

Tony McAvoy

by Anthony Cheshire SC

Tony McAvoy SC's great grandfather, Logan McAvoy, was a contract kangaroo shooter in central Queensland. He sought to be exempted from the Aborigines Protection Act and only worked for landholders who paid his full rate. It was possibly these actions that led to Logan and his family being arrested and transported to what became Cherbourg Aboriginal Reserve 250km north west of Brisbane. Their horses, rifles and other possessions including cash saving were seized and never returned.

The next two generations of Tony's family were raised in incarceration in Cherbourg and it was not until 1957 that they got out. By that time, Tony's father was 17, but he was only ever educated to Grade 4 standard because that was all that was offered at Cherbourg public school. Tony says that in spite of all this:

From a young age he told me that there would be many people who would try to tell me that I wasn't good enough, and that I must ignore them, because I could do anything I wanted.

Tony went to school in the Brisbane suburb of Inala. He enjoyed school and found study relatively easy. He did very well at a variety of sports, although he says that he was caned at least once each year by every principal he ever had. He says:

The one piece of support that I suppose made the difference between staying at school and leaving before graduating school was the \$12 per fortnight Aboriginal Secondary Education Grant cheque. It wasn't much, but it was just enough to give me a little bit of independence.

Nobody from his family had finished high school let alone gone to university and none of his mates went to university. He was offered a place on an arts degree course at Queensland Institute of Technology.

In an effort to raise funds for a motorbike to go between home and University, he asked the Aboriginal Student Welfare Officer if she knew where he could get a job for the holidays and she told him to contact the Aboriginal Legal Service. He attended an interview with the principal legal officer, who told him:



I have represented lots of your family. They would be very proud of you if you studied law and became a lawyer.

He offered Tony a job if he signed up to a term of five years as an articled law clerk and studied law at night. Although his school careers advisor told him that law is a really hard degree and takes lots of discipline and that perhaps he should just stick with an arts degree, Tony started work at the Aboriginal Legal Service in Brisbane and studying for a law degree at Queensland Institute of Technology.

Initially, the study of law was not a great success:

There was only one other Aboriginal student in the whole institution and we didn't know each other then. I hated it and only had limited success in my first and second years. But all the while I was working the Aboriginal Legal Service gaining valuable experience. I remember my first suit was from St Vincent de Paul. At the end of my second year I was gross failed and placed on probation. If I didn't pass half of my subjects the following year I would be kicked out. It was then I stopped playing rugby league and starting taking my studies more seriously. I graduated in 1988 and was admitted as a solicitor the same year.

Apart from the support and understanding of the principal legal officer, Paul Richards, to whom he was indentured:

The other aspect that helped me through those years was that in about my third year other clerks were employed. There were Aboriginal people, Torres Strait Islanders, an African/Indian and a Vietnamese clerk over the years. We had our own safe space. It was an incubator from which fully fledged Aboriginal and Torres Strait Islander lawyers hatched. It would hardly be considered good practice these days but we spent years going to the local pubs near our office every Friday testing our wits against each other. Out of that little firm there has been produced two senior counsel, one of whom has gone on to become a Justice of the Federal Court, the first Torres Strait Islander Magistrate in Australia, the first Aboriginal Magistrate in Queensland, a senior junior Aboriginal Barrister who will take silk in the coming years, another is a boss of a major land council, and one who ran away to set up a legal practice in Dublin, Ireland. If there is another firm that has contributed more to the development of Aboriginal and Torres Strait Islander lawyers than Paul Richards and Associates, I am not aware of it.

It seems to me that for Aboriginal and Torres Strait Islander law students, articles of clerkship were a very useful means of getting a law degree, learning on the job how to be a lawyer and having an income.

It is my appreciation of the value of those years in the safety of people who were like me, and the reverse impact of a law school where there was no one like me that has driven my commitment to the annual National Indigenous Legal Conference. The need for safe spaces for Aboriginal and Torres Strait Islander law students is greater now than it has ever been.

The question that I often ask myself is what is the justification for extra effort being put into the development of Aboriginal and Torres Strait Islander lawyers. Clearly, there is a need for more Aboriginal people in all the professions

until we reach a point where the service providers largely match the clients in gender and culture.

Only when we have sufficient numbers of law graduates and practitioners, will we start to see the bench reflect the community. In that regard, the searing question in the Northern Territory is how it can be that, in a territory where 30 per cent of the population are Aboriginal people, no Aboriginal person has ever been appointed as a Judge of the Supreme Court or the Magistrates Court. Of course, the question is worthy of contemplation in isolation, but it should also be noted that there are no Aboriginal superior court judges in any jurisdiction, only Judge Myers of the Federal Circuit Court at the intermediate level, and very few magistrates.

Tony, who in 2015 was the first First

Nations barrister in Australia appointed as Senior Counsel, offers three lessons from his experiences of which young First Nations law students and lawyers may make some use:

The first I learned early on when I was nearly kicked out of law school and it has been a guide to life as well as the study and practice of law. It is this, concentrate on the task at hand. Do not worry too much about promotion or recognition, if you concentrate on the doing the best you can at each step those things will follow.

The second lesson is to work in the area of law you are passionate about. Being of service to your people and to the whole community does not require you to be a treaty advocate or a children's court lawyer. There are Aboriginal and Torres Strait Islander lawyers who are passionate about international law, intellectual property, family law and many other

areas and have contributed enormously to our advancement.

The third lesson is not to be ashamed to ask for help and to make the most of your mentors. I have had and continue to have many mentors. One such informal mentor has been Justice Graham Hiley QC of the Northern Territory Supreme Court. After having been his junior in two important native title matters, and his opponent in another, his encouragement was one of the main reasons I applied for appointment as senior counsel.

Many of us have been deeply moved by Tony's stories of his family and the journey that has led him to the Inner Bar. His words should be an inspiration not only to First Nations students, lawyers and barristers, but to us all.



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