

**REMARKS OF THE HONOURABLE MARILYN WARREN AC
CHIEF JUSTICE OF THE SUPREME COURT OF VICTORIA
ON THE OCCASION OF THE CELEBRATION
OF THE LIFE AND WORK OF
PROFESSOR ENID CAMPBELL AC
MONASH UNIVERSITY, MELBOURNE CAMPUS
TUESDAY 23 MARCH 2010**

In 1968, being a young female law student at Monash University could be an intimidating experience. If I might try to portray what it was like then. It was the height of the sixties protest movement. Dress was very casual and hair was long. Students were very forthright in expressing their opinions. Female students were outnumbered in the law faculty by male students at a ratio of about ten to one. Let me ask you to imagine things a little further. Picture one of the larger lecture theatres in the Law School, the women students would generally cluster, towards the front, in about the second row. There was strength in numbers and a sense of protection from the many masculine distractions behind. The male students were predominantly what would be proverbially known as “*jocks”¹. My impression is that at the time, in those days, admission to law school was possibly easier than it is now and the commitment to intellectual rigour was different.

If we picture that environment, including the rowdy and boisterous conduct that might prevail at times from the *jocks*, then imagine a very dramatic entry.

The lecture room door would open, and a small diminutive woman, conservatively dressed, would stride down the steps to the lectern. She would place her notes on the lectern, pause, glance across the 180 degree view of the lecture theatre and take a

* alpha males, testosterone driven football machos² or, colloquially, just plain

¹ “jocks being a local Victorian expression to describe sports-loving, loud young men as distinct from DIFFERENT meanings in OTHER regions

² “a man who displays machismo” constituting “a strong and aggressive masculine display”, *Macquarie Dictionary*

breath. She would then commence to deliver her lecture. This was Professor Enid Campbell. The masculine racket was silenced by the self-evidently serious and scholarly tone imposed by the lecturer. The cluster of female students would sit wide-eyed and in awe of the spectre: Professor Enid Campbell at her academic work. Privately and within those female students would cheer at the capacity of this extraordinarily gifted woman to silence all those men.

In 2010 such description might seem fanciful, young women are so much more confident and expectant now. In 1968, Professor Campbell was an extraordinary role model for young women; I expect for all women.

If we reflect on some of her “firsts”, they are of a magnitude to rival Dame Roma Mitchell and her garland of firsts. Professor Campbell was the first woman to hold a chair in law at any university in Australia – the Sir Isaac Isaacs Chair, a distinguished chair indeed. Professor Campbell was the first woman to be appointed dean of an Australian law school – Monash University Law School, a distinguished deanship indeed. Professor Campbell was the first member of the Monash Law School to be appointed a Companion of the Order of Australia. In her day, Professor Campbell was the most highly qualified female legal academic in Australia – so many distinguished degrees.

It was her capacity to have forged paths where no other woman had been that was part of her inspiration to the young f she taught. Professor Campbell instilled a message into her young female students by her example: if there is rigorous commitment to the pursuit of intellectual clarity, precision and excellence, other things are a mere distraction, a minor diversion, to be ignored and passed by. By her example, she showed that it is the intellectual purity of the writing, achieved through sound, thorough and careful research that matters.

The interest of Professor Campbell in the special intersection of the subjects of politics, government and law led her to provide an extraordinary gift to the study of these fields.

As law students, Professor Campbell entreated us in her teaching of legal history to appreciate the constitutional and human rights significance of Magna Carta. In constitutional law, Professor Campbell emphasised the historic circumstances of the emergence of the *Australian Constitution* in the pre-Federation and Federation periods, the significance of the constitutional debates and their relevance in pivotal cases when the High Court fell to interpret that constitution. In administrative law, Professor Campbell encouraged students to examine the basic principles of the legal structure. She would pose questions such as “What are courts of law?” – before we might clarify the nature of judicial review, we needed first to understand precisely what a tribunal was. Fundamental, but essential.

Her students were the beneficiaries of an intellectual energy and application that was rare. Professor Campbell was courteous and cordial, but always formal. Students knew their place. She was the eminent, intimidating professor of law. Students needed to be prepared, direct and brief. Not because they did not matter, but because there was always serious research and writing to be done. Her book was always open. Her pen was always poised to write some more.

Even so, in the administrative roles she carried within the Law School, Professor Campbell was full of commonsense and compassion. Whilst always direct and of no more words than were necessary, she would demonstrate insight into students’ difficulties. Professor Campbell was a woman of immense understanding, driven by a desire that her students, all Monash law students, pursue the law and its study. She was merciful in her administration and understood that students sometimes needed another chance.

It is sometimes said that an individual is a “prolific writer”. That description should not be applied to Professor Campbell. Instead, she was a prolific writer of high quality and significant legal works.

Her academic writings span a breathtaking arc of topics. Professor Campbell has informed the writing of thousands of honours and post-graduate theses with her leading work on legal research and method. In turn, that instruction on how to write academically has informed the writing of many generations of judges of the superior courts of Victoria and Australia. Professor Campbell’s devotion to procedure reflected a deep understanding of the courts and their mechanics. In difficult appeal cases, when wrestling with procedural analyses, Professor Campbell, through her academic work, has provided the solution³ for appellate judges.

The world of Parliament is sometimes a difficult one to understand. Its procedural arrangements are often complex. Parliamentary privilege is a critical area requiring careful guidance for both the parliamentarian and the publisher. Again, Professor Campbell’s leading writing on both parliamentary law and parliamentary privilege are an essential reference in the State and Federal Parliaments.

An examination of the use of the work of Professor Campbell by the Australian judiciary is in all likelihood unique. Her work has been cited repeatedly by the High Court and the superior courts of Australia for over three decades. If we start in the High Court with *Viro*, Justice Murphy cited Professor Campbell’s work on the Privy Council⁴. The majority (Gleeson CJ, Gaudron J and Gummow J) cited Professor Campbell’s work on the royal prerogative in *Edensor*.⁵ Justices Gummow and Hayne cited her work on ministerial arrangements in *re Patterson*.⁶ Justice Callinan cited her work on parliamentary committees in *Egan*.⁷

³ *Herald & Weekly Times Ltd v Popovic* (2003) 9 VR 1, 99 [490]

⁴ In *Viro v R* (1976–8) 141 CLR 88, 166 citing E Campbell “The Decline of the Jurisdiction of the Judicial Committee of the Privy Council” (1959) 33 ALJ 196
In *AISC v Edensor* (2001) 204 CLR 559, [69] fn 134

⁶ In *Re Patterson*: EX p Taylor (2001) 207 CLR 391, 459 [210]

⁷ In *Egan v Willis* (1998) 195 CLR 424, 511 [183]

Significantly, Chief Justice Brennan referred to Professor Campbell's works on prerogative rule and Crown land grants in *Mabo*⁸ and *Wik*.⁹

Thus, any lawyer, barrister or judge working in the fields of civil law where procedure, constitutional practice or judicial review are studied will have been assisted by the works of Professor Campbell at some point.

Professor Campbell was an inspiration to her students, a unique role model for young women lawyers and an extraordinary contributor to the development of Australian law and jurisprudence.

⁸ In *Mabo v Queensland* (1991) 175 CLR 1, 37

⁹ In *Wik Peoples v Queensland* (1996) 187 CLR 1, 83