

THE LAWS OF AUSTRALIA – Q&A

September 2009

THE LAWS OF AUSTRALIA

Q & A

The Hon. Michael Kirby AC CMG

1. *What are your fondest memories of your days at the Bar?*

Watching judges struggle to come to lawful and just conclusions. Watching them with admiration as they gave instantaneous reasons. Watching them charge juries (there were many more in those days). Entering new courts and tribunals and finding that most people was trying to do the right thing. Comradeship at lunch time in the old Sydney Bar Common Room gave me strength. Sharing with clients who deserved to win, the elation and relief of a deserved victory in an independent court. Mind you, the pressure and stress were sometimes almost unbearable.

2. *What changes in the Bar have you observed over your career?*

More women. More diversity of chambers. Alterations in robes, wigs and other externals. More specialisation. Far greater numbers (in the 1960s I knew just about everyone by name). Some decline in the old courtesies: for example, leaving the Bar Table, even in the High Court, empty when the judges were sitting. But, generally the best has been preserved with some improvements.

3. *What advice would you offer young barristers setting out today?*

This job is not for the faint-hearted. It requires devotion, virtually 24/7. The great rewards are not specifically financial. I am not sure I ever got the right work/life balance. But there are not many careers that offer the possibility of mid-career change and significant public service. It is the independence of advocates that is the hallmark of their unique calling. Servants of all, yet of none.

4. *How would you like your time on the Bench to be remembered?*

As a time when I was courteous to everyone; did not accept discrimination by anyone; strove to apply the law in a just way where possible; and kept an eye on the big themes: including the onrush of international law and human rights.

5. *What do you hope to achieve in this next phase of your career?*

To stretch my mind and do new things. That is why I recently completed the IAMA mediation course. It taught me important new skills. Being an advocate or a judge is not a complete training for a life in alternative dispute resolution. I now have teaching obligations in eight universities; plenty of international engagements; and as many speaking events as I choose to handle. Still not much smelling of roses. A long-suffering partner, Johan.

6. *How has legal research changed during your career?*

The internet and search engines make research more productive. But they require better judgment and selectivity. Dumping huge amounts of material at the feet of decision-makers is an abdication of the skills of persuasion. Analysis, conceptualisation and classification are the research habits I learned early. The decade in the Australian Law Reform Commission was invaluable in that regard. Academics taught me to think of the principles lurking behind the thousands of cases.

7. *What is your role in The Laws of Australia?*

I am Editor-in-Chief of TLOA. As in the High Court, I have to see the big mosaic of Australian law and how it all fits together. Maybe TLOA came along to save me from nostalgia or feelings of relevancy deprivation. It is a most exciting project. I work with an outstanding team of the finest lawyers. We are a big family.

8. *What is the value of a legal encyclopaedia?*

The project aims to describe the laws of our country in familiar classifications so they will be accessible to lawyers but also to intelligent lay people. The top practising and academic lawyers have been engaged to write and update the entries. Their works supplemented by in-house lawyers of great talent and fierce energy. As online facilities improve, so will up-to-dateness, links to other sites and publications and references to books, articles and other material. Maybe one day we will have computer programmes that can do a lot of this work for us. But meanwhile the enjoyment lies in working with an enthusiastic and dedicated team. We want to make it the very best legal encyclopaedia that we can offer.
