

THE
STATE REPORTS,

SOUTH AUSTRALIA

1943

EDITED BY

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A PRACTITIONER OF THE SUPREME COURT OF SOUTH AUSTRALIA.

PUBLISHED IN ADELAIDE BY

THE LAW BOOK COMPANY OF AUSTRALASIA PTY LTD.

(Incorporated in Australia)

425 CHANCERY LANE, MELBOURNE.

SYDNEY - - 140 PHILLIP STREET.

BRISBANE - - 21 ADELAIDE STREET.

*Wholly set-up and printed in Adelaide for
The Law Book Company of Australasia Pty Limited
by Advertiser Newspapers Limited.*

JUDGES OF THE SUPREME COURT.

THE HONOURABLE SIR JOHN MELLIS NAPIER, KT., CHIEF
JUSTICE.

THE HONOURABLE SIR HERBERT ANGAS PARSONS, KT.

THE HONOURABLE FREDERICK WILLIAM RICHARDS.

*THE HONOURABLE EDWARD ERSKINE CLELAND.

THE HONOURABLE HERBERT MAYO.

†THE HONOURABLE GEOFFREY SANDFORD REED.

ATTORNEY-GENERAL

THE HONOURABLE SHIRLEY WILLIAM JEFFRIES, M.P.

* Died on 1st July, 1943.

† Appointed on 15th July, 1943.

MEMORANDUM.

The Honourable Mr. Justice Cleland, having died on the 1st July 1943, at the sitting of the Full Court (NAPIER C.J., ANGAS PARSONS, RICHARDS and MAYO JJ.) on Monday, 12th July 1943, the Honourable the Chief Justice addressed the members of the Bar and others present as follows:—

THE CHIEF JUSTICE: This sitting of the Court has been appointed as an opportunity for paying a tribute of respect to the memory of our late colleague, the Honourable Edward Erskine Cleland.

Mr. Justice Cleland was appointed to this Court on 5th March 1936, after a long, and a very distinguished, career at the bar. Graduating at the University of Adelaide in 1890, at the age of twenty-one, he served for a period as Associate to the late Mr. Justice Bunday. After that he entered into practice, and speedily acquired the reputation which led to his appointment as one of His Majesty's Counsel in 1912. The high reputation that he enjoyed as an advocate was amply justified. In his grasp of facts, in the readiness and alertness of his mind, and in his gift for incisive presentation, he has seldom been equalled, and it is very doubtful whether he has ever been surpassed, by anyone practising in this Court, or before the High Court of Australia. To these qualities he added a sound knowledge of the law, a wide experience of men and of affairs, and the intrepidity and resolution which were manifest throughout his life, but never more so than in the fortitude by which he was sustained through the long and distressing illness which preceded his death.

In the period—all too short—between his appointment to the bench and the physical weakness which limited his activities, the qualities which had distinguished him as an advocate were fully apparent in his judicial work, but a quality which will be long remembered was his unflinching courtesy to all who practised or appeared before him. To the members of the profession, and more particularly to the younger of them, he was as he always had been, considerate and helpful. As a Judge he was quick in grasping and deciding any point that was put, but in spite of that he was always patient and forbearing to those who appeared before him.

He was a loyal friend, and his death will be deeply and widely felt throughout the profession and the whole community.

THE HONOURABLE THE ATTORNEY-GENERAL then spoke on behalf of the Bar to the following effect:—If the Court please.

It is my sad duty to convey to your Honours the sympathy which the Bar feels with your Honours in the loss sustained through the passing of His Honour Mr. Justice Cleland.

The Law Society of South Australia has sent me a copy of the minute entered in the Records of the Society which refers to His

Honour. It expresses so well what we all feel about the late Judge that, with the Court's permission, I propose to read it in full:—

“This Council records with deep sorrow the death of Mr. Justice Cleland on the 1st July 1943.

It is not derogating from His Honour's judicial qualities to say that he will long be remembered as one of the outstanding advocates of South Australia, with, indeed, an Australia-wide reputation.

He occupied a commanding position at the Bar for more than a generation, and his qualities as a pleader may well be a model for all time. He possessed a most acute mind with the power of seeing quickly the essential points of a case and of presenting them in concise and lucid language.

His way of life was simple and unaffected, and combined with his keen sense of humour attracted a wide circle of friends, particularly in his own profession. He was always kind and encouraging to juniors and generous in his advice on the art of advocacy.

His wide knowledge of the law and of human nature, gained in his long and busy practices, served him well when he became a Judge, and he dispensed justice with certainty and expedition. His judgments showed the same clarity of thought and lucidity of language which had characterised his arguments at the Bar.

He will be mourned by the whole of the profession.”

With the sentiments expressed in this tribute from the Law Society, and with what your Honour has said this morning, I unreservedly agree.

The position His Honour achieved in the ranks of advocacy and as a Judge is so well known and so universally acknowledged that there is little need for me to say more, but I would like to refer particularly to Mr. Justice Cleland's humane and kindly nature, and his strong capacity for friendship. In contests at the Bar, he more than held his own, without resorting to the harshly expressed thought or the unkind word. Although always a redoubtable opponent, he was never unkind. His wit, though acute, left no sting. His humour was the more delightful because so often it was prompted by a youthful mischievousness. All those who came in contact with him in the Courts felt the warmth of his humanity and appreciated his patient and unruffled courtesy.

For all these qualities His Honour was greatly beloved in his lifetime, and his passing is sincerely mourned. Now that he is gone, and we appraise his life in retrospect, we realize that by his death we have lost a great lawyer, a true friend and a strong personality.