

His Honour Judge Bob Bellear (1944 – 2005)

Earlier this year, the Australian legal community lost one of its finest heroes with the tragic and untimely death of his Honour Judge Bob Bellear of the District Court of New South Wales who, in 1996, was the first Indigenous Australian to be appointed a judge.

As Mr Peter Manning wrote in his obituary published in the *Sydney Morning Herald* on 17 March 2005:

Raised in the far north coast town of Billinudgel, near Mullumbimby, he was the grandson of a Vanuatu sugar-cutting slave and an Aboriginal woman from the Noonuccal People of Stradbroke Island. One of nine children, he knew poverty, hunger and widespread culture of alcoholism as he grew to manhood. He told an interviewer in 1978 'Drunkenness was our only refuge. But when you emerged from the haze of drunkenness, there was always the harsh reality of racism to face.'

Before his career in the law, Bob Bellear had served in the Royal Australian Navy, becoming the first Aboriginal to rise to the level of petty officer. In 1972, moved by events in Redfern, he resolved to study law and, to do so, returned to Sydney Technical College to finish high school studies. He graduated from the University of New South Wales in 1978 and was admitted to the Bar in 1979. As Peter Manning wrote in his obituary:

He represented Aboriginal people (and whites) in a wide range of courts. The main emphasis of his practice, however, was criminal trials, instructed by the Aboriginal Legal Service, Legal Aid Commission or private practitioners. He was constantly working on the side of the poor. He also successfully represented traditional owners in three important land claims, and was appointed as counsel assisting to the Royal Commission into Aboriginal Deaths in Custody in 1987.

He was awarded an honorary doctorate of laws by Macquarie University in 1993 in recognition of his services to the law, community and the Aboriginal people. Earlier, in 1990, he was awarded the University of New South Wales Alumni Award. He was appointed to the District Court of New South Wales in 1996 where he served for eight years before his untimely death. At his state funeral, Terry Tobin QC delivered the following moving address:

The last time Bob Bellear sat as a judge, he adjourned the court and found that he could not walk unaided. In the coming days he learned that it was because of lung cancer which was inoperable. His wife Kaye said that she would nurse him at home through his final illness and she did, to the very end, a gift to Bob and the children, and to all of us, one of great bravery and great endurance.

During the months ahead - chair-bound all the time - he visited Vanuatu and the Tweed, went to the coffee shop and the club, celebrated 38 years of marriage and the first



Bob Bellear is farewelled at Sydney's Town Hall. His wife Kaye Bellear [centre] gave a speech during the service. Photo: Brett Faulkner / News Image Library

birthday of his grandson Tanna. He saw his friends, followed the horses and, as a man who loved the coast and the sea, enjoyed oysters and lobsters and crabs which we dropped in for him, chemotherapy permitting.

In January he learned he was suffering from asbestosis from his years of naval service. 'Haven't I fought enough battles?' he asked before girding up one more time for his family and settling accounts with the Commonwealth.

There were earlier battles, which in recent days Peter Manning has written of so movingly, the fights for justice in Redfern, which Bob and Kaye recalled on their wedding anniversary. Because of those experiences, in 1972 he decided to give up his job and study to become a lawyer. 'You do the study and I'll earn the money,' Kaye said, which he did, and she did.

A decision which may seem a natural one now, looking back, but at the time must have been complex: to take up the law to undo the acts of those who administer and enforce it. Why not take against the law?

In his work as a barrister Bob many times defended those who knew what he had known at Redfern. After a trial that went several weeks he had the Mooree Boomers football team (along with a few just off the bench) acquitted of affray and began a close link with the people at Mooree - none closer.

He worked with Father Ted Kennedy at St Vincent's in Redfern. When sixteen homeless were evicted from squats, Ted undertook to house them; like the miracle of the loaves and fishes, they became a hundred: and Bob provided Ted with the counsel and the brawn needed to quell the tumult and begin a housing project.

In 1983 he appeared for many months in the Supreme Court in Canberra where more than twenty people from Cape York came to give evidence of how their lives at Weipa, Marpoon and Arakoon had been devastated by mining.



Judge Bellear presiding at the swearing-in of Police Commissioner Maroney.

Of a Thursday night over dinner (before the mobile became king) they would fetch a phone to the table and he would call home and talk to Kaye and Joanne and Marlu and Karli. He did that week after week and you knew that they were his *raison d'être*, the pulse and heart beat of his life.

But these cases and many more you have heard of today cannot prescribe his legacy.

He had seen the canvas and the rigging of the law at Redfern but was not deterred by it. It is easy to think that, in becoming a petty officer in the navy, and a lawyer and a judge, he was being rescued from his lot. But in seeing his future in the law that day in Redfern, it was not Bob who was being rescued... but ourselves.

The Nobel laureate Seamus Heaney in 'Seeing things' spoke of such a vision.

The annals say: when the monks of Clonmacnoise
Were all at prayers inside the oratory
A ship appeared above them in the air.

The anchor dragged along behind so deep
It hooked itself into the altar rails
And then, as the big hull rocked to a standstill,

A crewman shinned and grappled down the rope
And struggled to release it. But in vain.

"This man can't bear our life here and will drown,"

The abbot said, "unless we help him." So
They did, the freed ship sailed, and the man climbed back
Out of the marvelous as he had known it.

Bob's decision to face the conflicts he saw through the law speaks to the policeman making arbitrary arrests at Redfern, the gaoler locking away a distressed man in a dark cell, the bailiff evicting the homeless, the lawyer who fails to front. He was saying not of the victims but of them and of us: 'This man cannot bear our life here and will drown unless we help him.' And Bob did.

So my friend we have come today to sing your soul, to wonder whether all that remains to do mocks what you did do, and when we are told by many voices that we are not just, to hear your voice among them, and listen.

Only then can we say goodbye to you and depart, climbing out of the marvelous as we have known it.

Bob Bellear is survived by his wife Kaye, the children, Joanne and Kali, and four grandchildren. He had a special place in his heart for his son Marlu, who died young.

Vale Bob Bellear