

MICHAEL WILL ADDRESS: INTRODUCTORY REMARKS

*Geoffrey McCarthy**

At the risk of stating an obvious but important proposition, I periodically pause to recognise that even a cursory consideration of world affairs is enough to bring home what an extremely free and safe country we live in, by comparison to others. Our freedom and safety are underpinned by the rule of law. But it is easy to overlook what a tenuous concept it is. Maintaining community respect for the rule of law, and upholding the rule of law, is a multi-faceted and tricky thing.

Everyone involved with the law plays their part. Some, especially those in academe, gather the threads of legal concepts, existing and developing, and help others to make sense of it all. In the area of administrative law, the Australian Institute of Administrative Law strives to enhance and broaden community and professional understanding of administrative law developments and principles. It does so through its annual conferences, periodic seminars and its quarterly publication, *AIAL Forum*. Tonight's presentation is to that end.

Before introducing our speaker, I pause to observe that the law, and development of the law, rather withers on the vine if it is not applied. And for that purpose, I think, practitioners are the primary operators. To a very high degree, they drive the law. They decide whether to turn left or right, drive fast or slow and where to go. Their advice and actions significantly affect community respect for the rule of law, for better or worse. What to do requires judgement, integrity and skill. However, an ironic aspect of practice is that much of what occurs goes quite unnoticed, especially when done well — save by those directly involved.

That brings me to explain the Institute's thinking when deciding to entitle tonight's presentation the Michael Will Address.

Michael will happily tell you about his early days as a taxi driver, making decisions about where to go without the benefit of Google Maps and the random cross-section of the community he encountered. But greater influence lay ahead. He became a partner in the Freehills' Canberra office before they packed up and drove out of town. He was then a partner at Sparke Helmore, then a partner at Phillips Fox, later DLA Phillips Fox, and then became the managing partner of the Canberra office of HWL Ebsworth.

In those roles, his advice and judgement guided very significant clients in the public and private sectors regarding application of, and upholding, the rule of law, especially in the areas of administrative law and workplace relations. In the public sector he acted for, and advised, for example, the Australian National University, the Australian Federal Police, the Australian Electoral Commission and the Department of Defence.

* *Geoffrey McCarthy is a member of the Australian Institute of Administrative Law executive committee. Geoffrey McCarthy introduced the inaugural Michael Will Address in honour of Michael Will, which was delivered by the Hon Justice Hilary Penfold QC at the 2018 Annual General Meeting of the Australian Institute of Administrative Law, in the presence of Michael Will and his family and friends.*

Michael's efforts in 'giving back' have also been significant. He was for 10 years a member and the Chair of the Administrative Law Committee of the Law Council of Australia. He is a past president of this Institute.

Michael, I know that for the past few months life in the main has been completely awful, however much you have faced it all with a sanguine smile as you learned about the different properties of different drugs and how to pronounce them. So it is fantastic to see you here tonight, especially with some hair and, I see, some weight packed back on. The wonders of modern medicine!

Can I also assure you that it is not just the free drinks and Hilary Penfold's paper that has caused so many people to be here this evening.

I see many of your professional colleagues, past and present, and from many practices. I see Hilary's husband, Mark Cunliffe, who you worked closely with over the years when he was your client at Defence. I also see their daughter, Jancis, who worked with you at HWL Ebsworth and who I am sure has attended not only to hear from Mum. I see Justice Mossop of the Supreme Court. I see Tribunal members. I see teaching staff, past and present, at the ANU. I see many members of this Institute and members, past and present, of its executive committee. I see former Commissioner Deegan, 18 years at the Fair Work Commission, who you and I and many others grew to know and fear — with a smile. I even see your longstanding Thursday night tennis partners.

I see also your family, Fiona, Johnny and Patrick. To each of you, I say he's 'done good'. This is a really tough thing you are all going through. On behalf of the Institute we hope that entitling tonight's presentation the Michael Will Address brings a bit of sunshine to the scene. It is also an acknowledgement — well deserved — of Michael's efforts.

And now to our distinguished speaker. Forgive me, Hilary, but I do not propose to dwell on your significant contributions to the law which are well known to this audience, save to note and congratulate you on your recent admission, if that is the right word, as a Fellow of the Australian Academy of Law. I note many illustrious names on the list of Fellows, to be found on the Academy's website.

Your significant contributions to the law base our invitation for you to speak this evening. We at the Institute are very grateful that you have accepted the invitation. You have chosen an intriguing topic, given your past professional lives. We look forward to hearing your insights.