

‘The Hon Philip Ernest Powell AM QC (1930–2016)’



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Powell was upheld in that case by both the Court of Appeal and by the High Court of Australia - only the tabloid newspapers in London dissented.

On the occasion of his retirement from the Court of Appeal in 2002, the then Chief Justice James Spigelman commented:

Your Honour’s predilection for precision is, you should know, much admired. You always stayed on the right side of that fine line between precision and pedantry. The clarity of your Honour’s expression will mean that the judgments you delivered in your long period of service on this Court will stand the test of time. On behalf of all of the Judges of the Court I thank you for your contribution to the people of this State and to the law.

A pantheon of dignitaries attended Powell’s obsequies, befitting someone who did so much and who was truly learned in the law. The prime minister came to pay his respects, as did many senior sitting and retired judges who had been Powell’s colleagues over the last 30 years and who came to bid him farewell in St James’ Church. Powell was a witness of his times. To begin a legal career may be easy, however to persevere with and to succeed to the extent that Powell did, with intellect, faith and patience, is sanctifying.

**Justice Philip Hallen
Trish Hoff
Kevin Tang**

young Malcolm Turnbull appeared as counsel for Peter Wright of MI5. Powell took a dim view of the opposing English witnesses. In a letter to the Bar Association Michael Kirby noted that

Andrew James Lidden SC (1954–2016)



When asked for some personal reflections about Lidden SC for the preparation of his eulogy, the overwhelming theme from colleagues was that he was a formidable advocate. His almost photographic memory was, perhaps, his greatest strength. Over the course of his 35year career Lidden would have been briefed in - conservatively -15,000 cases.

The sentiment from the defendant bar was that one had to have complete mastery of their brief if Lidden was on the other side. He had an uncanny talent for turning a weak case into an unlosable

one (usually by cross-examining a witness a defendant ought not have called).

Whilst he is remembered for his extensive common law personal injury practice, Lidden came to the bar at a time when barristers truly were ‘general practitioners’. In the early years he had an extensive criminal, probate, matrimonial causes, equity and appellate practice. He even appeared for an insurance company (once).

Andrew James Lidden was born on 20 February 1954, a Southern Highlander

'Andrew James Lidden SC (1954–2016)'

through and through. He read law at the Australian National University. His legendary passion for all things automotive was well entrenched by his early teens and started with motorcycles. He promptly became and remained a collector of cars and motorcycles.

Lidden was called to the bar in 1978. He became a member of Frederick Jordan Chambers. In those days a clerk of chambers would simply allocate cases to those available and keen which meant juniors had to be fast learners. Lidden was fearless and bright and as a result appeared in every jurisdiction. Even back then, he would hold his pink ribboned brief in one hand and a motorcycle magazine in the other.

In 1993 Frederick Jordan Chambers moved to its current location at 53 Martin Place and, shortly thereafter, Lidden became secretary of the board. He managed the enormous workload of administering the country's largest chambers and his huge practice right up until his passing.

In the course of his career performing plaintiff personal injury work vast reforms took place across motor vehicle, workplace and public liability accidents. Lidden was at the forefront of finding ways to get more for those whose common law entitlements were ever increasingly eroded by government. At times he sat on the Bar Association's Common Law Committee and was otherwise a consultant to it whose views were highly regarded.

His capacity for work was astounding. His practice was to dictate a memorandum of advice and pleadings during his first conference with a client. He had a rare and invaluable talent of cutting to the

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heart of an issue to determine the facts requiring proof. If he was unavailable for a hearing his juniors could virtually run the entirety of examination in chief from his initial memorandum of advice.

Lidden's memory for clients and their cases was so sharp that it was effortless for him to finish a case and walk into the next one or, if his skills were more urgently required, walk into and out of several cases to deal with a point or clinically dispatch an opponent's witness.

Mornings were always an interesting time in Lidden's room. He had on any given day new hearings, part-heard hearings, mediations and settlement conferences. A cavalcade of variously damaged and usually very nervous people and junior barristers would be ushered into his room for the morning pre-hearing conference. There Lidden would explain court process and answer any questions. He would often calm a nervous plaintiff with a joke usually at the junior's expense such as 'don't mind Bloggs there in the corner, she's more nervous than you ...' or 'don't mind Bloggs there in the corner, he's just here to fix the air-conditioning ...'.

If at court the client still looked nervous, he would open the courtroom door for them with his favourite reassuring words 'step into the revolving knives...'

His direct style of advocacy and ability to distil facts provided the vehicle for a number of High Court judgments (*Water Board v Moustakas* (1994) 180 CLR 491,

Hollis v Vabu (2001) 207 CLR 21, *New South Wales v Faby* (2007) 81 ALJR 1021, *Zheng v Cai* [2009] HCA 52).

The introduction of the *Civil Liability Act 2002* provided a steady stream of cases which charted a new landscape. The boundaries of that legislation are marked out by many of Lidden's cases. Perhaps most impressive was his ability as an advocate to deal with facts and to address a judge on their significance without complicated legal argument. Judicial resistance to such an approach met with a typical response. When once asked by a District Court judge whether he had any authority for a proposition he was advancing the reply was immediate 'Yes Your Honour, Lidden on the bleeding obvious...'

After taking silk in 2006 it was his intention to continue with his prolific practice until his children were settled into university. He looked forward to a time when he would take on fewer and more interesting cases perhaps returning to crime. His illness deprived him of that opportunity and deprived us the opportunity to see him become a great statesman of the Common Law Bar.

He was devoted to his family, his wife Eleanor and their children William and Zara.

By Paresh Khandhar