

## Chapter 7

# The French High Court – Some Comments on Principles, Policies and Appeals in Crime

*Justice Michael Corboy\**

### An acknowledgment

Chief Justice Robert French AC was appointed to the Federal Court at a precociously young age. Consequently, his career prior to his first judicial appointment is, perhaps, not well known – in particular, the extent to which his Honour practised in crime (his practice was extensive).

His Honour was articled to Geoffrey Hammond in December 1970. He was admitted to practice on 22 December 1972 and became a member of Hammond & Partners in January 1974. In July 1975 he, together with Rod Warren, Graham McDonald and Ross Harrison, formed the firm Warren McDonald French & Harrison. He left the firm to join the Independent Bar in July 1983. He was appointed to the Federal Court in November 1986 and as Chief Justice of the High Court in September 2008.

As a newly formed partnership, Warren McDonald French & Harrison practised in all areas of the law, acting for whoever came through the door (the ‘door’ included weekly visits to Kojanup, 250 kilometres from Perth, the preferred form of transport being a 240Z Datsun coupe). His Honour developed an extraordinarily diverse practice that embraced all forms of litigation and appearance work. He had an interest in what were then regarded as emerging areas of the law – town planning (he was appointed Chair of the Town Planning Appeals Tribunal in July 1986), intellectual property (see, for example, *SW Hart & Co Pty Ltd v Edwards Hot Water Systems*<sup>1</sup>), administrative law and trade practices. In the latter area, his Honour appreciated early the width of s 52 of the *Trade Practices Act 1974* (Cth) (see, for example, ‘The Law of Torts and Part V of the Trade Practices Act’<sup>2</sup>; ‘A Lawyer’s Guide to Misleading or Deceptive Conduct’<sup>3</sup> and ‘The Action for Misleading and Deceptive Conduct – Future Directions’<sup>4</sup>) and that the operation of the Act, particularly the overlap between Part V and the common law, involved significant issues for the exercise of federal jurisdiction – see, for example,

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\* Justice of the Supreme Court of Western Australia. I am grateful for the assistance provided by Rachel Joseph, a member of Francis Burt Chambers, in researching this paper and to my associates, Jessica Tower and Jay Tampi, for their patience in proofreading the paper.

1 (1985) 159 CLR 466.

2 PD Finn (ed), *Essays on Torts* (Law Book Co, 1989).

3 (1989) 63 ALJ 250.

4 C Lockhart (ed), *Misleading and Deceptive Conduct – Issues and Trends* (Federation Press, 1999).

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