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# INTERVIEW BY PETER ROBINSON

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**Briefly tell me the story of your working life and what you enjoy about work.**

I was in the law. I began in the law back in the year 1962 when I was admitted as a solicitor. I then became a barrister in 1967. I was appointed a judge in 1975. I then rose to the giddy height of the final national court of appeal, from whence I was banished into the nether-world of retirement in 2009. Since then, I have been involved in large numbers of international committees, twelve honorary professorships, lots of mediation, arbitration, speeches, conferences, book reviews, and so on. That is my life now.

**May I ask what you enjoyed about the law?**

It is a life that presents you with countless puzzles and your responsibility is to try to solve the puzzles; not according to your own whims but according to some rules and principles about law and justice. Some people love to begin their day doing a cross-word puzzle. I had the great pleasure of spending my whole life doing puzzles. Some judges begin their day with cross-word puzzles. Justice Mary Gaudron always did so. She did cryptic cross words which were extremely difficult but my puzzles were cryptic enough. That is why I enjoyed the law—because it was an intellectual as well as an emotional challenge. To do justice or to strive to do justice everyday is a great emotional challenge and can have big rewards.

**I have an impression that human rights are important to you as well. Is that the background to your interest?** I hope human rights are important to all judges. They may not express it in terms of universal human rights but our legal system is based upon notions of basic rights and basic civic responsibilities, duties, and privileges. Of course, I was interested in human rights. Human rights permeate the law and my job, where possible, was to try to give effect to human rights in the legal decisions that I made.

**Have you ever had any experience of poverty?**

Not poverty. When I was growing up, my family was not rich. We never could afford a car and therefore I got used to public transport. Indeed, I never learned to drive a car. I still cannot drive a car. My partner, Johan drives the car and I have got by perfectly without being able to drive. It is boring so I just hop on the trains and the buses and it keeps me in touch with the ordinary folks. We also could not really afford holidays. On one occasion only did we go on holidays and that was to Katoomba. And that became *the* holiday in our lives as children. All of us, my two brothers and my sister and I, still look on that in 1951 as a magical moment in our lives. But we weren't poor. We never lacked for proper clothing or food. We never lacked for support for our

education. All of us went to public schools and I learned the democracy of public education in Australia. For that reason, I am a strong supporter of public education. I learned wonderful values in public schools. But we weren't rich and that marks me off from most members of the legal profession. Surveys by the late Professor and Judge John Goldring have shown that most members of the legal profession and a very large proportion of judges were educated in private schools. They grew up in wealthy or semi-wealthy backgrounds. I was at the other end of the spectrum. My mother, who had aspirations and reasons to have aspirations, once picked me up for saying that we were lower class. "We were not lower class," she said. "We were middle class, if not upper-middle class". But I think we were probably lower-middle class. I was quite happy being lower-middle class because that was where most Australians were at the time and possibly still are. Except those who have got grandeur delusions.

### **Would you briefly tell me the story of your coming out?**

When HIV-AIDS came along in the mid-1980s, I began to be involved in both national and international efforts to respond to the epidemic. For me this was not really a choice. I began to know very close friends and lovers who died of AIDS. I went to twelve funerals; I spoke at many of them. It was an extremely painful time in my life and in the life of my partner, Johan. And therefore I was very closely involved in very public occasions of the AIDS epidemic. I went to a national conference of sex workers, prostitutes. I was on the radio and television talking about AIDS. I went to candle-light ceremonies where people were grieving. I went to large funerals. In a way, that was a kind of slow-ish coming out. HIV-AIDS was code language for my sexuality. However, the final leap into the unknown took place in the end of 1998 when with the encouragement of my partner, I included our relationship in Australian *Who's Who*. I asked *Who's Who* to include the category 'p' for partner. They were very reluctant. Ultimately, the editor offered to include the category 'p' for partner but spelling 'partner' in full. I then engaged in negotiation. I said, "If 'm' for marriage is accepted, it should be 'p' for partner". And she was by this stage quite intrigued and anxious to have me in the book with my partner. So ultimately she gave way. Therefore it so appeared in the 1999 edition of *Who's Who*, "p. Johan van Vloten" with the details of his date of birth and his parents. It was not noticed in the media for some time then Rupert Murdoch's stable, which can always be trusted in these matters, found it and it appeared in the *Sunday Telegraph*. The *Canberra Times* editorialised 'the non-secret is out'. Everyone knew about my sexuality or at least everyone who was watching or anyone who was really interested. Certainly, I know the politicians who appointed me to high offices knew about it but it was not an issue in those appointments. And by 1999, under the encouragement of Johan, we decided that the time had come to be just a little 'in your face'. That is where we have been ever since.

### **What has been your experience of acceptance as a gay man?**

I don't know. Frankly, I don't care much. If people have a problem, that's their problem. Because I believe, indeed know, that any such problem is irrational, I cannot have a lot of respect for it. I can understand it, partly empathise with what causes it—generally this is a religious or semi-religious belief. But, because I don't really respect it and regard it as basically irrational, I don't care much what other people think. Don't forget also that by the time these things were happening, I was a very senior judge. By the time *Who's Who* was published, I was one of the most

senior judges. Therefore with interpersonal relationships, I didn't have to put up with the argy-bargy that many people might have to put up with in their day-to-day life. I was on a bit of a pedestal. I therefore did not have to negotiate with other people; they just had to accept me as I was. In a sense, that might be the contribution that I made because that was just it. And the position I had was very responsible. I did not fit into anybody's stereotype of gay people. I believe that it had the support of most of my colleagues on the High Court; I won't say all. I believe it was good for them and it was good for government and for the administration of justice to have somebody there who was a gay man and open about it. There have always been gay judges but this was more direct and more open. I believe it helped everybody to come to terms with reality and get over with any demons that they still had.

**I think you are right and the pity is that more people in high positions have not followed your lead but perhaps the time is not right for them.** I did not absolutely rush into it. I therefore cannot really be too critical. But I am very glad that it was done. I pay a tribute to my partner who saw things more clearly. He is from the Netherlands and people from the Netherlands tend to be very blunt people. They are not given to the hypocrisy that tends to feature in Anglo-Celtic relationships. And he let me know in no uncertain terms that this was my duty. And when I was told that, then naturally I did my duty.

#### **How would your life be different if you were not gay?**

I believe I would be married with children and grand children and I would have had what in *Zorba the Greek* is described as the 'full catastrophe'. I believe I am that sort of uxorious person. And in many ways, I am really quite a conservative person. I am very happy being in such a long-term relationship. I am very lucky. It's been good for me physically and psychically. I don't think my values would be very different. I believe I would support gay people just as my brothers and sister and now my father have done, strongly. I was brought up with liberal values and in our home we had were liberal values, so I don't think that would have changed much. Being gay meant that I had the extra 'buzz' of a sense of an appreciation of injustice and wrong. That motivated me in my public life. It probably gave me an extra edge and possibly extra ambition to right wrongs, including the wrong that was being done to myself. But I would have been basically much the same. My brothers are very similar to me and so is my sister. Johan thinks my sister, who is a nursing sister, is the smartest of us all. And she was perhaps the most energetic of us all in confronting the gay demons in society. I have found on the whole that women are much better about that than men. You can't totally generalise; but generally speaking women who have to pick up the pieces of life's catastrophes tend to be much more understanding of the realities. Only men in skirts could go around still proclaiming their understanding of scriptural instruction against gay people. It is irrational; it is unscientific; it should have gone a long while ago, yet we are still burdened with it.

#### **What proportion of your close friends is gay?**

My family is not gay. I grew up in a loving, heterosexual family. I had an image of the family as a loving, heterosexual husband, wife, and four children. And that still is the circle of my family. Amongst others, I have a million acquaintances. I am a joiner. I am in so many organisations, I need another organisation like a hole in the head. And yet every day I get requests to join something else and I have no resistance. I am really pathetic in that respect. And most of the members of the organisations I

join are or appear to be straight. But if you talk of close personal friends, the ones we enjoy to have together at dinner or to whose places we go for dinner, on the whole, they tend to be gay men. In a way, having those circles over the years has been a kind of therapeutic experience. You can sit down without inhibitions. You can crack jokes and share experiences and all the little ironies of life. You can therefore be very relaxed. Because I had a public office and a role, I had always to be on my guard in other circles. So this very small circle of friends numbers probably no more than ten. They have been a kind of protective shield for us. We are very grateful to them.

**I interviewed a man in Katoomba for my first book who had a high-pressure job and he said that he valued his gay friends because he could have a gay screech or squeal every now and then when things got too much. I am not suggesting that that is what you do but it can be a release for some of us.** I have heard that put but we are not the screaming or squealing types. Johan and I are boringly straight in many ways. Therefore, we are not into that aspect. I do not judge that aspect. Everybody has to find their own way. We are more likely to be talking about the latest version of a Mahler symphony or a Chopin nocturne or serious issues about the struggle for true equality. To me, the issues of sexuality are deadly serious. They are about the denigration and inequality of fellow citizens in our community. And I could not therefore ever see my sexuality as a thing of party frocks. To me, it was always a thing of civic equality.

**Do you use the Internet to supplement your social life and, if so, how?**

No. I have a perfectly happy social life with this small circle of friends. I do not have enough e-skills. And maybe if I did, I would become the demon of the Internet. But I doubt it. I have never looked at porn on the Internet. Isn't that a curious admission? And in part that is a lack of e-skills; in part, it is a concern about somebody, Big Brother, peering over my shoulder. Not that anything I would look at would be illegal. I just have not gone there. And I think that probably puts me in a very small category amongst gay men in Australia today.

**Has growing older affected your social life?**

Yes in the sense that as I have grown older I have been less gregarious. To me, staying at home and just talking to my partner is a special joy. In that sense too we are a rather boring old couple. Once we used to sit and watch the television with a tray on our laps and watch 'Number 96' or 'Queer as Folks' or the news or documentaries. Now we never do that. We sit and talk. Johan is a great reader. At the moment, he is reading a book called *German Genius* and it is a very interesting study of the post-war Germans. He is very interested in history and biography, which is what I am interested in but don't have time to read things. He tells me every day what he has been reading and what his mind has been exploring. That has been a real joy to me over the years. We have wonderful conversations. Why would I bother going elsewhere?

**What's the story of your relationship?**

I met Johan on 11 February 1969. I had just been abandoned by my first partner, who was a gorgeous Spaniard, by name Demo. He had stuck it out for seven months, although he had not actually lived with me. We went to New Zealand. We came back from New Zealand. And then he left. I did not know whether I was more broken hearted or deeply offended by the money I had expended on him in New

Zealand. But within eleven days of his leaving , I had met Johan. I met him in the Rex Hotel in Kings Cross in Sydney, which was then one of the then relatively few gay venues. We agreed to go out and look for a coffee shop. The coffee shop he knew was closed. So I invited him back to my apartment in Kirribilli. He agreed to come. He has been with me every night since that event. It is a great blessing in my life. My theory is he saw the real estate and thought that this was a guy with good bank balance potential [*Laughs*]. He has other theories. But I was certainly very lucky. I did not immediately realise how lucky I was. I was still pining for the Spaniard. Since then, we have made contact with the Spaniard. He has stayed with us. We keep in touch with him. He is a good friend. He just complains that I did not mourn long enough and substituted him too quickly. I did not immediately appreciate what a wonderful friend, companion, and lover I had in Johan. That was something that grew over the years. But our relationship I believe is now rock solid. It is a very blessed thing in my life because I have had a very pressured life. I have been very lucky to have had such wisdom and support.

### **Are you married or do you intend to marry?**

In Australia, marriage is not an option; indeed, civil union is not an option; indeed civil partnership is not an option. There is I believe, or may soon be, some form of registration but we would certainly never consider anything other than equality. We are not even sure that, if marriage were available, we would marry. If you have been together for 42 years, why would you bother? That does not mean I do not support gay marriage; obviously I do. Younger people starting out on their journey deserve equality and it may be important in some instances for affirmation, family acceptance, acceptance of friends and community acceptance and for revealing the diversity of society. But it may not be for us. We are perfectly happy as we are and have been for a such a very long time up till now. We have even talked about the danger that getting married at such a late stage would be changing the dynamic. Therefore neither of us wants to do that. We are very happy with things as they are. And Johan knows how I have come to be stronger in my relationship with him and ever more appreciative of what he has done and what he has put up with. He has been my companion in my public life. He has been there every night of my public life when I have gone home and I have been in Australia. He has always been a support; he has been a source of wisdom, of quiet reflection, of common sense, of practicality and he has really contributed to Australia by being there with me.

### **What preparations or plans have you and your partner made for your retirement and old age, and when did you begin to make them?**

I am already in old age and I am already 'retired'. I am retired from my formal position as a Justice of the High Court. I have not retired from life. I am still doing lots of things as I have said—mediation, arbitration, professorships, speeches, conferences; you name it, the works. Johan says I should start getting my mind around the idea of smelling the roses. "Bugger the roses", I say when he says that. He then suggests that whatever my nasal inclinations might be, I should think of him. I know in my mind and in my heart, that I should. I know that I should spend more time. However, I get bored easily. I like to be busy and I have always been busy and I have always been a joiner and this creates a bit of difficulty. At the moment, the difficulty is suspended because we have a very ancient, 19-year-old cat, Sheba. She is Johan's cat. Cats are only one-person animals. She tolerates me, barely. But she loves Johan and he loves her. Nothing can be done in Sheba's lifetime. He took her to the vet this week

believing that she was not eating and, in my theory, hoping that she was about to go to cat heaven. However, the vet kindly reassured him, that she looked healthier than ever, had putting on weight, was eating pellets of great expense which were an entire diet for her and that she would probably outlast both of us! This being the case, we are stuck with Sheba. So I don't have to worry too much. But when Sheba dies and goes to the big cats' heaven in the sky, then the chips will be down. I will somehow have to adapt. Certainly, Johan will come on more overseas conferences and trips that I go to. That is our general plan but it will be done, as usual, by agreement between us.

**Do you follow the routine of the standard working week when you are in Australia and come to the office each weekday, nine to five?** I come to work every day. I come seven days a week. I have so much work, I am flat out. Therefore, my life is very busy, very intense, unbelievable if you looked at it rationally. But interesting and arguably important things come up. They ask me to be involved and it is a compliment. I feel an obligation to do what I can, especially if it is a human rights issue or an issue to advance equality for all people, not just gays but for all people in society.

**Has growing older affected your sense of yourself as a sexually attractive man?**

Yes, definitely. I never was particularly sure of myself as a sexually attractive man. I have had countless women falling in love with me. But not enough groupies going around telling me how wonderful I am and males falling in love with me. That has not tended to happen or if it happened, I was blind and impervious to my sexual opportunities. As you grow older, then you know that you are not as sexually attractive as you ever were when you were younger. In a sense there is a feeling of loss and anger on my part that I really formed my first relationship at the age of 28, with Demo, and with Johan at the age of 29. There was therefore that peak period of hormonal activity from about the age of 12 to the age of 28 when really I did not have very much sexual experience at all. I feel that is a loss, certainly when I compare it to the fun that young people seem to have today. And I have a sense of resentment about that. However, there is nothing I can do to recapture the years, to relive the experiences that I lost. I have to accept that a consequence of that was that at the grand old age of 29 I found a life partner who has been wonderful and not everybody finds that. Therefore you have to be lucky. And *maybe* the fact that both of us were 29 and each of us felt a deep need for a stable relationship was made easier because of our deprivations when we were younger.

**And not everyone gets to experience the quality of love in the 42<sup>nd</sup> year either.**

No, and I never judge other people because they have had a different journey. And we are quite careful in company of not overplaying the issue of our long-term relationship. But in public company, we do mention it because it is destructive of one of the stereotypes that exists in society—that gays are flighty and that they all have very short-term relationships, say one night. I am sure that exists and I am sure that provides peak, pleasurable experiences that have their own meaning and value to people. But my anchor has been my long-term relationship.

**Think back to when you were in your 20s. How did you see old gay men then and how do you see them now?**

I did not really know any old gay men then, none at all. Don't forget that these were times of criminal sanctions against gay people, public humiliation and denigration of them in the newspapers, arrests, even of famous people. And therefore it was not a circle I knew; it was not a circle I mixed in. Only about two years before I met Johan did I ever go to a gay venue and then very rarely. I was then a young barrister; I was very busy in my work and I just did not have the time or energy. I was tired when I finished my day. But when I started to go to those venues—I suppose I would have done it about ten or fifteen times at the most, only in the two years—I did see older people. Indeed, I saw a much older judge in one of the pubs having a drink. A completely innocent activity, he was there. And therefore I did not really know older people. But I knew they must exist. I saw them when I went to these places but I had no friendships or associations with them.

**From your observation, how does the general community regard old gay men and how do other gay men see them?**

I suspect that other gay men see them as old fossils. Leave aside the gayness, I remember very clearly being at Sydney University asking somebody: "How old is that person sitting on Botany lawn?" I was told 30. I then thought, looking back at him, "that must be Methuselah; this is a very ancient person". I was then 20 or 21. I suspect most that most gay people have a feeling like most straight men have of older women—lack of sexual interest, lack of much interest at all. To some extent, in some gay circles, Johan and I are a curiosity. Curiosity in part because of the positions I have held and curiosity in part because of our very long-term relationship. We are quite happy to go around. People ask me, "How has it survived?" I answer, "Simple, I always gave in". I always gave in. I still give in. You have to keep your eye to the main chance, the big picture. As to the general community looking at older gay men, I suspect it is all part of the reality that is building up. Old gay men are like old straight men, boringly enough very similar. And, sadly, that today a number are not here because they have been taken away by HIV-AIDS earlier on. I think there is much more reality about human sexuality. It is just a variation in nature. It only affects a relatively small proportion. And it is just part of the reality of the world. If it is in nature, it has purpose.

**What effect has HIV-AIDS had on your experience of age and ageing, if at all?**

As I have said, I knew many people earlier on who died of AIDS. I have had quite a bit to do with HIV-AIDS as a national and international issue. I am currently engaged in two international committees that are addressing world implications of HIV-AIDS, including for equality for same-sex attracted people. These are the Global Commission on HIV and the Law of the UN Development Programme and the so-called Eminent Persons Group investigating the future of the Commonwealth of Nations. Both of those engage me with issues of AIDS. I live a lot of my mind's life in contact with issues of the epidemic and its implications for equality of people's rights. As well as that, the death of many friends, the death of so many people, as an actual reality, not a theoretical construct in my case, has made me aware of the fragility of life, the luck that led to my escaping infection, and the sadness of the loss of others who did not escape it and therefore the moral imperative to do what I could in my life to make the world a slightly better place for my being on it.

**I met a female academic from Sydney University who told me about "disenfranchised grief", which is what I think a lot of gay men in their 60s and**



**70s could be experiencing—the loss of the friends they had when they were younger who are not with them because they died of HIV-AIDS.**

Well, I feel for them. I am sure that is a real issue in the lives of many. Happily, my partner and I survived through those terrible years. And so did a circle of friends who we knew and who we still know.

**Are you apprehensive about growing old and, if so, what are your apprehensions? For example, are you worried about being poor, lonely or institutionalised in a heterosexual environment; losing your independence or mobility, loss of desire or sexual performance?**

I do have fears of growing old, especially growing old without Johan. As he repeatedly reminds me when talking about 'rose smelling', the genetics in his family are not, on the face of things, as favourable as in my side. It would be devastating for me to try to make my way of life in the world without him and his support, love, companionship, friendship. I am not particularly worried about 'straights-ville' in the nursing home. I have made enough money in my life to make appropriate arrangements in my own case for my old age. I can understand that that could be a problem. Therefore, when I have gone to conferences on aged care and age organisations, I have emphasised the need to address the issues that have been pointed up in inquires into the conditions of nursing homes and their treatment of older gay people. Nursing homes in Australia are often run by church organisations. Some church organisations, 'though not all, are not particularly welcoming to gay residents. They are not particularly understanding of the diversity of human relationships and of their needs. I have continued to do whatever I can do to stress the need to move with the times, move with modern knowledge, take account of the public inquiries that have been conducted into this subject and to make retirement homes more welcoming. Of course, sometimes the organisation will try to make it welcoming but because of the age of the people who are in nursing homes, they will have grown up in Australia at a time when there was not great knowledge and even less sympathy for gay people. By 'gay' I mean 'GLBITQ'. And that will require some firmness of handling, understanding, and empathy. Fortunately, the younger members of the health-care and helping professions are increasingly understanding. There is a fair sprinkling among them of GLBTI people. And therefore I think we will find solutions for that in Australia. It will be much less possible in other countries. But we will muddle our way to better solutions. I do not think I will be one of the solutions. I think I will be on my own somewhere or may be Johan will outlast me and draw the judicial pension and run off with a toy-boy! *[Laughs]* I wish him good luck. I certainly hope so!

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