

Opening of the 2025 Legal Year

Chief Justice Michael Grant AO

Wharf One Food & Wine, Darwin – 13 February 2025
Doubletree by Hilton, Alice Springs – 15 February 2025

[DARWIN]

I would like to begin by thanking the Administrator for his attendance. His Honour has been a generous supporter of the legal profession throughout his tenure and he honours us by his presence here this evening.

His Honour is accompanied by Major Scott Bailey, the honorary Aide-de-Camp. Major Bailey is well known to many of us in the legal profession, and he too has been a great supporter. I also welcome him.

I also acknowledge the presence of Craig Smyth, who was this morning sworn in as the Acting Associate Justice of the Supreme Court for a 12 month term. Craig has been a long-term fixture in the Northern Territory legal profession. He is well known for his legal acuity and sound judgement, and we are very happy to welcome him to the Court during Associate Justice Luppino's extended leave.

[ALICE SPRINGS]

I would like to begin by thanking the Deputy Administrator and Mr Reg Hatch for their attendance. Her Honour and Mr Hatch have been generous supporters of the legal profession throughout their tenure and they honour us by their presence here this evening.

[DARWIN AND ALICE SPRINGS]

As I think everybody in the profession is aware, these are challenging times for the courts and the legal profession. Although I don't want to get into some dry exploration of the statistics, that is starkly illustrated by the fact that there are now almost four times as many prisoners on Local Court remand than there were four years ago. The simple fact is that there are not presently enough judicial and court resources to deal with people in custody in a timely fashion.

The increase in remand numbers and workload doesn't just impact on the courts. As is often observed, the organs of law enforcement and justice form a pipeline rather than a series of silos. Because of that relationship, the workload of the office of the DPP and the legal aid agencies has also increased correspondingly and unsustainably. There are similar difficulties being experienced by correctional services, those agencies who are responsible for producing reports in relation to such matters as mental health and suitability for bail or supervised orders, and indeed by police themselves.

In my admittedly empirical and anecdotal assessment, legislative reforms such as Declan's Law are not the cause of this increase in remand numbers and workload. Or at least they are not the principal cause.

So far as bail reform is concerned, all these recent legislative amendments have done is to expand the categories of offender for whom the presumption is against bail. The reality is that regardless whether the presumption is for or against bail, the court simply takes into consideration the matters set out in s 24 of the *Bail Act* to determine whether bail should or should not be granted. That is a largely onus-neutral undertaking.

Similarly, whatever the policy merits may be in relation to matters such as increasing or decreasing the age of criminal responsibility for youths, the recent increase in remand numbers and criminal work cannot be attributed in any material way to legislative amendment in those fields.

The principal reason for the increase in criminal lodgements is a shift in operational priorities and practices by police, driven largely by the new political imperative. Because of the increased public concern about law and order issues, police resources have been swung markedly towards preventing and detecting street and property crime. That has included, for a short period of least, importing additional police officers from South Australia. The simple fact of the matter is that with more police dedicated to particular enforcement tasks there will be more arrests.

In addition, police are now taking what might broadly be described as a "zero tolerance" approach to infractions of the law, rather than exercising the discretion to apprehend, caution and release in what were previously considered to be appropriate circumstances.

This is the new political and operational environment, and there is nothing the courts or the legal profession can do under present conditions to ameliorate the consequences of that environment in terms of workload or remand numbers. The only means by which those consequences can be addressed are additional funding and improving the efficiency of our processes. The courts, and the prosecution and legal aid agencies, are already operating on the smell of an oily rag, which means that the scope for further productivity dividends is limited.

As to the question of funding, I was very pleased to hear the Attorney state publicly that there had been a lack of investment in the courts. That included an express recognition that “for every dollar invested in policing, at least \$1.50 should be directed towards the justice system”. It remains to be seen whether Treasury and the Cabinet will support that view.

The Attorney-General has also been receptive and supportive in relation to temporary additional judicial resourcing. As part of the additional resources provided by the Attorney, Justices Alan Blow and Lex Lasry have been appointed as Acting Justices of the Supreme Court. They will be welcome and valuable additions to the Northern Territory’s judicial ranks.

Justice Blow has recently retired as the Chief Justice of Tasmania, and Justice Lasry has recently retired as a Judge of the Victorian Supreme Court. Justice Lasry, in particular, has long-standing connections to the Northern Territory which commenced while he was at the bar and acting for the Bali Nine. Both are highly regarded judicial officers, and each will be sitting in the Northern Territory for about three months a year.

Justices Riley, Barr and Reeves will also continue as Acting Justices.

In the Local Court, Sally Ozolins, Steve Ledek and Giles O’Brien-Hartcher have recently been appointed as acting Judges.

I understand there have also been some short-term increases in funding for prosecution and legal aid agencies. Of course, at present these are only temporary measures which will require recurrent funding if the political and operational environment remains unchanged.

Finally, there are three upcoming legal events in which I would urge you to participate if possible.

At the local level, the Northern Territory Bar Association is conducting a Civil Law Conference in Darwin in the second half of July this year. There will be a range of eminent speakers from throughout Australia presenting at the conference, and it would be a very positive thing if the conference enjoyed the enthusiastic support of the local legal profession.

At the national level, the first Australian Legal Convention will be held in Canberra in November this year. All peak legal organisations have been invited to participate. This convention is being held under the auspices of the Council of Chief Justices. It is largely the brainchild of Chief Justice Gageler of the High Court. It is part of his Honour's continuing push towards the development of a unified Australian legal profession. The Convention is a first step in formulating what that will look like.

The Convention will address a broad range of issues, including access to justice, First Nations legal issues, legal education and training, the well-being of the profession, the legitimacy of the courts and artificial intelligence. You will have opportunity to have input into the conference content through your professional organisation, whether that be the Bar Association, the Law Society or the Criminal Lawyers Association. I would encourage you all to do so.

The third event will not take place until 2027, but it will be of great significance for the Territory. The Commonwealth Lawyers Association has this week selected the Northern Territory to host its biennial conference in April 2027. The conference will be attended by delegates from Africa, the Americas, Australasia and Europe. The fact that the Northern Territory was selected over rival bids from places such as Cape Town in South Africa and Halifax in Canada is testament to the fact that we are at the vanguard of indigenous land and justice issues, to our proximity to Asia and the South Pacific region, to our unique constitutional arrangements and to our stunning natural attractions. It also reflects a desire on the part of the Association to develop its engagement with nations such as Fiji, Kiribati, Samoa, Tonga, Vanuatu and the Solomon Islands. I would invite you all to become involved as the conference draws closer.

In closing, I welcome you all back and I wish you all well for your endeavours in the coming year.
