

The Hon Sir Anthony Frank Mason AC KBE GBM KC

1925–2026

Chief Justice of Australia, Judge of Appeal of the Supreme Court of New South Wales and Solicitor-General of the Commonwealth of Australia

The Hon Stephen Gageler AC
Chief Justice of Australia

The following eulogy was delivered at the funeral of Sir Anthony Mason on 31 March 2026.

Sir Anthony Frank Mason AC KBE GBM KC was a judicial statesman. He was the leader of the Australian judiciary at a time of unprecedented structural change. He was the right leader for that time. He had the capacity, the confidence and the vision to lead the Australian judiciary to forge a distinctively Australian national identity consistent with Australia's status as a sovereign and independent nation. He had the authority and standing to ensure that national judicial identity became a permanent reality.

Sir Anthony Mason's long professional life was spent in the discipline of the law. The greater part of it was spent in the service of the public. When he retired from full-time judicial office more than 30 years ago at the age of 70, Sir Anthony had served in succession since the age of 39: for five years as Solicitor-General of the Commonwealth of Australia; for three years as a judge of appeal of the Court of Appeal of the Supreme Court of New South Wales; for fourteen and a half years as a justice of the High Court of Australia; and ultimately for eight years as Chief Justice of Australia.

On being sworn in as Chief Justice, Sir Anthony had referred to the High Court of Australia having 'the exclusive final responsibility for declaring what is the law for Australia' and had proclaimed the Australian judiciary, which he then led, to 'have an obligation to shape principles of law that are suited to the conditions and circumstances of Australian society and lead to decisions that are just and fair'.

On his retirement as Chief Justice, Sir Anthony could be satisfied that, under his leadership, the responsibility he had identified had been embraced and the obligation he had recognised was being actively discharged. Under the leadership of Chief Justice Mason, the High Court came to function as a court of final jurisdiction, and the law as declared and administered by



Australian courts became modernised and distinctively Australian.

That might be thought to have been achievement enough for one lifetime. There was more to come. Sir Anthony's retirement from full-time judicial office can be seen in retrospect to have been barely mid-career. He went on to serve over the next five years as a judge of the Supreme Court of Fiji and as President of the Court of Appeal of the Solomon Islands. He was also appointed as an inaugural non-permanent judge of the Hong Kong Court of Final Appeal. He held that appointment continuously for nearly 20 years, coming to be honoured as a 'pillar' of that court, and retiring from it just after his 90th birthday.

Only then, at the age of 90, could it be said that Sir Anthony Mason truly retired from judicial life. He did so having been a judge for 46 years and having shepherded

into existence not one court of final jurisdiction, but two.

Mention must also be made of Sir Anthony's lifetime of contribution to education through his direct involvement in the teaching of law and in university administration, as well as through his encouragement of the academic work of others. The young Anthony Mason had been Challis Lecturer in Equity at Sydney Law School when a junior counsel in private practice at the New South Wales Bar. He became Pro-Chancellor of the Australian National University when a justice of the High Court. During the five years immediately after his retirement as Chief Justice, he served as Chancellor of the University of New South Wales. During the same period, he also held appointments as a National Fellow in the Research School of Social Sciences at the Australian National University and as Goodhart Professor in Legal Science at the University of Cambridge.



Photos: High Court Historic Memorials Collection

Many other academic appointments and engagements were to follow as were many richly deserved academic accolades. Amongst them was a book of essays celebrating his influence, which was published in 2022 to coincide with the 50th anniversary of his appointment to the High Court, which was contributed to by several generations of Australian judges and legal scholars. The book was entitled, in words descriptive of its subject matter, *Dynamic and Principled*.¹

Those who had the privilege to have known Tony Mason will testify that behind this unsurpassed and rightly celebrated list of achievements and contributions was an individual of searing intellect, of deep learning, of wide reading, of diverse interests, of unbounded curiosity and of penetrating wit. He lived in no ivory tower. He was immersed in the contemporary society of which he was part. To trace the origins of an obscure doctrine of equity, to read Proust, to tend to his garden and to follow the rugby league, the cricket and the tennis were to him equally natural pursuits. Ancient history, enlightenment philosophy, modern literature and current affairs were to him a seamless continuum.

Beyond clever and informed and engaged, Tony Mason was above all wise. His was a wisdom which blended principle with pragmatism. He was a master of

the common law method. Throughout his long judicial career, he carried the burden of the judicial function on broad shoulders. He was comfortable with the leeway of judicial choice. He remained always open to new ways of examining old problems. He evaluated alternatives with an understanding of their conceptual provenances and practical consequences. He made up his mind without difficulty. He wrote quickly, clearly, creatively and without pretention.

Outside of his performance of the judicial function, Tony was not reticent to share his wisdom with almost anyone who would ask his opinion on almost any topic. He did so with grace and humour, to the delight of the many who were fortunate to come into his orbit.

On one topic, however, Sir Anthony Mason declined to express an opinion. When asked by a journalist at the time of his retirement from the High Court what he would like to see as his legacy, he answered as follows:

I would prefer not to express an opinion about that. It is better for others to determine whether there was any legacy worthwhile that was left. I never encourage the process of self-assessment – except, of course, in relation to taxation returns.

The assessment Sir Anthony Mason declined to make of himself is an assessment I now make of him, being a beneficiary of his legacy and having been privileged to call him a friend for 40 years.

The impact of Sir Anthony Mason on Australian law, and through Australian law on Australian society, has been positive and profound. His legacy endures in the judgments he wrote. They continue to be studied and applied. It endures in his other published legal writings. They are frequently consulted. It endures in the legal doctrines for which he was responsible, even as those doctrines are refashioned in accordance with his own methodology to meet the changing conditions and circumstances of Australian society.

Importantly, the legacy of Sir Anthony Mason endures in the characters, the values and the methodologies of those many judges, practitioners, academics and students whom he touched directly and indirectly, and who are the current and future custodians of Australian law.

Sir Anthony Mason's legacy, in short, endures in our legal culture. Secure in that legacy, may he rest in peace. **BN**

ENDNOTES

- ¹ Barbara McDonald, Ben Chen and Jeffrey Gordon (eds), *Dynamic and Principled: The Influence of Sir Anthony Mason* (Federation Press, 2022).