to assist with the trial. He worked with practitioners such as (the younger) Greg Borchers and Jenny Blokland and gained good experience.

In 1983 Colin went to the Northern Territory Bar. In the couple of weeks break between careers he went to Bali for a taxation conference. However, rather than the delights of the taxation conference, he enjoyed the delights of Bali - not surprisingly it was the beginning of his fascination with the place, the culture, the people and the rituals. As Colin noted, Bali is a place of the spirit and imagination. Colin has travelled, and practised extensively though Indonesia and is currently acting for Scott Rush, of the “Bali Nine”, who he hoped is spared from



Justice John North, Mr Colin McDonald QC and Mr Glenn Ferguson.

the death penalty. Colin has also acted often on a pro bono basis for Vietnamese, Cambodian and East Timorese refugees.

Colin went to the Northern Territory Bar. Whilst initially intending to return to the Vicbar and the Victorian Chambers after a couple of years practice in the Territory, Colin remained here and enjoyed an eminent and varied career. Whilst dealing with crime he also dealt with civil matters - one I remember is an admission matter handled very well for the Society. Amongst his other work were the Aboriginal Deaths in Custody Inquiry along with some major criminal cases.

Colin was the inaugural President of the Criminal Law Association of the Northern Territory and took silk in 1997. He also spent time as President of the Northern Territory Bar Association, and as the leader of William Forster Chambers.

When Colin started practice, local Judges exercised the jurisdiction of the Federal Court as well as the Supreme Court, and were actually Federal Court Judges which added

to the interest of practice.

Colin remembers a number of judges including Sir William Forster and who gave the name to Chambers and who he described as “brilliant” and with quiet authority. In his initial time at the Bar he enjoyed appearing before Justices Toohey, Kearney, Muirhead, Woodward, Martin (the first), Nader and Asche.

Judges considered the issue of payback and customary law and many saw that it has a role in the system.

He feels it was important that judges were part of the community and appreciated the way they dealt with cultural matters and the understanding of what the issues were.

He was concerned when the legislators reduced sentencing discretion. Judges should be able to get on with their jobs and there had been too much political interference in the process of sentencing - mandatory sentence was a fundamental denial of justice.

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A congratulatory hug from a proud mother to her son.

He noted that the current developments in Court procedures, mediation, one of the ways ahead for justice, should be conducted independently to assist processes and not cause a denial of rights.

Turning to the current Supreme Court bench he was also very pleased to see his former colleagues at the Northern Territory Bar now Chief Justice Riley and Justices Mildren, Southwood, Kelly and Barr were now on the Bench with their local residence assisting them in writing the jurisprudence of the Territory.

He has also had a lot of dealing with the Federal Court and he specifically named Justices, Spender, Burchett, Beaumont, and, Morling.

When asked about the three “best” Judges over his career - he deals with, he specified Justices Toohey, Von Doussa and Mansfield.

Whilst Colin has significantly retired from the coalface of practice he is still very much involved in efforts to improve the health of Territorians and contributing to health issues for Aboriginal people, amongst other things, through his Chairmanship of the Royal Darwin Hospital Board. Colin feels there is too much participation of Aboriginal people in the health system with alcohol, gunga and having to live with up to 20 of your close relatives are some of the major causes of the problems. He is not the first person to note that much of the crime that finds its way to the Courts is alcohol related. He believes licensing requirements require attention and effective enforcement. Responsible Service of Alcohol is a key factor.

Colin will continue to spend a lot of time in Bali, his house near Ubud being run on Hindu lines, amongst other things he is supporting the education of young disadvantaged children and is looking at a



microfinance scheme.

It is likely that he will retain his interest in the law and social justice.

In the light of this, where does Colin see the profession heading and in particular does he have a message for those young lawyers starting in practice?

Colin feels that it is important that the legal profession remains a profession and not a business. There needs to be professionalism, candour in court and amongst other professionals there should be an ability to put forward complex and difficult arguments. Also important, is an adherence to

ethical values and honesty. He is in favour of the “cab rank” rule and believes the marginalised and demonised also have a right to legal representation.

He is concerned about the increase in regulation and notes the dislocation caused by the Global Financial Crisis which was the result of greed.

It is important that practitioners have a balanced career life outside the law and other consuming ideals.

As Colin moves to the next stage of his life, and pursues his other goals mainly outside the law we at the Society wish him well. ●