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A Practitioner of the Supreme Court of South Australia

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JUDGES OF THE SUPREME COURT

The Honourable Leonard James King, Chief Justice.

The Honourable David Stirling Hogarth.

*The Honourable Charles Hart Bright.

The Honourable Roma Flinders Mitchell, C.B.E.

The Honourable George Henry Walters.

The Honourable Howard Edgar Zelling, C.B.E.

The Honourable William Andrew Noye Wells.

The Honourable Alexander Keith Sangster.

The Honourable Samuel Joshua Jacobs.

The Honourable James Michael White.

The Honourable Christopher John Legoe.

†The Honourable Brian Rothwell Cox.

†The Honourable Robert Finey Mohr.

ACTING JUDGE

The Honourable Donald Carter Williams.

ATTORNEYS-GENERAL

The Honourable Peter Duncan, M.P.

The Honourable Donald Herbert Louis Banfield, M.L.C.

The Honourable Christopher John Sumner, M.L.C.

*Retired, 15th December, 1978.

†Appointed, 21st December, 1978.

MEMORANDUM

A special sitting of the Full Court was held on Friday, 15th December, 1979, on the occasion of the retirement of the Honourable Mr. Justice Bright.

THE HONOURABLE THE CHIEF JUSTICE: The purpose of this special sitting of the Supreme Court is to honour Mr. Justice Bright on the occasion of his retirement from the bench. The occasion is therefore a poignant one, poignant from the point of view of the retiring Judge who looks back upon a long and very important chapter in his life, poignant from the point of view of his family and friends who have shared with him the pressures and the anxieties no less than the triumphs and satisfactions, and poignant from the point of view of his judicial brethren and professional colleagues who contemplate the end of a valued professional association and of the daily personal contacts which go with that association.

It is an occasion on which to remind ourselves, if only briefly, of some of the salient features of our friend and colleague's professional career. Mr. Justice Bright was admitted as a practitioner of this Court in 1934, having obtained the degrees of Bachelor of Laws and Bachelor of Arts at the University of Adelaide. There followed a long and successful career at the Bar. Deep legal learning, unflinching clarity of reasoning, and persuasive skill as an advocate ensured outstanding success at the Bar. He took silk in the year 1960 and a little over three years later, in October, 1963, was appointed to this Bench.

In addition to the prominent role which he has played in the affairs of the legal profession, to which reference will no doubt be made by the President of the Law Society, Mr. Justice Bright has always been an active participant in community affairs. His services to tertiary education, particularly as Chancellor of Flinders University, are too well known to require stress today. I do not attempt today to enumerate his many community activities, but I wish to mention briefly two of his most important contributions to the welfare of the people of the State. In 1970 he was appointed a Royal Commissioner to inquire into a public demonstration which had occurred in that year and into the laws regulating such demonstrations. The report which resulted is a monument to Mr. Justice Bright's moderation and wisdom. His report brought reason and light to an area of public concern and effected a reasonable and moderate reconciliation of the competing claims of public order and civil liberty. His recommendations formed the basis of the *Public Assemblies Act* of South Australia, which for a number of years has kept this State free from the problems associated with political demonstrations in some other places.

In the early 1970's Mr. Justice Bright was also the chairman of a committee which conducted a comprehensive inquiry into the health services of South Australia. The report of that committee is the basis of the present State health legislation. As its recommendations are implemented, they are gradually producing a transformation in the provision

of health services in this State. For these contributions and much else, the South Australian community owes a very great deal to Mr. Justice Bright. Today we are concerned with the close of his judicial career and not I hope by any means with the end of his period of public service. He is currently engaged upon important public work with regard to the disabled, and I am sure will continue to give much valuable service to the community.

This occasion brings to a close a long and distinguished period of service as a Judge of this Court. Only one present member of this Bench was sitting on the Bench to which Mr. Justice Bright presented his commission in October, 1963, although I notice from the transcript of those proceedings that Miss R. F. Mitchell Q.C. (as she then was) spoke on behalf of the Law Society. The present member of the Bench who was a member of that Bench is the Senior Puisne Judge, Mr. Justice Hogarth.

Amongst the many valuable services which Mr. Justice Bright has rendered to the administration of justice in this State is the labour, the heavy labour, which he has put in over a period of years to the planning of additional accommodation in the form of a new court building in this complex. It is a work to which he was devoted and upon which he expended a great deal of time and effort, time and effort which I am sure we all hope will bear fruit in the not too far distant future.

Mr. Justice Bright has made a very great contribution to the work of this Court. That contribution will live on in the Law Reports, in the consciousness of the legal profession of the fairness and impartiality of his judgments, and in the continuing effect which that contribution will have on those of us who carry on the work of administering justice in this Court. His tolerance and wit, as well as his learning and sound judgment, will be sadly missed by us all.

To conclude on a personal note, I regret very much that I will no longer have the opportunity of availing myself of my brother Bright's wise counsel and ever-ready assistance.

Mr. Justice Bright, on behalf of the Court I wish you and your wife health and happiness in the years that lie ahead.

THE HONOURABLE THE ATTORNEY-GENERAL: May it please the Court, it is with appreciation and gratitude to your Honour Mr. Justice Bright that I address the Court this morning. It is my pleasant duty by reason of my office to express these wishes from the Government, the Bar and the public of South Australia, in recognition of your Honour's service to the State, the profession and the community.

Your Honour has heard the Chief Justice speak of your time at the Bar and service to the profession, and I am sure that the President of the Law Society will no doubt express the Law Society's recognition of your contribution to the law.

Your Honour's breadth of work, especially since your appointment to the Bench, is very well recognised, and reflects a concern for public welfare and for the rights and interests of individual citizens.

The Government appointed your Honour as Royal Commissioner to investigate the September moratorium demonstration in 1970 and to

make recommendations concerning the laws governing the use of the streets for political purposes. It is often said that Royal Commission reports to governments gather dust and are of little use. That was certainly not the case in this instance. Your recommendations have not only been implemented but have further proved to be effective in practice, as the Chief Justice has pointed out, and it must be with some pleasure that you now see the legislation of which your recommendations formed the basis being pointed to as a model which could usefully be adopted in certain other States, particularly Queensland.

Your Honour was appointed as Chairman of the Committee of Inquiry into Health Services in South Australia in 1973 and, as the Honourable the Chief Justice has already commented upon your work in this particular matter, I would just like to note the community's appreciation of your work in the health area, which has been largely adopted and provides the basis for the new health administration in this State.

In 1976, your Honour was appointed as Chairman of the Electoral Districts Boundaries Commission when that body was established.

In December, 1976, you accepted appointment as chairman of the Committee on the Rights of Persons with Handicaps, which I was then establishing, and I am pleased to note that your work on that committee will continue notwithstanding your retirement from the Court.

From 1974 to 1977 your Honour was chairman of the South Australian Council for Educational Planning and Research, a post you held contemporaneously with that of Chancellor of Flinders University. I was pleased to note from this morning's press that you intend to continue with that in the immediate future.

Your avid interest in education and, in particular, legal education, led to the unique opportunity to provide a judicial training course for members of the judiciary of Afghanistan in 1976. That exercise involved your Honour's supervision of tutorials on the system of British Government and justice, as well as enabling observation of the system at work in all jurisdictions to take place.

Your Honour's interest in matters of an international character is evidenced further by your initiative, with Mr. Justice Hogarth, in the formation of the South Australian branch of the International Commission of Jurists.

Your Honour is also a member of the World Association of Jurists.

In spite of your tireless work as a Judge of the Supreme Court, your Honour has shown equal vigour in office as vice-president of the Red Cross and Musica Viva. The value of your Honour's work as president of Minda Homes Incorporated from 1966 to 1973 requires no amplification, except to say that it was, as your Honour will know, in your capacity as President in which I first made your acquaintance, and I would simply like to say that your work for Minda serves as yet another indication of your Honour's constant concern for the welfare of the community.

Having referred to your Honour's excellent work both as a judge and in non-judicial areas of community service, it would be remiss of me on this occasion if I did not briefly refer to the debate in the legal world

which has been in progress over the past couple of years concerning the use of judges for outside commissions and in other such like work. It is my belief that your Honour's own work in this area lends great weight to those of us who believe that the judiciary has valuable skills which can be used to the benefit of the community outside of the narrower areas of the law and without impinging on the independence of the judiciary.

Upon retirement from the office of Judge of the Supreme Court, your Honour may be assured that the Government, the Bar and the community acknowledges your valuable contributions to the administration of justice and your other works to which I have referred. Their best wishes, together with my personal wishes, for your long and happy retirement signify the recognition of your tireless dedication shown in every sphere of your Honour's life.

In closing my remarks, I would personally like to add my best wishes to those of the Chief Justice, as expressed this morning, that your work in the many areas of community service with which you are associated will continue over a long period in the future.

THE PRESIDENT OF THE LAW SOCIETY (MR. E. P. MULLIGHAN Q.C.): May it please the Court: The Law Society extends to your Honour Mr. Justice Bright its warmest wishes upon your retirement. Your Honour has had an outstanding career in the law which is widely recognised throughout Australia. You practised the law for many years with honour and distinction.

You were one of the leaders of the bar, having taken silk in 1960. The profession sought your Honour's services in many jurisdictions in which you appeared with considerable success. Furthermore, you provided to the profession, and in particular to its younger members, assistance and guidance in a variety of circumstances on a personal basis which you have continued, so far as you have been able, since taking your seat on the Bench. Your help in this way is characteristic of your Honour and has been greatly appreciated.

Your Honour also served the Law Society with distinction. You were a member of the Council for three periods over some twenty-three years. These periods were interrupted by war service and service to the Law Council of Australia.

Your Honour held the offices of President and Vice-President of the Law Society and you served on nearly all of the committees of the Society as well as on the Statutory Committee.

You were also closely involved with the Law Council of Australia, being a member of the Executive for two terms, a Vice-President, and at one time the assistant Secretary.

Also your Honour was a trustee of the Law Society Superannuation Fund and a member of the committee of the Medico-Legal Society.

Your leadership in those days had a significant impact upon the profession, and the Law Society is deeply indebted to your Honour for the considerable amount of time you so effectively devoted to its affairs. Your extensive work outside the law and otherwise than in your capacity

as a Judge of this Court has been mentioned this morning. Your Honour's compassion and deep concern for others has no doubt been the main reason for such extensive service to the community. I am aware of your Honour's interest in certain sports. When I made some inquiries as to your Honour's youth, of course for the purpose of this occasion, a member of the senior bar in another State informed me, that as a young man, your Honour was a "nippy left-hander at the back of the court"—referring, of course, to tennis.

All of these many interests which you pursued so energetically ensured that your Honour maintained a close involvement with people in all walks of life. It is clearly the view of the profession that your Honour has displayed outstanding judicial qualities. You have greatly enhanced the reputation of the Court and have always preserved the measure of independence so essential for a good judge.

There is no need for me to speak of your Honour's scholarship and deep sense of justice, as these qualities are enshrined in your judgments. But I would like to mention two of your Honour's particular qualities which are commonly mentioned around the profession. First, your Honour's unfailing patience and tolerance which I fear has been sorely tested on many occasions by the bar as well as by litigants and witnesses—and I can speak as one. Secondly, your Honour's impeccable judicial manners which have been apparent throughout the whole of your service as a Judge.

In all your work you have shown humility and a deep understanding of all whom have appeared before you. The responsibilities of counsel and the pressures upon them are considerable, but I have never heard any member of the profession say otherwise than that it has been a pleasure to appear before you.

The appropriate yard-stick for judicial performance has been described in many different ways over the years. There can be no doubt that your Honour has measured up admirably, whatever the description.

The profession has a deep affection and respect for your Honour. Consequently there is a tinge of sadness on this occasion as the profession will not have the opportunity of again appearing before you. However, we all have pleasure in the knowledge that you may now pursue your many interests at, perhaps, greater leisure and with more enjoyment.

The Law Society wishes you a long and happy retirement, which is so richly deserved, and also extends its warmest wishes to Mrs. Bright.

THE HONOURABLE MR. JUSTICE BRIGHT: Thank you Chief Justice, Mr. Attorney, Mr. President. Please do not think me unmindful of your kind remarks if I do not respond to them in detail. Indeed, lest I become unduly inflated, I shall adapt and apply Dr. Johnson's celebrated remarks on lapidary inscriptions.

I appreciate greatly the attendance here of so many of my brethren and retired brethren of all ranks, for indeed we happy few are all brothers whatever our rank. Thank you also, men and women of the profession, my friends in a personal as well as in an official sense.

I do not wish to leave this Court, after fifteen years on the Bench, without paying a tribute to the Judges and lawyers whom I have encountered on my way through life. I cannot mention them all individually lest singling out some I should give offence to others. I salute them all. But I must mention my brother Hogarth who, with his usual kindness, has insisted that he yield place to me on this occasion of my retirement and I thank him for that. I also must mention my sister Mitchell for she and I and Mr. Moodie, whom I see in the body of the court, were admitted forty-four years ago to this very day. She is now the sole practising survivor of our year.

I began my legal career at a time when the profession was beset, almost overwhelmed, by the difficulties occasioned by the depression, by sharply falling incomes, and by the temptations presented in those circumstances by an unsupervised trust account. We survived, and it was a triumph of honesty over temptation. There were very few who fell by the wayside.

Now, as I end my legal career, the profession is confronted, I think, by the even greater problems presented by affluence and the need to maintain, in aid of affluence, what I can only call, with regret, throughput. That need brings temptations to superficial haste which is an insidious form of dishonesty, not merely to the client and to the Court, but to the system, which is, in the end, the most important consideration.

I wish to say no more about that. I am glad to be able to express a view that the legal profession, as a general body, has been at all times not only courteous and considerate to me, but, more importantly, honest in preparation before coming into my court. It has been quite rare for me to have to remind counsel of the name of his client or the nature of his case.

The legal profession must constantly remember its importance in society. It neutralizes intellectual differences between citizens, it ensures that persons are not unjustly condemned, and, far and away most importantly, it initiates the legal processes which enable the judge, with the help of counsel, to stand as a bulwark protecting the citizen from unjust claims made by the sovereign power. We tend to underrate the last. Those of you who have experience of countries with a tyrannical sovereign power will not do so.

Now I take my leave of you with feelings of friendship and gratitude. To those members of my staff who have served me so well, I have already expressed my thanks privately and now I do so publicly. To all of you I say farewell and may you have, in some curious way, slightly more luck than you deserve.