

Legal Possibilities

By 1990, although immersed in my second semester of law studies at university, I was unemployed, with no savings; living off whatever I had earned at the Trust, which was not a huge salary. A new student of law at my age faces many hurdles and new concepts to come to terms with. The course was designed for mature-aged people but no special favours were given. My colleagues were in full-time employment, most had families, and the lectures were mostly in the evening, to fit people's schedules. This was all new to me: I had never done formal study of this nature. In law there was a lot of information and history to take on board, especially in the first few years. The English background to our Australian law system was huge. I had to learn to focus and cover large quantities of material as quickly as possible. It was challenging and attitude changing. If you wanted to find out the truth about something, you had to research and delve. You could not just skim the surface and take someone else's view. Decisions had to be based on objective and thorough investigation, not individual or textbook views. Everything you read and did had to be challenged. This quickly became a habit. By third year, my objective questioning skills were very useful. I wished I had them previously.

A job with reasonable income which allowed time to study was necessary. The public service seemed ideal. I applied for a position in the Sydney Registry of the Federal Court in Phillip Street. I asked Trust Chairman, Lloyd Waddy¹, QC, to provide a reference. He wrote a wonderful reference about my work at the Trust, particularly during the turmoil of its last days. I think it was one of the reasons I was offered the job. With flexitime in the public service I could finish at 4pm in Phillip Street, get to the University library at 5pm, and lectures from 6pm. I was in charge of the Registry counter. We filed documents for the court and interviewed people declaring personal bankruptcy. We also took in documentation from companies requesting insolvency. As it was relevant to my legal studies, I found it interesting. I was nominated for, and became a Justice of the Peace, New South Wales, but I found it difficult to live on a small salary. My wife and I had a daughter, Frances, in 1992. Since her pregnancy, my wife had not worked. I needed to finish the law course as quickly as possible. Despite liking the Federal Court work, I found a better paid position in the Department of Education, Employment and Training in Maitland. We had just bought and moved to a property in Halton, in the Barrington Tops, not far from Maitland. This relieved the burden of renting in Sydney, but meant commuting by train to Sydney three days a week for my studies. Between 1993 and 1994 I progressed up the grades in DEET which led to work in the Newcastle office, and subsequently, the Sydney area office, just around the corner

¹ Wing Commander The Hon Lloyd Waddy, AM RFD QC (RAAFR Retired), (born Sydney, 1939). Justice of the Family Court of Australia 1998-2009. Fellow of St Paul's College, University of Sydney 1971-2019. Foundation Director Australia-Britain Society, established 1971. He joined the Australian Elizabethan Theatre Trust Board of Directors in 1973, was appointed Chairman in 1993, continuing in the role to the present day.

from UTS. We came back to Sydney but my wife had been suffering from postnatal depression and communication between us had all but disintegrated; the only thing holding us together was our lovely daughter. I had to finish the law course and enter the legal profession.

Once I finished the degree, I had to do six months full-time at the College of Law before practising as a solicitor, and there was a fee which was seemingly beyond my means in the circumstances. We sold the Halton property and bought another in Maitland closer to transport. I took a position at Newcastle University Conservatorium looking after publicity and teaching double bass. I was also looking after a new *Stuart & Sons* piano. Wayne Stuart had received a TAFE grant to develop a concert grand using his unique approach. As he needed a research environment, the Conservatorium took it on as a research project. Wayne came to the university with two pianos and developed his business there. I was to look after whatever he needed and help with the university's relationship with the project. This was in 1995; a significant meeting which was to play an important part in a later Trust decision.

I was coming to the end of my law studies and decided to seek Articles of Clerkship. They had been abandoned in New South Wales but still existed in Victoria. I had one subject, Copyright Law, left to complete my studies and could do it in Victoria. UTS was amenable and gave me approval to do this externally at Deakin University. I received my degree in 1998 and found a job with a



Wayne Stuart building one of his pianos.

small legal firm specializing in employment and copyright law, areas with which I was familiar and interested in. I got my Articles which were to run for twelve months and began work in 1998. It was an intense, busy job, dealing with copyright, general complaint areas and employment. Because of my maturity, I was soon dealing with clients and advising them, under supervision, and writing up documentation to aid those clients. It was stimulating and interesting but the money was not good and regardless of my age, an articulated clerk could not earn more than a junior employee.

I envisaged work in the legal profession in Melbourne, specializing in copyright or employment law. One of our partners had run a successful High Court case establishing Contractors' Law in Australia. I was comfortable with this: having been a contractor in England and Australia. Through work at the Trust, I understood the relationships between contractors and employers. I completed Articles on March 1st 1999 and was formally admitted to practice as a barrister and solicitor of the Supreme Court of Victoria. The firm was assisting me in finding a position and arranged a couple of interviews with placement agencies specializing in that area of law.

Shortly before this, I received a call from the Helfgotts, having tracked me down as the last known person associated with the Elizabethan Sydney Orchestra concert on May 25th 1987². They were seeking access to the recording. I contacted Lloyd Waddy who agreed the tapes should be made available and suggested I broker the deal on the Trust's behalf. The whole thing was put to bed and resolved before I left the articles in Melbourne. I was looking for possible legal employment when the Trust Chairman, Lloyd Waddy, rang to advise me of a recent development of the Trust. He had been astounded to receive a call from a solicitor seeking to know if the Trust still existed. It had been in provisional administration, having not been able to recover from debts created in the late 1980s, but was never liquidated. Directors Lloyd Waddy and Brian Larking had worked hard for a year to save it from liquidation. Together with Dr Rodney Seaborn³ and Lady Potter⁴, they pledged \$10,000 each, and received \$2,500 each from Deputy Chair Frank Hooke and James Strong. An approach was made to the Supreme Court, supported by the provisional Liquidator. Justice Gummow allowed the Trust to come out of Provisional Liquidation and resume trading. Lloyd Waddy became Chair, working with his secretary until they managed to get back to a balance of almost \$300,000. Other Board members who contributed to the Trust's progress in the 1990s were Judy White, Bradley D. Cooper and Gregory K. Burton.

Director and Chairman, Lloyd Waddy, was also the honorary executive with files and furniture floor to ceiling in a Pitt Street office. A secretary dealt with statutory requirements to keep the

² See Chapter Six.

³ Dr Rodney Seaborn, (1912-2008) AO, OBE, eminent Sydney psychiatrist and generous patron of the arts through the Seaborn, Broughton & Walford Foundation.

⁴ Sir William Ian Potter (1902-1994) and Lady Primrose Potter (b.1931), philanthropists and great supporters of the arts over many years. Sir Ian had a close and long association with the Trust from 1954 until his death.

figures before the Australian Securities and Investments Commission (ASIC) and prepare annual audits, but otherwise the Trust was inactive except for services like superannuation, membership (supporters rather than beneficiaries of events), and *Halftix*. When Lloyd responded in the affirmative, the solicitor advised that the Trust was a beneficiary of the late Nerissa Johnson's estate; 50% of approximately \$12 million, " to be used by the Australian Elizabethan Theatre Trust for the provision of overseas scholarships divided as nearly as may be equally between singers and between other musicians and conductors."⁵ Apart from that, there were no conditions as to how the money was spent, invested or distributed. During Lloyd's call to me, he suggested I might be involved. He seemed to sense my situation and said, 'You don't want to be a lawyer.!' Soon after, Lloyd and I met in Sydney and had deep discussions over the best and most innovative way forward with the scholarships from the \$6m to honour the bequest. These centred on no age or sex limitations, but awards to Australians, of excellence or potential excellence, who would bring advantages to other Australians on their return. One of our examples was Dame Joan Sutherland: Australian, helping Australians and excellent! "If she applied for a scholarship to learn yodelling she would be hard to resist!" I returned to Melbourne to think how the Trust could provide a scholarship program and honour the will. I prepared a proposal paper for Board discussion, which considered using the funds for scholarships to study music overseas, how some of the monies should be invested, how income should be disbursed, who should be the recipients and how it should be administered. The Board agreed wholeheartedly with my approach and invited me to become General Manager of the Trust and run the program.

⁵ Extract from the last Will & Testament of Nerissa Johnson.

