

SUPREME COURT OF THE NORTHERN TERRITORY  
ALICE SPRINGS

FAREWELL CEREMONIAL SITTINGS FOR  
THE HONOURABLE CHIEF JUSTICE BRIAN ROSS MARTIN

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON FRIDAY 13 AUGUST 2010 AT 9.00 AM

PRESIDING JUDGES:

THE HON CHIEF JUSTICE B R MARTIN  
THE HON JUSTICE T RILEY

In attendance:

Dr Nanette Rogers SC  
Ms Carly Ingles  
Mr Mark O'Reilly

Transcribed by:  
Merrill Legal Solutions

SHERIFF'S OFFICER: Silence. All stand, please, and remain standing.

All persons having any business before this honourable Supreme Court of the Northern Territory now draw nigh and give your attendance and you shall be heard.

God Save the Queen. Please be seated.

THE ASSOCIATE: The Court's farewell to his Honour, Brian Ross Martin CJ.

HIS HONOUR, RILEY J: Thank you. Chief Justice, the Master, Magistrates, distinguished visitors, members of the legal profession and friends of Brian and Leigh Martin, welcome. The Senior Puisne Judge, Mildren J apologises for his absence, he is overseas and therefore could not be here today. I wish to extend a special welcome to our distinguished guests in the jury box and, in particular, the Deputy Administrator and the Mayor. Thank you.

We gather together today to say a public farewell to Brian Martin CJ, who will be retiring on 10 September 2010. This sitting is to provide an opportunity for the profession in Alice Springs and the public of Alice Springs to recognise and celebrate the outstanding service provided by his Honour to our community.

The Judges will privately say farewell to his Honour, however, I would like to publicly acknowledge, on behalf of the Judges, the contribution made by his Honour to this Court. He has been, as you all know, a hard working Chief Justice and he has led our Court by example. He leaves the Court in very fine shape indeed.

It is pleasing to see the local profession here to farewell the Chief Justice. You will be aware that he and Leigh, who I should say, intended to be here today but has had an illness and been unable to fly, but you will be aware that both of them have enjoyed their time in this community and exploring the wonders of Central Australia.

The Chief Justice has contributed to the vast and difficult debate that exists in the Northern Territory as to how we deal with our special problems and he has taken a special interest in the difficulties that exist in this region. He has lent his judicial weight to the need to address those problems.

The Court will miss him and I am sure that this community will miss him.

Dr Rogers, do you move?

DR ROGERS, SC: At the risk of sounding sycophantic, it is a great privilege to give this short address today. Your Honour has always striven to reach a decision which is fair and just to all parties and grappled with the competing requirements of the universal and the individual, and in particular with the often impoverished and chaotic lives of Aboriginal people in Central Australia, whether as witnesses or accused. Your Honour has done this in an even-handed way, always aware of the law's requirements.

I want to focus on two major areas in which your Honour, as Chief Justice, has placed your Honour's stamp on this jurisdiction. One area concerns jurisprudence in the Northern Territory and the other concerns advocacy.

In terms of jurisprudence, your Honour has made a very significant contribution in this jurisdiction. In doing so, your Honour has not only drawn on your great intellectual reserves but also on a lot of established South Australian jurisprudence, so near to your heart, as to sentencing principals and considerations. This is not to say that there was no jurisprudence here before your Honour swept into town and rattled counsel and solicitors by their collars until their eyes bulged. However, by careful and reasoned judgements, your Honour has pushed the Northern Territory Supreme Court into being regarded as a Supreme Court as opposed to an intermediate court, which is how it may have been regarded by other jurisdictions to some extent before your Honour took over as Chief Justice.

The following are a very small but random selection involving a range of cases I have read different types of issues and principles:

Your Honour sat on the Court of Criminal Appeal and delivered the leading judgement in *Pappin* about the weight of intoxication as a mitigating factors. In *Flowers* in that year, that case involved the admissibility of an exculpatory record of interview. And *Ellis* in the same year was whether addiction has a mitigating effect on sentence.

In *Morgan Riley* (2006), your Honour expressed great concerns about crimes of sexual violence committed against children in all communities, including Aboriginal communities throughout the Northern Territory. In *Ober* (2008) your Honour was concerned with the provisions of the *Evidence Act* governing procedures for the taking of evidence from vulnerable witnesses in sexual assault matters. And in *Daniels*, although decision of the Court concerning commercial drug activities in Aboriginal communities as an aggravating factor, your Honour's input was obvious.

There are also other cases involving substantive criminal law issues and *Birkeland-Corro*, a Justice Appeal from 2005, involved an unrepresented defendant who had been bullied by a Magistrate in the hearing and your Honour was quick to point out that she had not been accorded the rights she was entitled to.

There was also *Ladd* in 2009 in the Court of Criminal Appeal where your Honour delivered the leading judgement concerning, amongst other matters, the interpretation of Part IIAA of the *Criminal Code* of criminal responsibility. And special leave to appeal was refused in the High Court in March this year regarding the Court of Criminal Appeals interpretation of intent for serious in murder charge.

And lest I be seen to be biased, I must mention, *Ernest and Grant Mulkatana*, decided earlier this year, where your Honour delivered the leading judgement

quashing Grant Mulkatana's murder conviction on the basis of flawed directions given at trial about s 8 of the Criminal Code and other matters.

So far as advocacy is concerned, your Honour has made an enormous contribution to the Territory. Your Honour has always been a pro-active Judge, interested in having a dialogue and questioning counsel on points of law, whether in trials or appeals. I am not always convinced that that questioning springs from an earnest desire to know the answer to a point troubling your Honour – sometimes it may be done to test the preparation, knowledge and understanding of counsel appearing before you. This dialogue (albeit one-sided at times when counsel are in the glare of the spotlight flounders to grasp the points so evident to your Honour and not always to others) is always interesting and pertinent. Your Honour turns the issue inside out, upside down, and examines it from a whole lot of angles and delivers the conclusion in a lucid and concise fashion.

Your Honour has not only brought a very clever and sharp intellect to the Bench, but by virtue of that, together with your Honour's impeccable analysis of the law and that fabulous ability to speak clearly and succinctly to a jury, that those appearing before you have striven to really do their best, not only in your Court but whenever appearing at the Bar table. This is an enormous compliment to your Honour, who many will regard as having almost single-handedly lifted the standards of advocacy in the Northern Territory.

I personally have been a beneficiary of both your stimulation and your encouragement.

And in terms of Central Australia, there's a very practical role that your Honour's played. Alice Springs tends to be forgotten by Darwin. However, a large proportion of serious criminal work is done here by both defence (primarily CAALAS and the NT Legal Aid Commission) and the prosecution with often limited numbers and resources compared to those in Darwin. The geographical location and high mobility of people has meant that video linking of witnesses elsewhere regularly takes place here and your Honour was at the forefront of that from the time of your Honour's appointment.

And in conjunction with that, both your Honour and Riley J have made important contributions to the video recording equipment. It does sound trite, but it's very important to the running of the court list and so on, particularly regarding the CCTV facilities for vulnerable witnesses. Whilst the facilities, generally, in the Alice Springs Courthouse cannot compare with the Darwin Supreme Court, your Honour's have both done wonders to improve and update the equipment for both the Supreme Court and the Court of Summary Jurisdiction.

In conclusion, your Honour has always been an extremely stimulating, charming and personable Chief Justice (although nicknames such as 'My Way Or The Highway' have been bandied about by nameless and shameless persons, but not by me).

At the risk of this sounding like a eulogy, your Honour will be greatly missed (but of course your Honour Riley J will admirably fill the shoes of Chief Justice and is a very worthy successor).

We thank you for your extremely hard work and industriousness, your high levels of energy and drive, your efficiency and outstanding ability to get to the nub of the issue, no matter how complex.

We wish you and your wife all the best in Alaska, particularly wearing that hat with the feathers that Sarah gave you last night, and wherever else life takes you.

And on a final note, I really hope that your Honour's final recollection of me is not the one that I have of you, which was last night when I happened to trip over Mr Noble's coat pocket and fall flat on my face in the restaurant of Casa Nostra. I have this enduring memory of your Honour appearing up like Mr Magoo over the table and looking over at me and thinking, 'Oh my god.'

HIS HONOUR, RILEY J: Thank you.

Ms Ingles, do you move?

MS INGLES: Thank you, your Honour. Now I'm present today in place of Russell Goldflam who unfortunately cannot be here in person. Now he's prepared submissions for me to present on his behalf and on behalf of Northern Territory Legal Aid Commission, Alice Springs.

I just wish briefly to say some words of my own. I'm sure that your Honour has no recollection of this, but on 22 March 2006 I presented my first claim of mitigation in the Supreme Court before your Honour. My client was pleading guilty to a nasty unlawful entry of an occupied dwelling at night, all in aid of stealing a bottle of red wine vinegar which he had spied through the victim's kitchen window.

My submissions went on at a tedious length until your Honour asked if the submission I was trying to make was that my client was at a crossroads in his life, which was precisely the point. I even went so far as to call a character witness in person whom I called to the stand using the wrong name. I called someone like Brett Lee, the cricketer, instead of my witness, Brett Freeman. Fortunately the witness answered the call and then corrected my mistake under oath in the box.

Nonetheless, your Honour created a supportive environment, did not laugh out loud at my blunder and did not penalise my client for his practitioner's inexperience. I mention this because Alice Springs often attracts inexperienced practitioners and in particular, in more recent times, practitioners who are not from the Bar interstate,

but are rather testing their advocacy skills for the very first time in the Northern Territory. Under the leadership of your Honour, the Supreme Court here has been supportive of, and patient with, the development of inexperienced practitioners appearing in its jurisdiction, which of course is very important to the quality functioning of the Court for all involved, and on behalf of those of us who fall into that category, I thank you sincerely for taking that approach.

Now, I'll move on to – I'll just channel Russell Goldflam, so imagine my voice dropping a few octaves.

Now, unfortunately, due to a prior commitment, I am away from Alice Springs today and I apologise for not being able to make these submissions personally. On 4 February 2004, your Honour presided in this Courthouse for the first time on the occasion of your welcome as our newly appointed Chief Justice. On that occasion, in the presence of the then attorney general, Mr Toyne, your Honour politely drew his and our attention to the inadequacies of this building's facilities, in contrast to those of Darwin. Six years later, despite your Honour's best efforts, our Alice Springs Court facilities remain sadly inadequate.

Far more importantly, the very serious underlying social problems which afflict our community, also remain, and I respectfully commend your Honour on the occasion of the announcement of your retirement for having been courageous and realistic enough to acknowledge that the task of effectively addressing these problems is one which will take a generation to complete. That's not being defeatist, it's being strategic. It is even possible that after another 25 years or so, we'll get ourselves a newly refurbished Courthouse here in Alice, but that may be naively optimistic.

When your Honour took on the formidable job of being the Territory's Chief Justice, you said this,

I will endeavour to establish greater and improved communication between the Court and the community.

Now, one outstanding way in which your Honour has taken up the challenge of improving communication with the community has been through sentencing proceedings. The conventional term 'sentencing remarks' does not do justice to the meticulously crafted, compellingly narrated, highly individualised decisions which your Honour has delivered when sentencing many of the offenders who have appeared before you in this Court.

Often what your Honour has published was a profoundly considered essay, not just on legal issues, but also the ethical, social and psychological dimensions of the case and the people, both the offenders and victims, in question. Not for your Honour, a brisk run through, perfunctually ticking the required boxes, before formally pronouncing sentence. Your Honour has used the sentencing process as an opportunity to talk to our community.

Now, of course as a defence lawyer, there have been occasions when I've been disappointed at the firmness of your Honour's sentences and have been instructed to challenge them. That inevitably comes with the territory of the criminal court. But what your Honour has done is precisely what I invited your Honour to do on 4 February 2004, when I had the privilege of making submissions to welcome you. I had the audacity to request your Honour, as I put it, to provide legal and moral leadership, and your Honour has had the audacity to grant that request.

Thank you. My colleagues and I wish you and your family every happiness and success in – I won't say you're retirement, but the next challenging phase of your ever challenging career.

HIS HONOUR, RILEY J: Thank you.

Mr O'Reilly, do you move?

MR O'REILLY: Yes, your Honour. Your Honour, Mr Goldflam's speech referred back to the ceremonial sittings when your Honour was sworn in and welcomed to the position in the Territory. I was able to attend that as well, and it's the only time that I've been able to attend ceremonial sittings for the welcoming of the Judge and also the farewell of a Judge.

And so my recollection of your Honour went back to that first speech that your Honour made at that time. One of the first substantive issues that your Honour raised was a recognition of the Aboriginality of this jurisdiction, and the practice of law in this jurisdiction. Your Honour referred to the need to engage with and learn about remote communities. Your Honour recognised the difficulties in sentencing Aboriginal offenders and your Honour clearly was minded to take that role very seriously and it has to be said that your Honour has done that over the years your Honour has been the Chief Justice.

Your Honour, has – Mr Goldflam referred to comments your Honour made about including the community and your Honour has always seen a need to include the community in the sentencing process, and to ensure that the general public have access to a greater understanding of the decisions that are made in this Court, and that has certainly been a hallmark of your Honour's time as Chief Justice.

The sentencing process in this Court here in Alice Springs is one that sees an endless parade of very serious violence through this Court. This Court deals with serious offending on a daily basis. The sentences to be handed out require that Judges undertake a very difficult and considered process. That has become even more the case during your Honour's time as Chief Justice. The spotlight has been put on the Northern Territory over the last few years and Central Australia in particular, and that's in recognition of some very real factors in Central Australia.

This Court has seen a very high volume of matters come before it, and that volume is probably now higher than it's ever been. So recent comments your Honour has made in relation to the need perhaps to step away from that process for

a while is understandable and they indicate the seriousness with which your Honour has undertaken this role. And it has to be said I concur with my learned friend, Dr Rogers, that your Honour has always performed that role to a very high standard, taking into account individual offenders as well as those messages that need to be sent out to the community. It's been a serious, thoughtful and considered process.

Over and above that, in this process your Honour has always treated offenders with dignity and respect, and has never lost sight of the fact that the sentencing process involves dealing with human beings, who often, themselves, come before this Court damaged and dysfunctional. Your Honour's shown an interest, where possible, in mediation and restorative justice kind of issues.

One of the most perplexing issues, perhaps, that your Honour's had to contend with over the time is the issue of how to deal with offenders who have psychiatric illnesses or intellectual disabilities, and your Honour's made some strong comments about the tragic lack of facilities for housing people with those particular complaints and the need for a new direction in relation to how we respond to those issues within the community.

The second issue that I recall from your Honour's speech those years ago was more of a personal one. Your Honour paid tribute to your family and in particular to your wife who you described as, 'the more intelligent half of our union' - - -

HIS HONOUR, RILEY J: True.

MR O'REILLY: - - - and talked about the - - -

HIS HONOUR, MARTIN CJ: Riley J just said, 'true.'

MR O'REILLY: Well, I have some sympathy for that position, which is why I raise it. But your Honour talked about a difficulty in terms of making decisions about pursuing a professional career and raising a family. At that time, I was father of three 3-year old boys and an infant. Your Honour was told that and indicated to me that that sounded like a good basis for asking for adjournments. Now, I've never actually had to pull that one out of the bag, I don't think, but it did indicate that your Honour had a consciousness of the human people behind the wigs who appear before you in this Court on a daily basis.

Your Honour has always been conscious of the practitioners and of the impact that the high volume of work has had on them. Your Honour's shown a concern at their development as practitioners and your Honour's always been interested in the personnel at CAALAS and how they're developing and how they're managing with the workload.

Your Honour has always treated myself and other practitioners with respect and again I echo the comments of Dr Rogers: it's at times been firm. Your Honour demands a high standard, but your Honour has always treated practitioners with respect and that's appreciated.



Notwithstanding your Honour's comments about your wife being the more intelligent half of the union, it has to be said that your Honour's no mug in that respect. Your Honour has clearly been a smart lawyer, a very pragmatic lawyer, a very knowledgeable and efficient, and I think Dr Rogers has commented well on your Honour's ability to reduce matters to very simple propositions and to come to the point very quickly and show everybody else exactly what that point is.

So, there is a loss to the Territory Bench in your Honour's leaving, but your Honour, I'm ever the optimist and I was trying to think in terms of what was on the bright side of all this and so I asked that perennial question: what's in it for us? Your Honour has been a very hard-working Judge, very hands on in terms of managing the lists in Alice Springs; some might say micromanagement, at times, of those lists. So, the last few years, we've seen more backup trials listed, we've seen more use of video links; there have been special sittings of Judges when the list gets a bit out of control. On occasions, we've had two Judges sitting here at a time. We've now got a regular practice of 9 o'clock pleas and breaches, which has had an adverse impact, I think on the local coffee shops, but they have become a regular fixture and we've even had, with some Judges, pleas starting at 4.30 in the afternoon. So, I thought, well, maybe we'll get some respite now, that we can all sort of relax a little bit and that was short lived when your Honour's replacement was announced and I suppose it's business as usual.

The last thing I'll say, your Honour is, your Honour won't recall this, I don't think, but it was at a function, perhaps a farewell for his Honour Angel J, and your Honour was speculating about the whole idea of retirement in the social environment and talking about options on retirement and keeping busy, and one of the suggestions your Honour was putting forward was that your Honour may be in a position, from time to time, to provide services to legal aid organisations and offer those services from time to time. At the time, I said to your Honour that I'd need to see your Honour's CV first and I'm not convinced your Honour thought it was as funny as I did, but it was a joke. I wouldn't need to see your CV, and if your Honour's ever at a loose end in Alice Springs, I'm sure we could find some work for you.

But, on behalf of CAALAS, I thank your Honour for the hard work and the contribution you've made to Central Australia.

HIS HONOUR, RILEY J: Thank you.

Chief Justice, do you wish to respond?

HIS HONOUR, MARTIN CJ: I think I should.

Riley J and ladies and gentlemen, I find myself embarrassed, listening to descriptions of a person far removed from my perceptions of this country boy from Adelaide Hills. You are all very kind.

This was a boy who did not enjoy being told by vocational guidance people that he would do well in the army, and it was a boy who had no idea, and I mean no idea, what he wanted to do and took on law just because he had to do something and I thought it might be handy. This is a country boy who understood zilch for at least six months. Elements of law? Absolute mumbo-jumbo it was to me; and I suppose some people might say nothing's changed.

So today I wonder how all this happened, but I am very grateful for the good fortune – bloody hell, anyone would think I'd just been sacked as Prime Minister – and I'm very grateful to you speakers for honouring the tradition of this occasion or these types of occasions, by exaggerating in my favour and avoiding the uncomfortable truths. Embarrassed I am, but I appreciate very much the kindness and generosity that lie behind your remarks.

Dr Rogers, I didn't know I rattled Counsel; I certainly hope I didn't bully them, and you're right, that magistrate had bullied the particular party before them. I have always tried to make the Court a pleasant place to work. Perhaps I haven't succeeded at times, because I know I have, at times, been quite firm, and I have always tried to treat offenders with dignity and respect.

It is something that perhaps is missing in our wider community, an understanding of offenders, their particular circumstances and why they must be treated with dignity and respect. They should never be abused by anyone sitting on a Court sentencing offenders, and the community needs to understand that. It is not an easy message to get out, but it is a message that should be got out there, so that people will understand that in fact there are very few truly bad people in our community.

Sitting in the criminal law or being involved in the criminal law for something of the order of 40 years, I have seen very few truly bad people. There are some; no doubt about that, for one reason or another, perhaps we will never understand, but the very vast majority of offenders who come before this Court are not truly bad people. Sometimes they commit terrible crimes and we as a community need to deal with this, but we also, as I said, need to treat them with dignity and respect.

I must say one of you mentioned a eulogy. Well, I can tell you this is a lot better than a eulogy, because I'm here to hear everything. Very kind, your remarks.

I mentioned the country boy with no idea what to do. I had a brilliantly lucky childhood. I was able to roam the Adelaide Hills shooting rabbits, if I could hit them, freedom to ride horses, play sport and I interrupted that life as little as possible with schoolwork. It was interrupted in school holidays and the teenage years by my father saying, 'Hard work is good for you,' and insisting I do things like hoeing woods around young apple trees in 100 degree heat. He said something about building character. But I will be forever grateful to my parents for that wonderful start in life and the example they set and the opportunities they provided for me.

So, sitting here today is the most unlikely of scenarios and I remain somewhat bemused as to how it happened. I do know that there are many people along the way, starting with my parents, without whose example, support and guidance I would not be here.

Now, it's already been mentioned what I had to say about my wife when I sat here for the first time, and I repeat, she is the highly intelligent one of our union, and despite that high intelligence and wise perception, she married me nearly 41 years ago and she has stuck with me and been a wonderful support.

Actually, to make me stop getting emotional, perhaps I should remember the first time I saw her for you. She was walking down the street, and I was waiting to go in for an interview at an office to become an Article Clerk, and I thought, 'Wow look at that.' And guess what? She turned right into the building into which I was about to enter to get the job. Boy, I worked hard to get that job.

So I have been very lucky indeed.

There are many others, too many to mention by name, but they include Judges, practitioners, advocates of experience and friends from whom I was able to learn. It is a matter of regret that time and budgetary constraints deny young practitioners today those invaluable opportunities to learn by watching and working with experienced advocates. The luxury of time that existed for me in the '70s has disappeared. It is a great pity and I appreciate that this problem is particularly acute here in Alice Springs and in other centres remote from Darwin. However, I must say that despite these problems the legal profession here and elsewhere in the remote areas of the Territory is entitled to be proud of the service it provides, often in difficult circumstances that those practicing in larger cities cannot hope to understand properly.

To the practitioners, you are truly an important part of this community. I have seen in practitioners, a genuine concern for the welfare of clients beyond the strict limits of professional relationships and a willingness to step outside the normal boundaries to help the less fortunate.

We all know the criminal work here is demanding. It can be dispiriting. From the perspective of the Court, the Judges greatly appreciate your genuine desire to cooperate with the Court and with opposing parties in endeavouring to find just and

reasonable solutions and to assist the Court in disposing of its business fairly and efficiently. You are entitled to be proud of your contribution.

The workload of all courts in the criminal jurisdiction is increasing. We face an immediate challenge in trying to avoid increases in our lists and in the time taken to dispose of criminal matters. The Supreme Court currently disposes of approximately 90 percent of its work within 12 months, but notwithstanding the increase in sitting times here to 40 weeks a year, and it will be 42 this year, we will struggle to maintain this level of efficiency.

You may be interested to know that in the 2009/2010 financial year, the sitting days and hours in Alice were up by almost 40 percent over three years ago. That is a very large increase. Already we hear Justices Appeals from Darwin and, as Mr O'Reilly mentioned, Judges are hearing pleas before and after trial sittings. This places intolerable burdens on Judges, staff, counsel and Corrections. We are over-listing because matters are expected to resolve at a late stage. This week we have listed head trials through into April and that, in my view, is an unacceptable delay of eight months. If we cannot reduce the number of matters in the Alice list awaiting trial, and if we are to avoid a blowout of waiting time, we will need again to increase sitting times which will mean having two Judges sitting in Alice at the same time.

Are there other ways of best dealing with this problem? No-one has a cure, but there is a need to resolve a greater number of cases at the time of committal or soon after they reach the Supreme Court.

Back in 1997, the Directors of Public Prosecution and the Directors of Legal Aid agreed to put more resources by way of senior personnel into efforts of early resolutions, but budgetary and staffing constraints have curtailed efforts to do so. Perhaps a system of criminal case conferencing, sometimes called criminal mediation, should be considered.

We need to actively seek solutions and not just wait until we have a major problem of excessive delay. And I say 'we' advisedly. Ultimately it is in the hands of the profession to initiate and control the processes at the early stage of the proceedings. The Courts can encourage and, at times, berate but the Courts cannot achieve effective change without the full cooperation and assistance of the profession.

Having mentioned delay and the question of efficiency, let me hasten to add that these issues should never prevail over ensuring that our procedures are fair as reasonably possible. In the Territory, this includes the provision of properly trained interpreters to assist accused persons and witnesses. This is an area that, at times, has been problematic and the increasing workload is likely to exacerbate these difficulties. It has received too little attention and insufficient funding. It is an area that urgently needs assistance.

Finally, in the particular circumstances in Alice, the prospect of two Judges sitting at the same time reminds me, as one of you has said this morning, about my words to the Attorney General. Ms Ingles, I think it was you or rather, Mr Goldflam for whom you were talking. But it reminds me of what I said to Dr Peter Toyne. I'd only just arrived here and it was perfectly obvious to me that there were some difficulties. So I was bold enough to say publically that there was a solution for the problem here; it was a very large bulldozer. Well, the building still stands, but I am pleased to say that the Attorney General does have possible solutions in mind and, hopefully, a solution will be in place before the next Chief Justice retires.

On a broader front, my retirement coincides with the election. I have to say I got in first. Of course, I must not comment and cross the great divide of the separation of powers. However, I cannot help but observe that the wind generated by camels and cattle in 10 years, pales into insignificance when viewed against the winds to which we are currently being subjected. Camels and cattle are probably causing a lot less environmental damage, as well.

However, those problems aside, an election is a reminder that we are lucky to live in a country which abides by the rule of law. A country which is capable of providing opportunities for people from all sections of our community to achieve reasonable standards of living, education, health and employment.

I use the word, 'capable,' advisedly. As a country, we have the capacity, and I believe the will, but for a significant number of our children we are far from utilising that capacity and will. A much greater effort is needed and, importantly, it must be delivered in far more effective ways than the efforts of the past. I know a lot of people are out there on the ground working very hard for disadvantaged children, but political leadership, resources and appropriate delivery are required. In my view, here lies a critical moral and practical challenge for our political leaders.

Returning to matters legal, permit me to mention two matters I regard as of particular importance. They have been highlights of my time in the Territory and they stand out because they demonstrated the extent of the goodwill that exists and how, with that goodwill and effort, seemingly intractable conflicts can be resolved.

The first was an initiative undertaken by the clans on Elcho Island to invite representatives of the Attorney General and the judiciary to witness and participate in the final stages of their Ngarra, that is their Chamber of Law. It was an enlightening experience and was followed by the presentation to the Chief Justice and a representative of the Attorney General of a document setting out the essential laws of the clans. It was the first time that the laws had been reduced to writing; a wonderful gesture of goodwill which demonstrated respect for the secular law and a genuine desire for reconciliation between the two sets of laws.

The second event arose out of proceedings taken by a senior tribal elder at Ngukurr against the Northern Territory Commissioner of Police, seeking damages for wrongful arrest. The parties were at severe loggerheads and the matter was listed

for trial. However, the parties agreed to a mediation which was conducted by Justice Sally Thomas who, of course, has since retired.

That mediation resulted in the signing on 29 June 2009 of an agreement of mutual respect between the group of elders, being the peak body of all seven language and clan groups in the Ngukurr area, and the Northern Territory Police. It was an outstanding result which not only resolved the immediate issues between the parties, but acknowledged the rights and duties of the parties and looked to the future and the development of ways to ensure mutual respect and understanding. So, these are two examples demonstrating the extent of goodwill that exists and how we can get together.

The second matter I need to mention concerns the relationship of the Courts with the media and the wider community. It relates to the fundamental question of confidence in the judiciary and our system of justice. That confidence can only be achieved and maintained if the community possesses a full understanding of the rule of law and a proper appreciation of our role and duties in maintaining that rule of law. Education in this regard is essential. While placing decisions on the internet is helpful, much more is needed. And I know that the new Chief Justice is anxious to make progress in this area. In this regard we are now fortunate to have a court liaison and education officer. Currently it is a part-time position, but even before the role has been fully developed, it is already obvious that a full-time position is needed.

I cannot emphasise too much that the Territory community is well served by its judiciary, who adhere to the highest standards of independence, impartiality and integrity. Of course, mistakes are made; they happen everywhere in our community, and we constantly battle negative perceptions fuelled by misunderstandings and misconceptions, particularly in the area of sentencing. Contrary to the image conveyed by some commentators, Judges and magistrates do live in the real world and many become victims of crime in one form or another. They experience common problems as parents and grandparents. In fact, Judges and magistrates, as most of you would know, see far more of crime and its impacts than most members of the community will ever be aware of.

Judicial officers are acutely aware of the suffering of victims and agonise over sentencing decisions. And I think it is fair to say that the recent decision, which I was required to make here in this Court, was one of those sentencing exercises over which I agonised. It was very difficult indeed, and the community should understand that it is not an easy task, when faced with a serious crime, particularly involving the loss of life, to sentence younger offenders who inevitably are required to go to gaol.

There is always a cry for heavier penalties, but hopefully, the community will come to understand that heavier penalties are not, in themselves, the answer. The problems go much deeper and we need to attack those fundamental problems in order that we might achieve what we all hope will happen, that is, a reduction in crime.

In saying farewell as Chief Justice, I want to thank everyone in the profession in Alice Springs for the warmth of the welcome I received in 2004 and for your ongoing friendship and support. I remember, with gratitude, my first circuit and how very kindly, without treating me like a learner, Counsel on both sides would gently steer me to the sections of the Sentencing Act and the Criminal Code and help me avoid the pitfalls. Your support was then, and has been since, invaluable.

Permit me also to express public, my gratitude to Sarah, Maxine and all the Court staff, past and present, for their work and support. It is not easy coping with different Judges every month, who all have their own ways of doing things and, dare I say it, their own peculiarities. I will thank Darwin Court staff in Darwin next week, but I will not let this occasion pass – and I'm going to do it again – without expressing my special gratitude to Margaret. She has been outstanding.

And the new Chief Justice, I've got one piece of advice for you: when Margaret says: 'Judge, do you think?' stop, listen and think. Very wise words come from your PA to be.

I will miss my regular visits to Alice. I call it my Red Centre fix. I think it comes from my childhood when I spent quite a bit of time, fortunately, travelling in the north of South Australia particularly. I hope I will be back regularly. I greatly appreciate your presence today.

To the new Chief Justice, congratulations; I know the Court is in good hands. From one country boy to another; now, perhaps those few of you who have never been assailed by Riley J with tales of his childhood in the wild west, just to inform you he hails from Bruce Rock. Now, you might well ask: which rock, where? He will gladly tell you over morning tea.

So, from one country boy to another, congratulations and good luck.

Finally, ladies and gentlemen, thank you for the privilege of serving as your Chief Justice.

HIS HONOUR, RILEY J: (Applause) That is a very unusual response to have in Court, but I agree with you. Thank you.

Thank you, Chief Justice.

Distinguished guests, ladies and gentlemen, we do invite you to join us for refreshments and I can talk to you about Bruce Rock. The Court will now adjourn, thank you.

ADJOURNED 9.46 AM INDEFINITELY