

President of the Industrial Relations Commission of New South Wales: A farewell and an appointment

By Arthur Moses

Justice Wright

On 22 February 2008, the Hon Lance Wright retired as the president of the Industrial Relations Commission of New South Wales and Industrial Court of New South Wales. His Honour had been president of the commission for a decade, having been appointed to that office in 1998.

His Honour completed his education at the University of Sydney, and worked as an industrial advocate for several trade unions including the Water Board Salaried Officers Union, the Miscellaneous Workers' Union and the New South Wales Public Service Association. His Honour then completed his articles with the firm Taylor & Scott before being called to the Bar in 1979. His Honour for many years practised from the Tenth Floor Selborne / Wentworth Chambers before becoming a member of HB Higgins Chambers. As a junior, his Honour's leaders included A M Gleeson QC, Keith Mason QC, K R Handley QC (as they then were) David Jackson QC and David Bennett QC. His Honour took silk in 1991 and thereafter affirmed his reputation as a leading light of the industrial bar by regularly appearing in the New South Wales Court of Appeal and the High Court to argue vexed points of constitutional and industrial law.

In 1998, his Honour was appointed as the tenth president of the Industrial Relations Commission of New South Wales. In the decade that followed his Honour presided over a turbulent period of industrial relations. Amongst other things, during the period the ever present debate as to the role of the Industrial Relations Commission of New South Wales and the need for national regulation manifested itself in the advent of the now ill-fated *Work Choices* legislation. Despite these and other challenges, his Honour presided with a firm sense of industrial fairness and equity. His Honour was involved in making several landmark decisions which entrenched basic standards for the working population of New South Wales, including the *Librarian's Case* which established the principle of equal pay for work of equal value, the *Secure Employment Test Case* which conferred protections to workers in precarious and casual employment, the setting of improved

parental leave provisions in industrial awards and the establishment of the child employment protection principles. His Honour also made a significant contribution to the development of occupational health and safety law. His Honour's contribution as a jurist has been variously described as 'scholarly' and 'profound'.

During his term as president, his Honour was also a member of the Judicial Commission of New South Wales, edited the *Industrial Reports*, was a member of the Advisory Board of the Faculty of Business and Law at the University of Newcastle and lectured extensively in industrial law including at the University of Sydney. Showing his sense of history and tradition, upon the centenary of the Industrial Court in 2002 his Honour commissioned a book in memoriam of the past presidents of the Industrial Court, *Laying the Foundations of Industrial Justice: The Presidents of the Industrial Commission of New South Wales 1902-1998*. This book would have only added further strain on his Honour's impressive library, which his colleagues and friends describe in monumental terms.

At a farewell ceremony held on 22 February 2008, the Hon Justice Michael Walton, vice-president of the Industrial Relations Commission of New South Wales, spoke on behalf of the commission, Mr Sexton SC, solicitor general of New South Wales, spoke on behalf of the Bar, Mr Hugh Macken, president of the Law Society of New South Wales, spoke on behalf of the solicitors of New South Wales, Mr Michael Lennon spoke on behalf of the union movement of New South Wales and Mr Michael Goodsell of the Australian Industry Group spoke on behalf of the employers of New South Wales. His Honour was unanimously praised for his work as a jurist and as an administrator of the Industrial Relations Commission of New South Wales. Walton J noted that his Honour's judgments:

bespeak of a jurist who not only understood the nature and significance of the modern economy, but also recognised the needs and aspirations of ordinary men and women who had given good service to the enterprises within it. The philosophy which underpinned many of his Honour's judgments is a search for a



The NSW Industrial Relations Commission.
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balance of between the needs of enterprises and those that work in them in a way that recognises the values of each of them. The hallmark of those judgments is the respect and compassion shown to those engaged in work in the great enterprises of this state.

Mr Sexton SC observed that:

Over the last ten years your Honour has combined a high degree of scholarship on the Bench with the demanding administrative role that has to be undertaken as the president. Although counsel were often pressed about some aspect of their submissions, this was always done in a courteous and thoughtful fashion. It was always a pleasure to appear in your Honour's court.

His Honour paid gratitude to the speakers, the practitioners who had appeared in the court, his staff and his extended family whom he described as the 'rock' of his life. His Honour then reflected:

When I commissioned the book mentioned by the vice-president, *Laying the Foundations*, I of course contributed an introduction, the easiest part of the job, compared to the efforts of the five authors who did such a wonderful job. I was reading my very short introduction last weekend and I remember concluding that introduction and saying that book was a story well told, of a group of able well motivated judges, perhaps somewhat ahead of their respective times, dealing with the real problems of real people who made significant contributions to the development and well-being of the State of New South Wales and its people –

Robert Anthony Gray (1942-2007)

judges who played a key role in laying the foundations of industrial justice... I hope I, in my own way, have lived up to at least some of those precepts.

With the passing of time, it will become apparent that his Honour did indeed live up to the precepts of his predecessors.

Justice Boland

Following upon the retirement of the Hon Lance Wright on 19 April 2008, the Hon Justice Boland was sworn in as the eleventh president of the Industrial Court of New South Wales and the Industrial Relations Commission of New South Wales. His Honour was admitted to the Bar in 1984, however took up practice as an industrial advocate with the Metal Trades Industry Association of Australia, which later became the Australian Industry Group of which his Honour became a director. In March 2000, his Honour was appointed as deputy president of the Industrial Relations Commission and a judicial member of the Industrial Court of New South Wales. His Honour has regularly been a member of the full bench of the Industrial Court in appeals and has contributed significantly to the development of appellate and other principles within the jurisdiction of the Industrial Court, particularly in relation to unfair work arrangements and occupational health and safety. His Honour's elevation was welcomed by all sides of politics. The Bar Association congratulates Justice Boland upon his appointment as president.



Family and friends of Robert – I have been asked to speak about Robert's professional life as a barrister. My only qualification for this is that Robert and I had adjoining rooms on the Eleventh Floor for 20 years and have been friends and colleagues for over 30 years.

Nothing I could say would do justice to Robert's 35 year career at the Bar, so I won't even try. What I would like to do is to share with you some of my memories of him.

Robert was larger than life. Let's be honest, he could be quite overpowering. His distinctive laugh and voice could often be heard on the Eleventh Floor. When he was away from his room there was never any doubt about where Robert was. It was no accident that Poulos somewhat unkindly gave him the nickname 'Foghorn Leghorn'.

But despite what could be a rather overpowering presence, there was a softer and very considerate side to Robert. He always had a kind word for the non-professional staff. At any Eleventh Floor function he would always speak to the secretaries and support staff to make them feel welcome. His banter with some of our receptionists became famous. I simply refer to Debbie and in more recent years, Melinda.

When I first joined the Eleventh Floor as a reader in 1976, Robert was very senior, or at least he appeared so to me. He had been a barrister for almost 4 years. When I first met him I didn't know what to make of him, it was like being hit with a whirlwind. He

could have ignored me completely which is often the fate of readers, but he didn't. He took me aside and gave me a wickedly humorous description of some of the senior barristers on the floor and their foibles. It took me a couple of years to realise just how accurate those descriptions were. He also gave me a friendly and very useful warning about which barristers paid readers for chamber work and which did not.

That was one of Robert's great skills – the ability to accurately assess people and situations. He could look at situations and always find something amusing in them. He would then summarise it all with an amusing phrase. Some of his descriptions of such situations were bitingly funny and very much to the point. The laws of defamation prevent me from going into too much detail, but I do remember one incident some years ago. A senior silk and a young female barrister were in a somewhat volatile relationship. During one of their disagreements, he ejected her from his chambers. As you can imagine, this caused quite a stir on the floor. Robert dismissed the whole thing with the comment 'Hell hath no fury like an old silk scorned'.

There was something very distinctive about Robert's chambers which separated them from all other chambers. There were very few books. Robert worked on the basis – why should he clutter his chambers with books when there were plenty of books in other chambers. While this was a wise financial decision, it did cause some problems. The basic rule for many years on the Eleventh Floor was if you were missing a book you went to Collins' chambers, and if the book wasn't there it was certainly in Robert's.

There was a certain book of mine – *NSW Workers Compensation Practice* – it was always missing and mostly ended up in Robert's room. To stop this I marked it with a large yellow sticker 'Do not remove'. It had no effect on Robert at all. Robert simply took it as a challenge. When I took him to task about it on one occasion he explained that by keeping the practice in his room, it made sure that no-one else would borrow it and I would always know where it was. There was no answer to that logic.