LESLIE ZINES – FROM A PERSONAL PERSPECTIVE

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I greatly welcome this opportunity to write a personal tribute to Leslie based on my association with him both as a close friend and colleague, and also from my vantage point as an academic lawyer.

It has been my privilege to teach with, and be taught by, him. I also had the pleasure to co-author with him the fourth edition of *Sawer's Australian Constitutional Cases* (1982). Our association began in the late 1960s when he became the supervisor of my LLM thesis and rescued my faltering efforts to bring it to a successful conclusion. I have often had cause to reflect on how remarkable it was that we enjoyed from the very beginning a substantial identity of views on legal education, and the law generally, even though we received our respective legal education from law schools which inherited different traditions of legal thinking. On a personal level I also appreciated his genuine interest and concern for the welfare of members of my then young family and me.

His Honour, Justice Gummow, has of course already outlined the main features of the formidable and impressive reputation Leslie Zines acquired in a long career which included the award of an Order of Australia in 1992 for services to the Australian legal system, particularly in constitutional law and an Honorary Doctorate of Laws from the ANU in 1994; his election as a Fellow of the Academy of the Social Science in Australia in 1987; his appointment as the Arthur Goodhart Professor of Legal Science, Cambridge University 1992-93; his appointment as Dean of the Faculty of Law at the ANU during 1973–75 and 1984–86 and also the Robert Garran Professor of Law from 1977 to 1992. He was also appointed Dean of Students and gave wide service to the same University and its committees. In addition he appeared as counsel in a few but significant constitutional High Court cases.

His Honour has adverted to Leslie's teaching in a different age. As was mentioned in the citation for the award of the Honorary Doctorate, he established a peerless reputation as a teacher. Reference was made to the esteem in which he is still held by generations of former students who, if relieved to be free of his powerful Socratic interrogation, count themselves privileged to have had him as their mentor. Doubtless many of his students who attended his Trusts lectures will also remember an exam paper which was wholly devoted to a single hypothetical trust instrument that required them to show their knowledge of the subject by identifying the various legal issues it raised. His teaching style influenced other teachers. I also recall with pleasure not only his ready and enthusiastic accessibility to me and other members of staff on the law and academic matters, but also the way he used to come into my room and discuss with relish notable responses to questions and answers by students in class.

As I have had occasion to point out before, I and others have learned that he was and continues to be a teacher in the widest sense of the word, and there has always been much more to learn from Leslie than the law as a mere abstract set of rules. His chief instruction for me can be summed up in the following remarks regarding the kind of reasoning that is and should be employed in the judicial interpretation of the *Constitution*:

> The reasoning that takes place (or should take place) … involves the evaluation of many factors – the language of the text, certainty and stability of law, coherence and consistency of principle, the knowledge that the Constitution was intended for an evolving and changing society, and so on. The weight given to any of these principles or criteria will of course vary with each judge. As we have seen, this is inevitable

These remarks may be found in chapter which was and remains central to his interests, namely, "The High Court: Methods Techniques and Attitudes" in chapter 17 of his book, *The High Court and the Constitution* (2008) at 644.

I was glad to have persuaded Sir Anthony to join me in writing for this special issue of the *Federal Law Review* on a topic which, although not addressed by Leslie, nevertheless deals with an important aspect of federalism which has become more acute as a result of developments involving the evolution of Australia's legal and constitutional independence. Both federalism and independence have been central to his scholarly interests and writings. The latter issue was reflected in his notable Smuts lectures which dealt with the way Australia and other original member countries of the British Commonwealth obtained their constitutional autonomy (*Constitutional change in the Commonwealth*, (1991), chapter 1).

The impression I have is that his writings not only educate students and other teachers but judges and practising lawyers as well. I have no hesitation in reaffirming what I have indicated before namely that his scholarship equals that of such eminent constitutional scholars as Sir William Harrison Moore, Sir Kenneth Bailey and Professor Geoffrey Sawer.

I conclude where I started in a way that converges with a comment made by Justice Gummow in another connection about certain lecturers at the Sydney Law School. When I first started submitting draft instalments of my thesis to Leslie I was intrigued by the frequent and mysterious squiggle marks which appeared in the margins on each page. Although difficult to decipher I soon realized that they signified, in relation to views and propositions I was expressing and advancing, an all important word - "why?"

This not only taught me much about the art and skill of how to supervise others myself but also went to the heart of the academic endeavour that has been - and fortunately for us continues to be - pursued by Leslie throughout his life. I join with Justice Gummow in wishing that it may long continue.