

Vale Robert Todd

Allan N Hall AM*

I have been asked to write about Robert Todd, my friend and colleague for more than 40 years who made an immeasurable contribution to the development of administrative law in Australia. It is an honour for me to do so.

I first met Robert in September 1978, when he arrived in Canberra to take up his appointment as the second full-time Senior Member of the newly established Commonwealth Administrative Appeals Tribunal (AAT). I was the first full-time Senior Member, having been appointed at the beginning of that year.

Robert's qualifications for this appointment were exceptional. He graduated from the University of Melbourne in 1954 with an Honours degree in Law. He then went on to further legal studies at Wadham College at the University of Oxford, where he graduated with a Bachelor of Civil Law degree. He was called to the Bar in the UK by the Honourable Society of the Middle Temple.

Robert returned to Australia in 1957 and was admitted to practice as a Barrister and Solicitor of the Supreme Court of Victoria. For a short time he worked as a solicitor, but from September 1958 until 1971 he practised as a barrister at the Melbourne Bar. The high point of his career as a barrister was when he appeared as junior counsel to the Solicitor-General of Victoria in applications for special leave to appeal to the Privy Council in the UK in two constitutional cases. He served as a member of the Victorian Bar Council from 1964 to 1968 and as Legal Secretary to the Medico-Legal Society in Victoria from 1965 to 1972.

From 1971 to 1978, Robert was a member of the Taxation Board of Review No 2 in Melbourne, where he gained invaluable experience in reviewing decisions of the Commissioner of Taxation.

Whilst it was clear that Robert was well qualified for his appointment to the AAT, I knew nothing about him personally and, as we would be working closely together, I was faintly apprehensive as to whether we would be compatible, both at the personal and professional levels. All apprehension swiftly disappeared.

Little did I know that Robert was undergoing the same pangs of uncertainty when he first met me. However, as he later explained, his trepidation lasted 'all of a few seconds', and thus began one of the most enjoyable and lasting friendships and one of the most satisfying and rewarding professional relationships of my life. In our retirement years, we often commented on how fortunate we had been to have shared so much in common, particularly our commitment to making the AAT a success.

Robert and I had the great privilege of serving, during the first three years, under the inspirational leadership of then Justice Gerard Brennan and later under the strong leadership of Justice Daryl Davies, the second President of the AAT.

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In those early days of the AAT, Robert and I were engaged in a great deal of ground-breaking decision-making as new areas of public administration were progressively opened up for the first time to external review before the Tribunal. We were conducting hearings all around Australia, although the Tribunal was initially based in Canberra.

In 1982, Robert and I were appointed as the first full-time Deputy Presidents of the Tribunal — a position that Robert held until his retirement from the AAT in 1993.

In discharging his frequently onerous duties, Robert brought his impressive legal knowledge to bear, together with an elegance of expression in writing his decisions that bore witness to his great love, and command, of the English language. As those of you who knew him well can attest, Robert frequently sprinkled his conversation, and his writings, with apposite quotations from the plays of William Shakespeare and other major literary works. Throughout his career on the AAT, Robert strove to achieve the highest standards that he could in everything he did.

Robert was held in the highest regard by all those with whom he came into contact during his time on the AAT. In the conduct of hearings, he was courteous and respectful in manner and expected those who appeared before him to conduct themselves in similar fashion. He was a firm believer in the rule of law as the foundation of a fair and well-ordered society. He was scathing towards those who suggested that, in upholding these principles, the Tribunal was ‘too legalistic’.

Following Robert’s death, I contacted Sir Gerard Brennan and Justice Ian Thompson, the first full-time Senior Member of the AAT and later the first full-time Deputy President of the AAT, in Melbourne. I record their tributes.

Sir Gerard described Robert as ‘a true gentleman and a fine lawyer. He will be sadly missed by a loving family and by friends who held him in affectionate respect. You and Robert each contributed enormously to the establishment and development of the AAT’.

Justice Thompson had this to say: ‘I remember Robert ... as a sagacious and helpful colleague and shall always do so. I always respected his opinions. However, his death means one less link with the happy past. The Tribunal then was vibrant; you and Robert as the first non-judicial Deputy Presidents set a high standard for those of us who followed.’

In 1989, whilst still serving as a Deputy President of the Commonwealth AAT, Robert was appointed as the President of the newly created ACT AAT — a position he held until his retirement from both tribunals in January 1993.

Following his retirement, Robert took up a part-time appointment as President of the Legal Aid Commission (ACT) — a position he held until 1998. Between 1992 and 1994, he served as President of the Australian Institute of Administrative Law — an association he and I helped to found in 1989.

In 1994, in recognition of his outstanding services to the development of administrative law in Australia, Robert was made a Member of the Order of Australia — an honour he richly deserved.

There were other governmental committees on which Robert served in his post retirement years, on top of which, from 2001 to 2007, he held the important position of chairman of the Health and Welfare Ethics Committee of the Australian Institute of Health and Welfare.

In the lead-up to the 1999 Australian Republic Referendum, Robert participated in two eight-week courses that I presented for the University of the Third Age (Canberra) explaining the constitutional background to the proposed changes to a republican form of government. He delivered an excellent paper outlining the constitutional issues facing the states in the event that the referendum was successful.

In the midst of all these activities, Robert somehow found time to pursue other interests that were very close to his heart. He was a strong supporter of the Friends of the National Museum of Australia Inc, which was determined to have a national museum established of which all Australians could be proud. Robert served as the Public Officer of the Friends in 1994 and then as Vice-President from 1995 to 2000.

During this time, he worked in close association with the then President of the Friends, Winifred Rosser, in lobbying federal and ACT politicians for support in establishing the museum, preferably on the Friends' preferred site at Yarramundi (although, to their sorrow, that was not to be). The history of this epic struggle is well documented in the book *Not Without a Fight* by Louise Douglas and Roslyn Russell. It brought a wry smile to my face when I read that Winifred Rosser was reported as saying that she and Robert 'complemented each other's style'. As she explained, she was 'certainly the passionate saleswoman and Robert was the one who dotted the i's and crossed the t's'. (p 76).

Finally, it would be remiss of me not to mention Robert's literary and theatrical interests. After his retirement, he made a careful study of the life and times of Harry 'Breaker' Morant and presented public lectures on the fairness of his trial and conviction for murder. He also indulged his theatrical flair by presenting several performances (in appropriate period costume) of entertaining readings from the famous novel *The Life and Opinions of Tristram Shandy* by Laurence Stern.

Robert lived an incredibly full and productive life, much of it in using his considerable legal skills in service to the Australian community. He was a man of whom his much-loved wife and daughters can justly be proud.

To conclude my brief comments about Robert's remarkable life, I cannot do better than adopt the quotation from Shakespeare's *The Tragedy of Hamlet, Prince of Denmark* that his family used in Robert's death notice.

Polonius, the Lord Chamberlain to the King of Denmark, is offering advice to his son, Laertes, on how best to live a good and balanced life. It is timeless advice that, to me, epitomises the way in which Robert conducted his own life:

This above all — to thine own self be true,

And it must follow, as the night the day,

Thou canst not then be false to any man. (Act 1, Scene 3, lines 78–80)

Robert will always be remembered as a fine gentleman, a loving husband, father and grandfather, a distinguished lawyer and a good friend.