

# The Hon Justice Paul Brereton



On Monday, 15 August 2005, the Hon Paul Le Gay Brereton was sworn in as a judge of the Supreme Court of New South Wales. His father, the Hon Justice Le Gay Brereton, had been a judge of the same court between 1952 and 1972.

Brereton J graduated from Sydney University, with the degrees of Bachelor of Arts and Bachelor of Laws. He was admitted as a solicitor in 1982, called to the Bar in 1987 and appointed senior counsel in 1998. Among the remarkable features of his Honour's practice at the Bar was its breadth, ranging as it did across commercial law, equity, family law, professional negligence, professional discipline, immigration and criminal law at both trial and appellate levels.

At his Honour's swearing in the Hon Bob Debus MP, Attorney General of NSW, spoke on behalf of the Bar and the president of the Law Society of NSW, John McIntyre, spoke on behalf of the solicitors of NSW. They were followed by Brereton J himself.

Of Brereton J's practice at the Bar, the attorney observed:

Demonstrating your belief that everyone deserves a fair hearing, you have also stepped forth where others may have feared to tread, representing those of your colleagues alleged to have engaged in misconduct. You have also diligently represented other clients involved in some of this country's greatest medical controversies. It is a fundamental tenet of the rule of law that even those who may be viewed unfavourably by the public should be allowed an opportunity to fully defend themselves before an impartial

adjudicator. You have proved yourself willing to assist all those who come before our courts without fear or favour, regardless of their public popularity or of their position on the scale of culpability.

It is not just your Honour's technical argument and advice which has stood out in your practice, but also your amenable disposition. Your colleagues advise that regardless of the number of briefs you have been running at any time, you consistently delivered exemplary service.

Similarly, you have made your services available to the disenfranchised and marginalised throughout your career. You have acted pro bono on many occasions, particularly for former servicemen and other individuals or organisations lacking financial resources such as – dare I say – student groups.

Mr McIntyre also commented on his Honour's practice as follows:

Your areas of practice at the Bar were extraordinarily varied and extensive. You could in fact be described as the true embodiment of the cab rank rule. You have appeared in many courts and jurisdictions and for a wide cross selection of our state's well known personalities and identities, even having a bob each way with Bob Carr and Robbie Waterhouse, when each of them was in dire need of your services for different reasons and, I might add, in different jurisdictions.

You will, however, be most acutely remembered by the Law Society as a formidable advocate who possessed a unique combination of all of the legal skills necessary to develop and present a winning argument.

Of the Bar, Brereton J conveyed the following recollections and views:

In this state we have had the good fortune, at least since 1825, to have a fearless independent bar. A courageous bar I think is as essential an instrument in the attainment of justice and the safeguarding of civil liberties as an impartial judiciary. It is only while lawyers of ability and conviction can and will fearlessly act for unpopular causes that our adversarial system can produce just results.

An early example was set in this state by the man who became our first primary judge in equity, Roger Therry. As a barrister in the 1830s, in the face of strong contrary public opinion, he defended convicts who escaped the service of barbarous masters to whom they had been assigned, and then he prosecuted the squatters ultimately convicted of the Myall Creek massacre.

There is never a greater need for fearless independent advocacy than in times such as the present, when the perception of threats to public safety may be thought to justify restrictions of private rights.



If I do have a regret about the Bar it is at not having played a greater role in its corporate governance; as things have transpired, and some of you have said, my role has become that of being the loyal opposition of the Bar Council and the Law Society Council in the disciplinary tribunals, where they have been my regular adversaries over several years. That makes all the more moving the tributes you have offered this morning. But I have also been touched by the private thanks I have received from many that I see here today of the profession who have come to me in their times of need and who, I hope I have been able to help. We would, after all, not be much of a profession if we could not look to each other for help in our times of need.

His Honour concluded as follows:

Although he died when I was young my father has been a great and lasting influence. I have been greatly moved by the references today and elsewhere to his example. In my early years I met two of his closest friends, CLD Meares, Queens Counsel, then leader of the bar and later to become a judge of this court who was my godfather, and WRD Stevenson, a distinguished solicitor, senior partner of Allens and President

of the Law Society who was always called and later, upon marrying Robin, became, an uncle.

Surrounded from that age by judge, senior counsel and solicitor, perhaps a legal career was a little inevitable.

The first ceremonial sitting of this court I attended was on the occasion of my father's death in 1974, then in the old Banco Court in St James Road. It was a 'black' court, the judges having discarded these resplendent robes for their more sombre, everyday court dress. It was about a decade later that I made my first tentative appearances here, by kind leave of Mr Justice Young, and if, as a young solicitor purporting to appear in the Supreme Court I was then not only heard but sometimes listened to, I am sure it was at least partly in remembrance of one whose words once carried weight here.

The ceremonial robes which were first worn by him have since passed through the hands of several distinguished judges. They have learned some equity from Mr Justice Waddell, they were worn by Justice Blanch when he was a judge of this court, and they have been exposed to professional negligence by Justice Sperling. If they have absorbed a fraction of the wisdom of the wise judges who have previously worn them, and any of that can rub off in turn on their new incumbent, I will be fortunate indeed.

The judicial oath which I have taken this morning is an ancient one, and the standards demanded by the obligation which it imposes are exacting. I first heard of it in 1969, when Mr Justice Meares was sworn in as a judge of this court. Though I was not there, in those days the court was much smaller than it is today, and swearing-in ceremonies were newsworthy. It was reported in the papers that on that occasion the new judge's response was: 'I will do my best'. I can improve neither on his spirit, nor on his words, which I gratefully adopt. I, too, will do my best.

