



New South Wales Supreme Court

CITATION :	Prothonotary v Wilson [1999] NSWSC 1114
CURRENT JURISDICTION :	Civil
FILE NUMBER(S) :	12914 of 1997
HEARING DATE(S) :	9 November 1999
JUDGMENT DATE :	9 November 1999
PARTIES :	Prothonotary John Wilson
JUDGMENT OF :	Wood CJatCL
COUNSEL :	T. Budden SC for Plaintiff Defendant in person
SOLICITORS :	Crown Solicitors
CATCHWORDS :	Contempt of Court
DECISION :	Sentenced to a fixed term of imprisonment of 2 years from today 9/11/99

**THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION**

No. 12914 of 1997

THE PROTHONOTARY v WILSON

SENTENCE

1 HIS HONOUR: Some material has been placed before me on behalf of the defendant concerning his prior character; for example, it has been shown that he has no prior convictions of any kind, he has been a practising dentist and a friend of his, Ray Lovett, says that he regards him as a truthful man who does help people in the community, and who has a genuine belief in the injustices of the legal system. Beyond that, no material has been placed before me as to the general character of the defendant or concerning his mental state.

2 It may be accepted that it is of the nature of matters that come before the courts in this State that often strong passions will be raised and that, in some litigants, feelings of injustice will be engendered. In some situations those feelings may be genuine, in others, although strongly held those beliefs will be baseless.

3 In dealing with the matter of contempt the court is not concerned with the rightness or wrongness of the complaints which the defendant has in relation to the justice system, save to accept, as I do, that such beliefs as he expresses are firmly held by him.

4 The relevant approach was identified by Kirby ACJ in ***Cook & Ors v. Phillips***, Court of Appeal, 29 September 1995, unreported, when his Honour said:

"Unless this Court by its orders in cases such as this controls such passions in the environment of the court room and the precincts of the court, the achievement of peaceful curial resolution of disputes will be frustrated and may, in a particular case, be prevented. This civilised feature of our society could then give way to verbal abuse, physical assault and even worse."

5 It is on the basis of principles such as this, that both personal and general deterrence loom large.

6 In the same case, Mahoney AP said:

"It is important to make clear, to those who take part in proceedings before the Court and to those who associate themselves with such proceedings, that there must not be any improper interference with the course of justice"

7 To similar effect were the observations of Gleeson CJ in ***Her Majesty's Attorney General in and for the State of New South Wales. v Hayden***, 23 November 1994, unreported, when his Honour said:

*"Elements of both general and personal deterrence are important in the present case. The need for personal deterrence is evident from the history of the opponent. In relation to the issue of general deterrence I would adopt and repeat the observations made by Priestley JA in the case of **European Asia Bank AG v Wentworth** (1986) 5 NSW LR 445 at 463 where his Honour said: 'It seems to me that courts must do everything reasonably possible to protect the integrity of their own processes, including the safety of persons lawfully present upon court precincts in connection with litigation'."*

8 The present offences I regard as most serious and to be such that the only proper outcome is a sentence of imprisonment. The purpose of such a sentence is both to punish the defendant for the serious incidents of contempt of which he has been convicted, to provide him with an encouragement towards rehabilitation, to deter him and others from similar conduct, and to mark the community disapproval of the offences.

9 Taking those matters into account, and bearing in mind the circumstance previously noted that this was a case of premeditation rather than a spontaneous outburst, I sentence the prisoner in relation to each count to a fixed term of imprisonment of two years each to commence from today.

(Note: see further judgment 12/11/99)

Last Modified: 11/17/1999

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated.