

Brian Sephton**LRC Oral History Project****6th December 2008**

Int This is an interview with Brian Sephton and it's Saturday the 6th of December (2008). Brian thank you ever so much for agreeing to be part of the LRC Oral History Project, we really appreciate it. I wondered if you could start the interview by...if you talk about growing up in South Africa under apartheid and where you think your sense of social justice and injustice developed?

BS Well, it's with the family, as ever. I grew up on a farm in the Eastern Cape in the district of Barkly East, lovely mountains right on the border of what at one time was called Herschel, later became...it didn't make sense, part of the Ciskei, and not far from the border of Lesotho. Grew up in a typical South African farming community. Barkly East was probably the biggest district in the entire Cape Province and one of the biggest in the country. It was split half and half between English farmers on the northern side of Barkly East town, and on the southern side, Afrikaans farmers. And the people who worked on the farms were mostly from Lesotho, Sotho speaking or Xhosa speaking, from Herschel. My political consciousness was developed, I suppose, in a context of the country in which only white people voted. There was generally, and these names changed over time, but National Party, United Party and the Progressive Party...the Progressive Federal Party. My parents and my grandmother...didn't know my granddad, he died when I was about two...my parents and grandmother were the only people, I believe, in the entire district who voted for the Progressive Party, throughout the time that I was aware of who voted for what, when that political discussion took place. There was a time perhaps in the eighties when one other family joined our view of the world, but we were always politically set apart from the rest of the farming community. My parents were both very active in the farming community, had lots of friends, lots of cousins, who we socialised with, but we were always very conscious that we had different views of black people in general and the part that they should play in society and how one should treat them. My mom used to work in the soup kitchen in the township in Barkly East, she would go in...I can't tell you exactly when it was, but she would go into town, once a week, for a long period of time, and help in the soup kitchen, just aimed at feeding hungry people. That's how we grew up and I guess where our earliest sense of social justice was formed. My parents were, along with my brother, who's now farming the farm, were arrested in 1988 by the Security Police, they were hauled into the Magistrate's Court in Barkly East. There was a mock trial that one would only have imagined coming out of a movie, where the magistrate was absent. The clerk of the court was instructed to sit in the Magistrate's seat and there was this absolute circus that took place. My parents, both articulate, educated people, found themselves in a position where even they were unable to really cope without some legal help, which we ended up getting from Cape Town. And it was instructive in a way that showed me that even people who are white, educated, can be lost when they're dragged into a legal system, which they don't really understand, and I guess made one realise how more difficult it would be for poor, uneducated people when faced with the same situation. As it happened, nothing bad came out of that...the police were clearly on the wrong side of the law and in a matter of days it was all sorted out.

Int What were the circumstances over which they happened to get embroiled in this?

BS There had been shootings in the townships. A teacher in Barkly East had been shot dead. It was very clear...it was during a march...it was very clear that it had been done deliberately; he'd been assassinated, effectively. And my mom with the people that she had got to know in the township over the years, had information that this person had not been doing anything violent, which was the story put out by the police, that this teacher had incited the crowd, had become dangerous himself and aggressive, and the shooting had taken place in self defence by the police. She'd spoken to a number of people who were there and it was clear from the circumstances that he'd been targeted and shot in cold blood. And there was a local newspaper in Barkly East, there was an editorial written by the editor of the paper, speaking badly of the behaviour of the demonstrators and my mom had written a letter to the newspaper saying that there were witnesses to this and the newspaper had it entirely wrong. And the police then called her up immediately and said, well, if you've got information, please tell us. And she said, no, I'm not going to tell you. And the cops then said, well, you're breaking the law and you're refusing to co-operate, we're going to haul you into court. And so she, and my dad and brother who was there at the time, were all taken into court. It all ended up with an apology from the newspaper, because they'd published a response which was defamatory of my mom, and the police had been out of line, and the criminal aspect of it was sorted out. And the funny thing throughout all of this was none of our farmer community, neighbours, friends, cousins, had anything to say. Not a word, it was just something that was not discussed. And had my mom feeling very isolated. It was extraordinary because at a simple social level people can talk over a cup of tea or a meeting about day to day things, but this subject was completely avoided, it was like the big white elephant in the room. And there's very much to a sense, especially on my mom's part, of feeling completely isolated in that farming community towards the end of the eighties. So I suppose over all the years we were aware of looking at the world differently. We had a very different relationship with the black people who worked on our farm, from other farms. Which is not to say that it was perfect. I think in many ways it was an imperfect relationship but it was certainly without many of the tensions that one saw at other farms and without the kind of abuse that one saw almost as something that was taken for granted on other farms. So I guess that's a picture of the start.

Int I'm also wondering, Brian, as a young person growing up in this context where your family is taking a decidedly different stance from the rest of the community, how did you experience that? Did you feel isolated from your peers? Did you feel a sense of being different quite early on or was it really not as evident for you at that point?

BS I suppose different in the sense that when at boarding school...I went off...all of us went off, as kids to boarding school at about the age of nine or ten...and politics was spoken about, there were very few people who would say my parents voted for the Progs, as they were then called. And that was the most obvious difference. I think I probably thought less deeply about than some of my siblings, well, I should say, especially my brother Simon, who's friendly with Matthew Walton, who was a conscientious objector, went off to the army, served his year but then after that became a conscientious objector. I was kicked out of the army. I went in 1975. I was there for three days. I have eczema in my ears. I was sent home for that reason. And I therefore never had to face some of the questions, the moral questions, which people

who ended up in the army, and going through that time, had to face, and didn't have to make any difficult choices. And I feel I got off lightly because of that. So did I really feel different from my white South African peers? Generally knew that we had a different attitude to black people, and we were spoken of in a derogatory way quite routinely. But it's funny when you grow up with things as a child, it's...you say, well, this is the way the world is, this is the way most people think, maybe we don't quite think like that, and there are many other things that you have in common, like the sport you play and the classes that you do, and that kind of thing, which give you common ground. So, no I wouldn't say that I felt set apart in a particularly intense or severe way.

Int I'm also wondering in terms of family discourse, were there discourses in the family around issues of the disparities and why things were the way they were. You mentioned your mom being involved in the soup kitchen, and I'm wondering whether she ever came back and discussed poverty and the lives of African people and why things were the way...I am wondering how your sense of the world around you... how that was formulated?

BS There were discussions about it and in a number of different contexts. For example, we had approximately, at any time, between seven and ten black families living on the farm, and all of them had, in addition to the homes that they had on the farm, they had homes back in either Herschel or Lesotho. And they would go back on annual visits. The homes they had on the farm were what we called huts. They were generally two, three roomed, sometimes semi-detached, in the sense that you'd have two rooms on one side of a building, and two rooms on another side of a building, and that would be shared by two families. I can remember discussions that my parents had where my mom was saying, well, we should be spending money on upgrading these houses. There was a time when there were no toilets. And over time my father had toilets built and showers and a community room and put a TV into the community room. But there were discussions about, well, the people who live on the farm are living in conditions, which we ought not to be accepting. And of course, as in every family, it then became a question of, how much money are we going to put towards fixing that, and how far are we going to take it? And I suppose we were aware of this debate that took place over time and would come up from time to time. Another way in which the question would come up would be my brother Simon, who's eighteen months younger than me, and the closest in age to me, we grew up together. Sarah (Sephton) is about eleven years younger than me and we grew up at different times, a decade apart. Simon and I had black playmates, we both spoke Sesotho from the time that we could speak, and we each had a nanny who would look after us in the daytime, when my parents were away, would put us to bed at night, would bath us, and during the days when we were home from boarding school or before we went away to boarding school, we'd spend days playing with the black kids. And in the evenings they'd go off to their houses and we'd come to ours. And there'd be questions sometimes about, well, why don't we eat together? Or, why is their school different from ours? And I think that that always produced some awkwardness in my parents in trying to answer that. I suppose that time would be probably before we were the age of about ten. Later, obviously it was something that they could discuss with us as more mature kids, and we got an understanding of the way the laws worked, and of what apartheid meant. There would be raids by the police, they would suddenly turn up on the farm,

and they'd be looking for people who didn't have passes. The word would go out, my father would keep them busy as long as possible because there were usually people on the farm who didn't have passes and we'd make sure they were hidden. And there was a consciousness from early on that the police were bad, not to be trusted. If necessary, not to be helped. And that there were laws, which we ought not to respect.

Int I'm also wondering, having gone to school, what was your sense of what you would ultimately do? Was law a part of the deciding factor or did you venture out into other areas before you came to law? I'm wondering what the trajectory was...you mentioned having to go into the army, and I presume that was at eighteen?

BS Ya, I'd always wanted to farm, that was my only real ambition. I wanted to be a farmer. And I thought my father had the best...the best work, or occupation, not work, occupation in the world, and I was always encouraged not to...or at least I was encouraged to go off and study and do some other things before making a decision about farming. Went off to the army straight after school in order to get it out of the way. I didn't give any thought to whether I should be a conscientious objector or not, even though I knew more or less what the army was up to, and that was the year that South Africa ended up invading Angola. And there'd been a long war already at that point, 1975 on the border of Namibia...or South West, as it was then called. And so when I came out of the army, I went to Stellenbosch, where I was suddenly faced with having to make a decision about what to do, thinking one week that I had at least a year before I had to make that decision, then, what was I going to do? Decided to go to Stellenbosch. Why Stellenbosch when I'd grown up thinking that Afrikaans people were completely different and had different views, I think it was a sense of having to get to know Afrikaans people and how they thought, that took me there, and there was a thought of law, at that point, I didn't know much about it. I signed up for a BA. History was always my great interest, and I did a BA in History and Economics. Without really knowing whether I was going to follow it up with law or something else. My grandfather, my mom's father, had been a chartered accountant, and he, I suppose, exerted undue influence on me. And that's what I ended up doing, after my BA, I went and started working with an accounting firm in Cape Town and started my Articles to become a chartered accountant, and four years later became a CA. And that's what I did, I think, with not a great deal of thought. I mean, I don't think that I was a very deep thinking individual, and you know, when I look back and remember seemingly how little thought I put into what I was going to do, it's quite shocking sometimes. Although I think that all through that time I was thinking, well, I'm going to do something which will give me a qualification, but ultimately I'm going to come back and farm. And I guess that that did lie behind what with hindsight looks like a lack of thinking. And then law came much later. So I qualified as an accountant in '82, I then went and worked in Johannesburg with a merchant bank, part of the Standard Bank group. Worked there for five years. And the States of Emergency started in about...I think it was 1985, and there was all that trouble in Uitenhage, there was a lot of stuff going on, which we knew we didn't really know about. You kind of heard whisperings, you really saw the tip of the iceberg in the newspapers. You were constantly aware that foreign newspapers were carrying much more information than the South African papers were. There was the closure of the Rand Daily Mail in the mid eighties. And it was a combination of knowing that there was a lot going on in South Africa that was just not right. And also dissatisfaction with the

kind of work that I was doing. It was really interesting work but it left me with a sense of serving a very small privileged part of South Africa. And I guess I started going through a bit of a crisis from 1985, so say two, three years into that job. And first thought of...I had a spell of working in London...in 1985 I worked in London, that's when I lived on Mecklenburgh Square. Of course loved it. And you had this constant...this difficulty of having grown up in South Africa, wanting to travel, wanting to see the world, being interested in what was going on out there, feeling very isolated. You'd go to a place like the UK and what always struck me was the tolerance of different ideas and different people and the kind of freedom that that left one and the debate that one saw in newspapers, and then you'd come back to South Africa, a place you...it's a place that you have intense feelings about, for whatever reason, and you want to get out because there's...it was a bit like a pressure cooker. But also competing against that, very strong feelings of loyalty and a sense of responsibility that this is my country and it's being screwed up and one should really be trying to do something about it. And by 1987 I thought that I was going to emigrate. I didn't want to go to Australia, I wanted to go and live in Italy, just because I like the people, I like the food, it was different. Went job hunting in the land, I'd learnt some Italian, went to Italian School, and ended up not finding a job, came back from that holiday, middle of '87, and something that I'd been following for quite a while, was the labour movement in South Africa, which at that time was the only way in which black people could express any kind of political power. And one night literally woke up and said, well, I'm going to go and become a labour lawyer. It was literally a one night decision. And the silly thing is after that I then started going to find out about what I'd decided to become. I met with Edwin Cameron who sent me to go meet with Mark Euijen, but really it was a case of not wanting to discuss things with them which might help me make a decision, I'd already made the decision, it was wanting to meet with people who would just, I thought, confirm what I wanted to do. And as I said to you yesterday, Mark Euijen did everything he could to persuade me not to. Said, this is a horrible job, no-one thanks you for it, don't dream of doing this, stay doing what you're doing, get out of this country. Things like that. Well, that didn't happen, I ended up leaving my job at the end of that year and then took the next four years off. I went to Maritzburg, I did two years of law. That was the only university that would let me do a law degree in two years as opposed to three. After those two years I went to work for the labour law unit with Clive Thompson at UCT. I wrote a book there for the unit, which was published, it was on pensions and provident funds, and it was written as a guide for mostly unions, and had won bursaries for my results and my degree and ended up going to Cambridge to do a Masters. So that was in about September of 1990, and spent a year at Cambridge, came back at the end of '92. And at that point I didn't know about the LRC. I knew about Cheadle Thompson & Haysom, I knew about CALS, and I wanted to go and work in Cape Town, and there was a firm there, Mallinicks, which had a public interest law section, and they did a lot of work with Robben Island people. And so I signed up with Mallinicks. Soon after I got there, they closed their public interest department. And that was about probably three months after I'd started my Articles.

Int This was in 1992?

BS That was beginning of '92. And I knew Pete(r) Hathorn. Have you met with him? You've interviewed him?

Int Yes.

BS So he was leaving Grahamstown and going down to Cape Town. His wife Barbara had grown up on the farm next door to our farm. And I got hold of Clive Thompson and Clive offered me a job. So I ended up finishing my Articles in Grahamstown at the LRC. I'd really only got to know about the LRC when I started with Mallinicks in Cape Town. Some of the guys that I worked with at Mallinicks had done work with Henk Smit. I got involved in an environmental case while at Mallinicks and Henk had some peripheral dealings in that. So that's how I got to know the firm. And so that's how I got to be with the LRC. It was really because I'd come back initially focused on wanting to do labour work, but...the choices were living in Johannesburg, which I didn't want to do, with Cheadles, or getting into work which I felt had, and which I'd really only begun to learn about when I got to Cape Town and worked with Mallinicks. The kind of work, which I thought had value and the LRC just seemed to fit all of what I was trying to get out of being in law. So that's how I ended up with the LRC.

Int So you started at the LRC in 1992, would that be correct?

BS Ya, March of '92.

Int And at the time, was it Jeremy (Pickering) or Clive (Plasket) who was the head?

BS Clive was the head at the time, Jeremy had...I think he was already a judge at that point. So Clive was running it, he'd come down the year before, I think, from Johannesburg, he'd been at Cheadles, and he was in charge of it. Also there were Gerald Bloem, who took over as my principal, I was his Articled Clerk, or...I think the word, not trainee attorney...

Int Candidate...

BS Candidate attorney, thank you. Jannie Coltman was there. And Lex Mpati started very shortly after I started, some time in '92. He was at the Bar at that time but he joined the LRC, I think, just a few months after I started there. And we had Nomfundo, who's still there...Somandi. Ethel came shortly afterwards. Rufus Poswa arrived sometime, probably a year or two after I arrived there, and he's still there. And I believe Cathy started right at the end of my time at the LRC and she's still there.

Int I'm also wondering, when you started at the LRC, you mentioned your interest in doing public interest law and having started a bit of that at Mallinicks and then that coming to an abrupt end. I'm wondering why the LRC in particular? Was it a continuation of your interest in public interest law...or was it your own need to want to continue labour law?

BS It was in order to...I suppose the best way I can put it is that I felt a need to be of service to people that had been serving me all their lives, is really what it boils down to. Just a sense that there was a responsibility to work for a broader part of the community than had been the practice of white people in South Africa. The LRC and public interest law seemed to be the best way to be able to do that. Its clients were always poor people, which virtually always made them black people. It used its limited resources in what appeared to be a wise way, in other words you had to pick the right case, you couldn't just take every case that came through the door, you had to use your head to figure out what needed fixing or where the greatest priorities lay, and how best to use the law. It's always, I think, been something, which is difficult to explain to non South Africans, that South Africa was a country in which there was a very strong sense of the rule of law. And it's almost paradoxical that that use of the law became an instrument in which people could work against the government legally. And there were many avenues for doing that. And the LRC was very inventive in the ways that it used...you can't even call them loopholes, but principles, often very long established principles of law to...but perhaps not used very often or sometimes just turned on their head and used in an imaginative way to change things. And it, I think, gave one a great sense of satisfaction that one was using laws made by the government to undo some of the other laws made by the government. Quite apart from the satisfaction one had from seeing what were often very small victories for very ordinary people. So it was, I suppose, what initially started as an interest in labour law, labour law was probably the most prominent way in which one could do something what in my mind was useful. But that was really a decision taken before I had really learnt about what the LRC, or learnt about its existence, or what it did, and the LRC was able to offer the ability to do things not only in the field of labour law, although it wasn't very active in labour law, but on a much broader scale. And that's why I think it was better suited to me than going into a very narrow field of labour law.

Int I'm also wondering, you mentioned that you came to know about the existence of the LRC when you were at Mallinicks, and I'm wondering during your earlier time when you were doing your law in Pietermaritzburg, whether you had a sense of the LRC's significance in terms of its early cases: the Rikhoto, Komani cases, which were really the...the harbingers of the end of influx control, so that would have been in the early eighties, and whether you read that up in the law reports when you were a student?

BS I don't remember being conscious of the LRC as an organisation. I knew of Lawyers for Human Rights when I was a student, I was working for Lawyers for Human Rights in Pietermaritzburg, and I knew of Cheadle Thompson & Haysom, which had a very high profile. I'd been at university with Clive Thompson, so also had that connection with them. I did know about the Rikhoto case and I'd studied it. Can't tell you for sure whether I connected it with the LRC. I think it was more individuals that became known. Edwin Cameron stood out and other activist lawyers stood out, by name rather than by organisation. I knew of Geoff Budlender because he had chained himself, I think, to the steps of St Georges Cathedral in Cape Town. But it was in that context that I knew his name rather than as head of the LRC. And I don't believe I knew about Arthur Chaskalson until after I'd graduated.

Int Right. I just want to quickly ask ...before going on to the part of the LRC, in terms of student politics, whether it was at Stellenbosch or at Pietermaritzburg, although you were at Pietermaritzburg a bit later, I'm wondering in terms of NUSAS, etc, what your level of involvement was?

BS NUSAS was not on campus at Stellenbosch, and I'm sure it wasn't allowed to be. It's very weird to think about this but the first address that I went to, by a person who was not white, was at Stellenbosch University, it was Franklin Sonn who came to talk to the students. And I can't believe now that one even had a sense of wonder about being addressed by somebody who was not white. The other thing in that vein that I remember was, that at a wedding when I was about, I guess twenty-three, twenty-four, ended up speaking to the photographer who was a black guy and he was the first black person that I had spoken to who had an education which was similar to mine, where, you know, we'd played as kids with our black friends on the farm, but there was a very strong awareness of their being different and our being privileged and their not going to the kind of school that we would go to and not receiving the kind of education, so you ended up speaking about different things. And so the first time that I spoke to a black guy or a black person was at the age of twenty-three or twenty-four when we could speak on equal terms and it makes you realise just how effective the apartheid system was. It kept people apart and didn't allow them to understand how many things we have in common with other people, no matter what their colour. The student politics at Stellenbosch I didn't get involved in. I was conscious of what was going on in 1976, I was a student at Stellenbosch at that time. Didn't join any political groups on campus. And when I was at Maritzburg I, as I mentioned, worked for Lawyers for Human Rights, didn't get involved directly in student politics. But ended up marching through Maritzburg, and with most of my focus though on weekly clinics with LHR.

Int I'm also wondering Brian, when you started at the LRC, did you immediately get a sense... as a Article Clerk I suppose that's not always possible, but during that year, when you were doing your Articles, did you get a sense of how you wanted to proceed, whether it was going to be land work or socio-economic rights, what aspects of law really grabbed you while you were starting out?

BS The land work only came later and the Constitution was only put in place in '94. I think that it was police work or work against the police, which I was most interested in. There was just such a degree of lawlessness in the police force, they could do what they liked with anyone, and in my mind were half the reason that...I mean, their own actions were half the reason that they had any work. People that treat people so badly that they produced activists who were willing to go to any lengths to change things. And this happened especially in small towns, I mean, the Eastern Cape was, I think, very bad. Far-flung towns like Barkly East where lines of control were extended and people could do what they like. And I think the good thing that the LRC did was by making them pay damages, at least get Pretoria to focus on which police stations were costing them most, it all just came down to money. Not, oh, are we doing a good or a bad job? But are we having to pay money out and if we are having to pay out money then let's try and make them behave in a way, which is going to cost us less. So it was police work, which started off as being my focus and interest. And I think a great

sense of satisfaction in working in Barkly East, which is where I grew up, it was quite weird working there, because you'd grow up on a farm thinking that town people are funny. The white town people themselves had the township as the place that they regarded as foreign, different. And it was very satisfying to be working on the other side of the fence. And I suppose the first few times it was awkward sometimes but I ended up taking great pleasure in being...in arriving at Barkly East and going straight to the township. That's where I ended up making friends and working for people that lived in extraordinary circumstances and showed great character in the way that they dealt with hardship and adversity. And it just made you realise how little you know about people and what wonderful characters you can unearth in the most unusual places. So I ended up working in a lot of the towns that I knew from having driven through because they were close to Barkly East. Elliot was one, Maclear was another. And we all saw farming villages which had over the years had townships grow up outside them with populations of poor black people that vastly outnumbered the white shopkeepers and lawyers and policemen that lived in the white parts of town, and with no really visible way of surviving. Did a lot of cases in all of those towns, and won some, lost some, but always very satisfying work.

Int I'm aware that the work you were doing was really in a post apartheid context, and it didn't have the...perhaps, danger elements of the 1980s. But I'm wondering what for you was probably startling in the fact that you were still dealing with the effects of apartheid and whether that created its own set of problems?

BS Well, I think that in many of those towns things didn't change. Even after '94 they didn't change. You still had white guys running the police stations, behaving pretty much as they liked, and yes, I never felt in any kind of danger, except probably once in Indwe, when there was a case involving white policemen. But there was a very strong sense that although Nelson Mandela had been released and although we were on the way to getting a new Constitution leading up to '94, then actually having a new Constitution, and a lot of those places, things were going to change very slowly. And so you still had the same kinds of attitudes and the same social divides...socio-economic divide that had existed for the last fifty years. And I suppose that, with the coming of the Constitution, there were new ways in which we could start thinking about, well how do you address these differences? But in many cases you were still dealing with police abuse, pre and post Constitution. One thing I haven't mentioned is that I met Nita through law, as she said earlier. And that was in Montague with Mallinicks. One thing for which I...well, if there was one thing that I did as a result of changing to law, that would be the one that I would like to have kept.

Int I'm also wondering, you mentioned that when you started off you did the police abuse cases, and certainly Clive (Plasket) has mentioned the incredible land work you've done, and I wondered at what point you made that transition or was it a natural progression in terms of the type of change and direction the Grahamstown office was taking?

BS I think that it was two things. One, perhaps a very pessimistic view of the Constitution and the role it could play in the long run in South Africa. There was...and it was never quite as stark as this, but if I think back there was probably a choice of

becoming...or getting into constitutional law cases, and making that a focus, or going into land work. Now the one wouldn't necessarily exclude the other. But a big part of my motivation was to try to help poor people. It was, I suppose, a bit of a missionary kind of spirit, and I felt that in getting involved in land work I could probably help greater numbers of people than in doing what might be isolating...or constitutional cases which might help isolated individuals. Now, you can debate that up and down and I can tell you a hundred instances where constitutional work could end up affecting just as many people as land work. But I'd grown up on a farm, felt very close to land issues, felt that I understood the connection that people had with land. I mean, my real connection with South Africa is probably less with the country than with the actual farm that I grew up on. That's my connection. My umbilical cord is to a specific place in South Africa. And we knew of people who had lost land – there were big removals in the 1970s from the Herschel, Ciskei area. And our specific connection was through people who worked on our farm. Both with people who were there permanently and with the...we had a sheep farm, and every year in November, a team of shearers would come, they would hand shear all of the sheep, and it was the same groups of families who would contribute to this team year after year, generation after generation. And all of those families were removed in the late seventies, down to a place called Thornhill, near Queenstown, between Queenstown and Whittlesea. And so, instead of going to fetch them just over the mountain from the farm, my father used to have to drive down to Queenstown to fetch them. So we were conscious of what had happened to these people, they were people who'd grown up from their ancestral lands being plonked down in the middle of nowhere, in tents, in what became shanty towns, living in miserable conditions, and although it was maybe three hundred kilometres away, it could have been three thousand kilometres for all they cared. Very different conditions and harsh conditions, so I had been aware for a long time of people who'd suffered from those removals and that got me interested as well. And funnily enough I ended up...I went to a meeting once near Whittlesea, at Thornhill, with a group of people that I was getting a farm for, and introduced myself, and after the meeting this old guy came up to me and he asked, did I know Raymond Sephton? And I said, yes, he was my father. And did I know Paul Sephton? Oh...Raymond was my grandfather, Paul was my father. He introduced himself and I remembered him by name, not by...because he was an old man then, and he'd been one of our shearing team. And that was a very satisfying moment that somebody who'd worked for years for both my father and grandfather was now someone that I was doing something useful for. And I think it was a combination of those things that got me moving into land work. Also it was a field that not many people were interested in and so from a practical point of view I thought it was something in which I could end up finding lots of work and at that time I was also thinking of leaving the LRC. And that was tied up, I suppose, with money. And I don't know if I'm using that as an excuse but that was, as I remember it, the primary motivation. We had two children, we'd just had a third arrive, and there was a lot of land work opening up, and I knew that I would be able to do land work, do the kind of work that I wanted to do, not for the government, but representing groups of people wanting to get land, either get back land that they'd been kicked off, or get new land, but being able to go and farm again. And I knew I could get it on a funded basis and probably earn more money that way. So...ya, I hadn't thought of that before, but that was another motivation for getting into land law. And that took me into a lot of really interesting work, but with more ironies. The first two farms that I helped take away from white farmers, belonged to two very good school friends. And so this was just a

continuation of the thread...you end up working on the other side of the fence, as it were, in areas where you grow up. You...it's a funny feeling, but you end up working against the interests of people that you know, and it's kind of a difficult test, I suppose. The one guy whose farm we claimed, it was called Farm Afield, he had bought it after it had been taken away from a group of black people, so it's not that it had been his own family farm. The farm had been taken away from a group of people, he had not been able to go back to his own father's farm and had bought this farm. But unfortunately it had belonged to someone else who'd been unfairly kicked off and so we were able to claim restitution for this farm. And that was close to Grahamstown, very close to where we were living in that house. And the other one was close to Queenstown, Whittlesea, another guy that I'd shared a room with at school, who was also farming, not his own home farm, but a farm that he'd moved onto that had, maybe ten years before, been taken away from a group of black people. So, there was no question of my feeling that there was any injustice taking place, in fact they were both just cases. And then the interesting part of that work was setting up the communal property associations, which was...it was like a constitution for how a group of people would operate on a farm. And what was very interesting was to see the dynamics among the families that were going to move onto these farms, and you would suddenly...not suddenly, it made you aware of how settling people on these farms where they had been maybe ten, twenty, thirty years before, the natural thought was to go back to living a life in which there was a patriarchal kind of system. And the difficulty or the challenge there, was trying to create a constitution which gave rights to the people who would end up working on the farm, which was basically the women, because you knew what was going to happen, was that the men would go off to look for work, whether it was in Johannesburg or the nearer bigger centres, and the women would be left running the farms, but unless you gave them built in rights in these constitutions, you'd end up with a group of absentee landlords deciding on things like, you know, who was going to take over when people died and how succession would take place. And that was the interesting part of setting up those constitutions was going through the negotiation process where people would be stating intentions which you quite often knew were empty words, having to translate their ideas into a constitution which was going to both try to reflect what their intentions were and be something that could be practical. And it was a very different kind of work from criminal or civil litigation against police. It had much more of the social engineering kind of thread to it. It was less confrontational, which suits my personality better, and...ya...I think it was also very useful work. My one reservation, running through it all was that we were often settling twenty-five, thirty families, on a farm which was mostly in bad shape, not in a very fertile area, and in the long run probably would not be able to support those twenty-five or thirty families. But which at least the compensation for that would be that people would have least be able to say, well, I've got my plot of land, like we've got here, and we have a home. We're able to grow our own corn, able to keep our own goats. But I guess a sense that just getting the land back was not enough. That what really should be done along with this, was government help in getting some form of credit, in order to help up the production on the farm. (*break*)

Resumed Interview

Int Brian, the point at which we stopped earlier was where you were talking about land rights and giving land back to the people, black people, and I think you were wondering really, it seemed to me, whether in fact the work you were doing was really benefitting the people that you were seeking to help.

BS Ya, I guess it's the thread that runs through a lot of the kind of work that we did and maybe it's a personal reflection on me. I think that the people that I met at the LRC were without question the most admirable group of people that I've worked with. I've worked in a lot of different fields with a lot of smart people, but nobody has ever left me with the kind of impression that many of the people at the LRC left me with. And it was a real honour to work with people who had that kind of dedication. And I suppose that all kinds of work which deal with people who are at the bottom of the power pile, seem in many cases to be futile, or just one long uphill battle, and that it takes people who've got great dedication, great optimism and who are willing to apply themselves through thick and thin to actually make some headway. And so I of course wonder whether it's a personally defective character, which says to me, well, is this really worthwhile, or whether it's a really objective view. In the land work there was a tussle between two approaches. One is, do we just go out and try to help the poorest of the poor and get land back to poor people, or do we take a selective approach and try to create, as it were, a middle class of black landed...gentry would be the wrong word, but black farmers, in the way that you have white middle class farmers in South Africa. And that tussle was won by the people who wanted to create a black middle class farming group. It came in with Mbeki, they kicked Derek Hanekom out, and the approach change at that time. I do prefer the former approach, looking at getting poor people onto the land. Partly just from an emotional point of view, understanding that people who have grown up on the land, want to be able to stay on the land, whether or not it's economically viable. If you end up making choices that depend on economic viability, well you're going to end up with commercial farming or individual farms are going to disappear and you're going to end up with what's happening in the US a lot, and in parts of South Africa, that companies end up taking over farms and they do things on a big scale and you do things in a way which squeezes out all inefficiencies, and then there's never going to be any place for, never mind poor peasant farmers. There's not going to be any place for the types of farms that I grew up on. So, it's an emotional view, which says that I would prefer to help get people back on the land, whether or not it's going to be hugely economically viable. But I think also that the attitude, which the government takes on, this question is going to have a long term effect on whether the now not so new government in South Africa succeeds or not. Are we going to simply convert what was one kind of oligarchy in South Africa into another kind of oligarchy, or are we going to somehow empower the poor people in society? And from what I can see I think there's not much hope of that kind of empowerment. I think that we are going to end up reaping the...'rewards' is the wrong word, but possibly in decades to come. Whether it's going to happen in the way that Zimbabwe has happened or some other way, I think that the deep psychological scars in South Africa are not going to be properly addressed until there is some huge scale effort made to alleviate poverty. And if the focus is always going to be, well, the poor are always going to be here, and we just want to create a different colour middle class, then I don't believe that's going

to provide a solution, and I don't think it's going to end up well for South Africa in the long run. So, having said all that, I had reservations about the viability of getting, say, twenty to thirty black families back on a farm which had perhaps struggled to support one white family...ok, different needs, different ambitions, in terms of how much we need in order to live, but simply getting land back to a group of people and then saying, well, you're now on your own, is not going to work. And I think what was missing was a program, an economic program, to go with it, which would have involved something like extension work, in other words, helping people learn how to deal with their particular farmland and learn what they could and couldn't do viably on that particular piece of land. And then also just basic stuff, like getting them credit to buy a tractor, to buy fertiliser every year, to buy implements to be able to farm the land. And that wasn't happening. And I've driven past the very same farms that I helped to get into the hands of families of black people over the last ten years whenever I've visited South Africa and the Eastern Cape, and nothing has changed. And I do think that that was because of an inadequate land restitution process or at least a fairly myopic process which said, well, we're going to get the land back once we've got the land back we've achieved what we set out to do and we can move on to the next thing. So that's where my reservations lie about that work. Was that a reason to stop it? No. But that's a separate discussion. The other reservations I guess that I had were about...and it's in a similar vein, is...I suppose went around the Constitution and the viability of the type of Constitution, which we've put in place. It's not that I...I wouldn't have had it any other way...I'm not sure what I'm trying to express, but the grafting of a Constitution which is as sophisticated as South Africa's, onto a country like that, I think is a very...I think it has a touch and go chance of success. And that's not a good reason not to have done it. And...I think that...well...I'm stuck...

Int I'm wondering whether you...and I'm just checking this with you...are you in fact saying that by the nature of the fact that it was such a sophisticated Constitution, that it in fact in reality not met the needs of a country, that's quite complex and probably may not have the first world connotations that the Constitution aspires to, in terms of rights, etc?

BS I think that it could meet the needs. It has the ability to meet the needs. I think the fact that it is so clearly a western Constitution in the long run might give it a lack of legitimacy in that it's seen as something that is imposed by standards which don't come out of Africa, and at its base level, I suppose, it's questioning whether, you know, it's the same question that you're faced with America going into Iraq and saying well we're going in there to bring democracy to Iraq and when we've done that job then we'll get out. And it's a similar question in South Africa. And I suppose what I'm expressing is a reservation about whether a form of government which took centuries to find, take root, in western cultures can be brought into a country which has different traditions, or imposed upon people who have different traditions. It doesn't take away from the fact that I think, of course it was the right thing to do. I don't think there was any other way to go. I wouldn't have had it go any other way. I think what I'm talking about is tied up less in my work at the LRC than in the apparent ease with which we decided as a family to leave South Africa. That had a whole lot of different factors going into it. One was just going to live outside of South Africa, we...Nita had never travelled before, it was an exciting idea to be able to go

and live somewhere else. But there's no question that there was also with that a conscious decision in effect to betray the motives which had taken me into the LRC in the first place. And I guess I'm justifying it in a way by saying, well, I've got children, I do think that there are a lot of scars in South Africa which are not simply addressed by installing a democratic government and a nice looking Constitution. That sense certainly made it easier for us to come and live outside of South Africa. I think though it did have, as I said earlier, it had some effect on my decision not to do constitutional work in South Africa because I had the feeling that many of the cases which almost by definition, are going to be at the fringe of a Constitution...the basic thrust of the Constitution nobody's got any debate about or any quibbling about, so all the interesting cases in constitutional law happen around the fringes...around the areas which are less certain. And my thinking was, well, these may be great academic exercises but how much application do they have for everyday people. So let me give an example of how I'm wrong on that: one case that I was involved in was Phato, or as I heard a judge once say Phato, it's a guy who happened to be from Barkly East. And it was a case that we did in about...well, it must have been '94...perhaps it was '93, before the Constitution...no it wasn't, it was '94. Mohammed Navsa came down to do it and Clive Plasket really led the case and I ended up working with both of them. And that case established the rights of an accused person to see witness statements, which the prosecution had in its possession. Clearly that's something, which is going to benefit every accused person. So, that was not a fringe type of constitutional case. And there were many of those cases which have gone through the courts and for the first time established rights in South Africa which will have long standing benefits for a wide number of people. So when I say that my reservations about constitutional law were around the question of: are these merely academic exercises? Clearly a lot of them are not. But my scepticism about making that the main thrust of my work was because of a feeling that a lot of it really didn't get to the heart of what most people might be looking for. So, I mean, how to pull all of that together, I...I think that a lot of public interest law work is probably done with the sense that you're fighting against the odds, that the chances of succeeding are probably fairly small and that it needs people of real dedication to do that kind of work. And so I'm left always with great admiration for the people who have worked in the LRC and who have stayed there through thick and thin. And I think it's a wonderful organisation full of incredible people.

Int I'm also wondering, Brian, you were there from '92 until '97...?

BS I left in '96. Then I worked for a short time on my own.

Int As a lawyer?

BS As a lawyer, ya. Doing land work, specialising in land work. And then we left in '97.

Int I'm wondering, apart from the Phato case that you mentioned, were there other cases that you felt really in some ways embodied for you what it meant to do public interest law work, even with its perhaps limited success?

BS There were quite a lot of cases which we took against the police which were fairly ordinary cases in the sense that the LRC did many of them, where people have been unlawfully arrested, imprisoned, have been assaulted perhaps, family members have been killed, and we ended up winning damages awards. Those were always very satisfying, and I think that, you know, those, though they might have been run-of-the-mill type cases, were often done with the objective in mind of picking out the really bad police stations. So you'd get...and it really I suppose just came as a response to volumes of complaints that came through advice offices, you were easily able to work out which police stations were the worst offenders. And then you would end up focusing cases in those areas, and so that was always satisfying. Many names that I just can't remember. Then there were the personally satisfying one, such as a guy who in Aliwal North ended up being shot up by police, he was shot about eleven times, by a whole group of cops and they went crazy. Somehow he survived, we took his case to court, we ended up losing it, but I took him to Port Elizabeth, because I had to take him down there to see a surgeon. He'd never seen the sea before. And so I witnessed this guy who was a little bit brain damaged, but clearly able to understand what he was seeing, seeing the sea for the first time, it was an incredible thing to see his face, I knew that he hadn't seen the sea so I was kind of able to drive and watch him when he first saw it. That was a personally gratifying case and there were many cases like that where you ended up dealing with individuals who perhaps didn't have in the greater scheme of things very special cases, but you ended up having...getting some kind of personal satisfaction because of the reaction or response of the individual that you were setting out to help. And I suppose, when I think about it, a lot of my work at the LRC was...it was a personal thing rather...it served a purpose which is personal to me rather than necessarily being, you know, part of some greater purpose, because I met a lot of really interesting people, a lot of activists in small towns, people who've never really left their small remote townships, leaders in communities of poor people who had nothing and were able to make a lot out of nothing and were able to give people courage and hope when they themselves were living really difficult circumstances. You'd go into a very simple looking house in a very poor township and you'd be seated down to a cup of tea in a place that was spick and span and you think how on earth do these people have the money to start off with having a nice tea service and keeping a place with such pride as if it were a mansion. And it was just an invaluable exposure to the way poor people live that I think is possibly the best part for me what I got out of the LRC is being able to work with poor people because you just don't know how people like that live until you actually get some kind of exposure to them. What other cases? I can't think of any in particular, other than the land cases - we did some of the first communal property associations, so they were used as guidelines for others which followed all over the place. And worked with a lot of really knowledgeable and interesting people like Kobus (Pienaar) and Henk Smit, and it's been interesting to hear how those, some of them at least, have stayed in place for an unexpectedly long period of time. Another interesting character I met was a guy called (**Godfrey Sefutu?**) in Barkly East. We always called him 'Conspiracy', because he was a great conspiracy theorist but the word conspiracy always somehow got contorted into the word 'conspiration'. The police have a 'conspiration' against me. And an unforgettable moment with him was he was...I'd taken him back from court one day to where he lived, and I got out of the car on the one side and he got out on the other side, we were standing across from each other, across the bonnet, and he reached over like this, he says, give me your hand, reaching across the windscreen. So I gave him my hand. And he says, now look up at the sky. So there we were hands

stretched out, holding hands across, in front of the windscreen, looking up at the sky like this. He says, ha, God's taken a picture of us, friends forever. Small moments like that, stick in the memory, and...I mean, seems funny to say this, the only job that I'm really proud of having done was leaving this really safe high paying job in Johannesburg and going to become a lawyer and ending up working for the LRC. And it will be a constant source of, I guess, trouble for me, justifying that I left that and that I left South Africa.

Int I'm also wondering, Brian, the Grahamstown office had a specific dynamic, like all the LRC offices: Cape Town has its own set of dynamics, people having been there for a very long time... I'm wondering about your experience of the LRC in Grahamstown, Jeremy (Pickering) had left by the time you'd got there, Clive (Plasket) was there, people like Gerald and Jannie were also there, and I wondered at what point Johan Roos came in; what were the sets of dynamics, what were the sources of tensions, what are the things that you experienced?

BS The biggest tension in the Grahamstown office ended being between Jannie Coltman and Clive, and Gerald siding with Jannie. And I...I mean, it's always hard to know exactly what lies behind any tension but it's hard for me to think otherwise and it was an issue of race, and maybe that's something that all...you know, in a country like South Africa, if you end up having tension between people who have different colour, unlike elsewhere you kind of automatically come back to this, and blame it on something that it might not be. But Clive was somebody who believed in excellence in everything that he did, he took great pride in his work, he was a very hard worker, he always produced great sets of papers, and he was very particular about his work, and like all...scrupulous, he always liked to do a good job. And I think that people like Gerald and Jannie had different standards. Each of them had personal stories, which were triumphs over some kind of adversity, and they were admirable people in their own rights, but I don't think they measured up to the kind of legal standards, which Clive set for himself and expected of other people. And I do think that that ended up being possibly one of the causes of that tension. And it went beyond the Grahamstown office, there were...Bongani (Majola) who was the new (National) Director of the LRC ended up coming down to try and resolve issues, and when I saw Clive this year, ten years later, he said that Jannie had apologised to him sometime, like in the last couple of years, which...but he said it in a way that made it clear to me that it was very painful, that tension that existed back then was very painful for Clive and he was very grateful for that apology. It wasn't just a one week tension that blew over. And there were lots of tensions throughout the organisation, I mean, it was an organisation that was dealing with the fringe of law, it had a lot of idealists working there, it had a lot of people who were working there who were possibly less idealistic and had something that was just a job for them. And it's not surprising that there were tensions. And it's like any big organisation, it's difficult to lead and you have to get politics playing a part in each of the offices.

Int Quite apart from the fact that there were these tensions in the Grahamstown office, at that time Arthur (Chaskalson) was very much involved in the Constitution when you were there, and had ultimately left at some point, and then Geoff (Budlender) came in and then left...I wondered whether you could talk about the different styles of

leadership of National Directorship and how that filtered down to the Grahamstown office.

BS I really only knew the LRC under Geoff (Budlender). Bongani (Majola) came in, in about '96, and I think I was there only for a few months while he was the National Director. So Geoff was the person who led the LRC throughout almost all the time that I was there, and was a...I think he was a great director for the LRC. He obviously is one of the founders, he had set the vision for the LRC, he's a very smart guy and he gets along with people very well and I think that he was someone who was able to spot problems, or potential problems before they blew up and dealt with them. It was a time, because of the transition from the old apartheid era to a new form of government when the LRC's role was being reconsidered, and people were saying, well, have we now achieved what we set out to do? Does the LRC now become redundant? Do we have to change the way we do things? And there was a lot of that kind of debate going on. and I think that it was still early enough for people to feel that there was still a lot of work for the LRC to deal with, whether it was land work, whether it was exploiting new opportunities which the Constitution gave us as lawyers to work on, like socio-economic rights, environmental rights, and trying to establish the new fabric of common law based on what the Constitution brought. But there was that kind of debate at that time. The old enemy had now gone and what were we to do, what was our new role in the new South Africa? And I suppose that that's...I've obviously retained an interest in the LRC and what it's doing and I hear through Sarah (Sephton) what is happening, and Kobus (Pienaar), and it's obviously...I think it's probably become more difficult over time figuring out how to persuade overseas funders to keep funding the LRC when for a lot of them, I think, South Africa has moved off the radar screen because it's no longer an apartheid country. But I do think that it still has relevance, and that public interest law is something, which should continue to receive funding. The divisions in society are still there, there's a huge under-served and exploited population in South Africa who are always going to get the short end of the stick, and I think it's going to take a different kind of inventiveness to make sure that it remains a funded organisation with enough lawyers doing the right kind of work. There are probably many...well, maybe not many examples around the world but I mean, even...I shouldn't say even in the US, this is not a talk about the US, but I think the US has surprisingly many challenges which are similar in nature to those that South Africa has. You get organisations like the Southern Poverty Law Centre, which as far as I can see does fantastic work and would be an example of an organisation that does much needed work in a country which supposedly has a great Constitution and in which everyone is free and equal. So no question in my mind that the LRC has still a very valuable role to play.

Int Brian, you've pre-empted a lot of my questions and I'm wondering whether when you look back and you look at what you've said about the Constitution and your responses to that and then you look at the current crisis in the judiciary in South Africa, where Constitutional Court judges have been called counter revolutionaries and there's been talk of 'Kill for Zuma', etc, I'm wondering what your concerns are, if any, of the viability and survival of the Constitution under these conditions?

BS I think that a lot depends on how the ANC ends up breaking up. I've got no doubt it's going to break up. I mean, we're already seeing signs of that. And it depends on how that ends up becoming fragmented and whether there's ever going to be...or how...whether soon enough, there's going to be a counter balancing of party, a viable opposition in South Africa. Because there's nothing new or surprising in the fact that if you have a political party in a country which commands over seventy percent of the vote in any election, that it's going to end up being complacent and becoming corrupted, because it feels...or doesn't just feel...is unchallenged. And so the cracks are beginning to show. I think that maybe, as much as I lamented the fact that Mbeki got kicked out of office, I mean, I was not an Mbeki supporter, but I think the way that he got dumped, was really bad. But the flip side of that is maybe it was done in such a disgraceful way, in such a way that people have become disgusted with the way the party has behaved, and it's going to become an impetus for setting up some kind of an opposition party. I don't know whether...I hope that it will never end up becoming...or that political parties will not become divided along tribal lines. Because I think that will end up being bad. I mean, to some extent you see it in the IFP, which is really a Zulu only party. And, you know, clearly the ANC is predominantly run by Xhosa people. I would not like to see South Africa ending up with a mainly Xhosa party, a mainly Zulu party, and a mainly Sotho and Tswana party. So far no indication of that. But I do think a healthy number of political parties is going to be the answer and if it happens soon enough, then it's going to give South Africa a better chance of keeping a healthy Constitution.

Int You've mentioned to me that looking back on your life and all the different things you've done the LRC stands out. I'm wondering what aspect of having been at the LRC has become so important to you and memorable? Is it the people? Is it the cases? Or a combination of these things? What about the organisation is so special because I hear this from so many people so I'm wondering what your perspective is on that?

BS I suppose it's the...and it starts with the people. And it's the people who make the organisation. But it was also an organisation, which apart from Lawyers for Human Rights, was almost unique in South Africa. And I suppose it's those simple two factors: one, really great people, dedicated, and an organisation which had set great goals for itself and achieved many of them. And the cases went into that, but it comes back to the people who started and ran the organisation. Whenever I went to the annual meetings, I always came away in a state of awe, I guess, at some of the people that I'd met. I'd have to say it was the people, ultimately, that made that organisation and make it stand out in my memory. And very happy to have been part of that for some time.

Int I'm also wondering in terms of you having kept in close touch with people like Kobus (Pienaar), and of course, Sarah (Sephton), and the important work that's being done at the LRC in terms of socio-economic rights, for example in the Eastern Cape, the pensions cases, what areas of public interest law do you think are going to be absolutely crucial in the short to medium term for South Africa?

BS That's a difficult question. I...when the idea of socio-economic rights were first introduced I thought that it was pretty silly. Because it's very difficult for courts to

regulate what happens, but if sufficient respect is given to courts, and I've got a question about that, but if sufficient respect is given to court orders and courts are able to make local government or provincial or even national government do things which they have said that they're going to do, and I guess the other side of that is that you need those government bodies to undertake to do things which are going to make social differences. But I do think that somehow being able to force governments to undertake programmes and complete programmes that they've said they're going to do, is an important part of what the LRC can do. One of the unfortunate things that's happened with a lot of these pensions cases, it started when I was there, I don't know for sure but I believe that I started a case in Whittlesea with a lady, which ended up being finished by my sister Sarah (Sephton), and it took all of those years, firstly to get a court order, but then also you had the Eastern Cape government ignoring that order effectively. And that's going to be the difficulty, is what do you do when you're faced with a government which either is bankrupt because of corruption, or that simply says...doesn't come and say it but just doesn't follow the court order, and that's where respect for the courts, I guess, becomes very important. And when you start getting senior people in new government questioning motives of people on the Constitutional Court, you could then end up in a situation where the court is no longer an institution, which commands respect and you end up getting a breakdown. So, ya, I think socio-economic rights are important but can only work if the government plays ball and continues to make sure that courts are given the place in the overall structure of the country that they need to hold if their orders are going to be followed. What other rights? I guess always, the LRC, it's basic aim always has been to prevent abuses of power or to try and redress abuses of power. And governments all over the world abuse their powers, and are more able to do that when you've got these huge differences in society, huge group of uneducated poor people that are just less able to stand up to abuse, and there will be a place for LRC's lawyers for as long as South Africa has the huge divide that it has between rich and poor.

Int I'm also wondering, Brian, earlier in the interview you said rather paradoxically, that even under apartheid there was a sense of the rule of law, and that lawyers could work within the law to actually resist an apartheid state which had been really functioned on law itself, the legal system. In terms of the post-apartheid era, do you see...and closely tied to what you've just said, in terms of adherence to court orders, etc, do you see a similar kind of reverence for the rule of law or do you think that's on the way out?

BS I think...don't know, hard to say...the Nationalist government tried to back the Supreme Court way back when, so yes, there was a sense that the law ought to be respected, but it was always done, I suppose, on the terms of the government of the day. And while what we're seeing now, I think, does represent a crisis, it doesn't mean that there's going to be a permanent state of mind in leadership in South Africa that the courts are not to be trusted. That they are perhaps in the hands of a group of intellectual constitutionalists who imported this nonsense from somewhere else. I mean, I don't think that...I don't think that this necessarily means there's going to be a permanent undermining of the judiciary in South Africa. And I don't think that one can say that the old government necessarily had greater respect for the law than the current government. I think it's just one of the cycles that all governments go through.

And one administration might behave completely differently from the way the next one might in relation to the judiciary. So no, I haven't given up hope for it.

Int When you reflect and look back, what are some of your fond memories of the LRC, whether it's with particular clients or particular staff, what are the memories that you hold on to as part of your experience of the LRC?

BS I suppose there are lots, but one of them, funnily enough, is the road trips. I love the road trips. We used to drive many...we made many trips from Grahamstown to various remote places, and it would often become a private race to see whether you could get there in a shorter time than you had on the last trip, and we used to drive like crazy. But I still play over in my mind today frequently the road between Grahamstown and Queenstown, or Grahamstown and Barkly East, and so that's one of the things, I think we all travelled a lot. Rufus (Poswa) was, who's still there in the Grahamstown office, he was a great driver and was always great company. I had a couple of really nice trips with Lex Mpati, who is just such a fine guy, and remember a lot of really nice conversations with him. Mr 'Conspiracy' I told you about. One day we had a guy come in, and the first port of call would often be Rufus. So Rufus comes through with this story that this person has just told him, and I think we were sitting in the library around that big table, and Rufus says, Clive (Plasket), tell me, I don't know if this could be true or not, but this guy says he's got four brothers, all of his brothers have got boys as children, and yet this guy has only got girls. Does that mean that his wife's been unfaithful to him? (laughter) This was the legal problem. Was there something that we as lawyers could do to investigate whether his wife's been unfaithful because the rest of his family has produced boys but he's only produced girls, and is she sleeping with someone else? And there were weird situations where you'd have an inquest into the deaths of people. And I remember sitting in a courtroom in Maclear, which is another small farming town, and behind me were the families that I was representing, mothers and fathers of two boys that were killed. And sitting right in front of them were the policemen who, I'm pretty sure, had done it. And here we were on a winter's afternoon, with sun streaming into the court house and all of us are sitting together...it was just a very strange feeling...all these tensions which played themselves out in these small towns in the middle of nowhere, which got reported nowhere other than in the local, very biased, newspapers. And here you had the participants, all sitting civilly together in a courtroom, enjoying the sun's rays that were falling on them. And they kind of stepped in from this very uncivil world to take part in, what I guess was really a charade, because here are the police who were there to uphold justice, who were perpetrating all these horrible things, and you know they have concocted stories and you don't quite have enough evidence to prove what you need to prove partly because the source of your evidence is always going to be the people who've done the damn thing in the first place. And so that kind of scene got played out in different ways. It's no different from any other courtroom where you get victims and perpetrators sitting together in the same court room but it just seemed...I just remembered this one particular case, and just after lunch when the sun's coming into this nice room with wood all around it, wooden floors and beautiful wooden benches and everyone's sitting together, and they've got this huge thing that's passed between them, and here they are sitting as far apart as you and me. And I suppose the other thing was also just a different face of what I spoke about earlier and that was seeing into the lives of poor

people. It was...you know, living out of South Africa now you forget what a funny society it was, and it was a very...I mean, it's the wrong word but it might convey what I think, very therapeutic...it's a lousy word for it, but to be working with people who...were just the latest generation of generations and generations that had gone before of the people that had been messed around by the people who've been in power. And it was just very satisfying to be knowing that you were working on the same side as them. But I used to get driven crazy by my clients sometimes. I mean, I would curse them up and down, you'd drive literally...you'd have a court case in a place four or five hours drive away, you'd line your witnesses up for the day, and you'd say, ok, I'm going to leave at four in the morning and I'm going to get there at eight thirty, the court starts at nine, so you'd better have your people right there because we need to go at nine and, you know, we've got to make sure we've got everything lined up. And you get there and of course no-one's there, now you've got to go and find them. Oh, and they've got such silly excuses for not being there. And of course you're dealing with people who just haven't grown up with the need for a sense of punctuality or the same kind of organisation that you expect. And there were lots of petty things like that, which used to make me tear my hair out sometimes. And so a lot of these types of cases involved very simple logistical things like making sure your witnesses and your clients could actually get to court that day. Maybe they didn't have the money for a taxi, maybe their children were sick that day, but the funny thing you learn about poor people is that while many of them don't have jobs, it's very time consuming to be poor, because you can't just go out and buy something or pay somebody to bring something to you. You, whether you're scavenging for food or having to walk somewhere because you don't have a bicycle or a vehicle, it's very time consuming to be poor. So, you know, you're coming from a different world and you're dealing with people in a different world and that was just part of some really valuable lessons.

Int Brian, I've asked you a range of questions, I'm wondering whether there's something I've neglected to ask you which you feel really ought to be included as part of your LRC Oral History interview?

BS You've put me on the spot, no, I can't think of anything.

Int (laughter) Well Brian, thank you very much for sharing your reflections and it's not always easy to go back in time, but thank you very much for that.

BS Well, thank you for your time, my pleasure.

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Legal Resources Centre Oral History Project

PUBLISHER:

Publisher:- Historical Papers, William Cullen Library, University of the Witwatersrand

Location:- Johannesburg

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DOCUMENT DETAILS:

Document ID:- AG3298-1-170

Document Title:- Brian Sephton Interview

Author:- Legal Resources Centre South Africa (LRC)

Document Date:- 2008