

SUPREME COURT OF THE NORTHERN TERRITORY  
STATE SQUARE, DARWIN

FAREWELL CEREMONIAL SITTINGS FOR  
THE HONOURABLE CHIEF JUSTICE BRIAN ROSS MARTIN

TRANSCRIPT OF PROCEEDINGS

COURTROOM 1, FRIDAY 20 AUGUST 2010 AT 3 PM

PRESIDING JUDGES:

THE HON CHIEF JUSTICE B R MARTIN  
THE HON JUSTICE T RILEY  
THE HON JUSTICE S SOUTHWOOD  
THE HON JUSTICE J KELLY  
THE HON JUSTICE J BLOKLAND  
THE HON JUSTICE J MANSFIELD AM  
THE HON JUSTICE J REEVES  
THE HON ACTING JUSTICE T OLSSON AO MBE RFD ED

IN ATTENDANCE:

THE HON CHIEF JUSTICE JOHN DOYLE AC  
THE HON JUSTICE JOHN SULAN  
THE HON JUSTICE PAUL COGHLAN  
THE HON JOHN TOOHEY AC QC  
THE HON AUSTIN ASCHE AC QD  
THE HON JOHN NADER RFD QC  
THE HON DAVID ANGEL QC

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

All persons having any business before this Full Court of the 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, Chief Justice Brian Ross Martin.

RILEY J: His Honour, the Administrator, Mr Tom Pauling, and Mrs Pauling, Madam Attorney-General, Judges, Magistrates, distinguished guests, grandchildren, members of the legal profession, family and friends of Brian Martin and Leigh Martin, welcome.

We gather to say a public farewell to our Chief Justice, Brian Martin, who will be retiring on 10 September 2010. The Senior Puisne Judge, Mildren J, apologises for his inability to be here today. He is overseas. I am joined on the Bench by Judges of the Court Southwood J, Kelly J, Blokland J, Mansfield J, Reeves J and Olsson AJ.

I wish to extend a special and warm welcome to those who have joined us on the Bench, John Doyle CJ and John Sulan J of the Supreme Court of South Australia; Paul Coghlan J of the Supreme Court of Victoria; the Honourable John Toohey, formerly a Judge of this Court and of the Federal Court and importantly of course of the High Court; the Honourable Austin Asche, formerly Chief Justice of this Court; former distinguished Judges of this Court, the Honourable John Nader and the Honourable David Angel.

Former Justice Sally Thomas was to be here today but she has now apologised. She is not enjoying good health and we wish her well.

The Judges have privately said farewell to his Honour, the Chief Justice. This sitting is to provide an opportunity for the profession and the public to recognise and celebrate the outstanding service provided by his Honour.

The Chief Justice has been a great success in the office. He has served this Territory and this Court well. He has led by example both in the quality of his judgments and in the respectful way in which he treated all involved in the Courts whether as staff, litigants, members of the public or as fellow Judges. The Court will miss him.

However, lest speakers miss it, there is one significant flaw in his character which I must mention, one shortcoming that those of us who remain behind are seeking to remedy. Whilst this ceremony proceeds we have a special team of dedicated workers on the sixth floor of the building and, if you listen carefully, you will hear the sounds of scraping and tearing as Adelaide Crows posters are permanently

removed. It is a dangerous and dirty job but necessary for the wellbeing of those of us who have to remain behind.

Madam Attorney, do you move?

MS LAWRIE: May it please the Court. It is a privilege to rise on behalf of the Northern Territory Government and the citizens of the Northern Territory to pay tribute to your service, your Honour, Martin CJ.

Your Honour has had a career of truly national standing. During your time as Chief Justice, you have held office as Chairman of the Australian Supreme and Federal Courts Judges Conference. Prior to your appointment as the fifth Chief Justice of the Supreme Court of the Northern Territory on 2 February 2004, your Honour was a Judge of the Supreme Court of South Australia.

Your Honour has distinguished yourself as a Judge on many accounts. In particular, you have had the conduct of two of the most difficult and high profile trials in Australian criminal history. In South Australia your Honour presided over the Snowtown trial which was one of Australia's longest and most complex criminal trials. The trial ran for 11 months and heard evidence from 227 witnesses. Following seven days of deliberation, the jury found the accused guilty. Despite the length and complexity of the case, the verdicts were upheld on appeal.

In the Territory, your Honour presided over the trial of Bradley John Murdoch for the murder of British backpacker, Peter Falconio. The matter involved numerous preliminary determinations in relation to the admissibility of evidence; involved complex questions of credit, identification, DNA and other expert evidence; and was subjected to intense scrutiny by the national and international media. Again, the verdict was upheld on appeal.

Prior to your appointment as a Judge, your Honour held office as the Director of Public Prosecutions for the Commonwealth of Australia. During your time as Director, your Honour formulated and issued the office's statement on prosecution disclosure. For the first time in the Commonwealth arena, that statement gave some formal structure to the requirement that prosecutions be conducted fairly, transparently and according to the highest ethical standards. Your Honour's tenure as Director was also distinguished by the development of relationships with the various Commonwealth investigative agencies, resulting in a significant expansion in the number of agencies referring briefs to the Director's office and the extension of the office's role in providing advice during investigations and assisting in the training of investigators.

In 1991 your Honour was appointed as Senior Counsel assisting the Royal Commission into the Commercial Activities of Government and Other Matters, known colloquially as WA Inc. That inquiry led to findings that the system of government in Western Australia had been placed at serious risk by a series of improprieties and the identification of fundamental weaknesses in the capacity of existing government structures to ensure the degree of openness, accountability and integrity necessary

to serve public interest. This led in turn to significant reforms in government's mechanisms in Western Australia.

Between 1974 and 1985 your Honour was engaged in various positions with the South Australian Prosecutors Office, ultimately holding appointment as Crown prosecutor. You were universally regarded as highly competent and scrupulously fair, if somewhat intimidating. Opposing counsel all referred to you as The Black Prince although perhaps not to your face. Your Honour was appointed as one of Her Majesty's Counsel in 1984 and then enjoyed a distinguished practice at the private Bar between 1985 and your appointment as the Commonwealth Director of Public Prosecutions in 1997.

Your Honour has also had a long and extensive involvement in community sports administration. You were a member of the management committee of the Sturt Football Club, the chairman of the recruiting committee and a member of the board of management of the South Australian National Football League. And although everybody must surely know that one year your Honour kicked 10 goals for Sturt and was dropped to the bench the next week, that story is simply too good not to mention once again.

Your Honour was also the chairman of the South Australian Schools Football Association for 14 years. This involvement culminated in your appointment as a director of the Adelaide Crows Football Club. Your Honour's passionate support for the Adelaide Crows led you to suffer serious injury during a recent match as you sought to demonstrate to the Crows' players how to kick an imaginary football while screaming at the television.

Upon your Honour's appointment to this Court, you expressed the view that there needed to be an improved communication between the Courts and the people they serve in order to foster a better public understanding of the way in which the Courts work. Your Honour has put that belief into practice and, during your time as Chief Justice, you have appointed a courts education and liaison officer. We both know how long that took. You also made yourself available to speak at the Northern Territory and South Australian Press Clubs. Your Honour may also be the only Chief Justice in the western world who has a regular spot on talkback radio.

Your Honour's attention to such matters as listing and sentencing procedures and mediation as an alternative to trial has significantly improved the Court's clearance rate over the course of your tenure. The Court's clearance rate is now one of the highest in the country. Your Honour's success in improving the efficiency of the Court is perhaps best illustrated by the fact that when you commenced as Chief Justice, the waiting time for a criminal trial was 12 months and now it stand at three months.

The regular conduct of mediations by Supreme Court Judges was introduced during your tenure as Chief Justice and it has been a notable success. You have also supervised the introduction of the trial civil procedure reforms with effect from

1 January of this year which have further streamlined the process of civil litigation and reduced the cost to litigants.

During your time in the Territory, your Honour has been particularly active in matters of Indigenous justice and customary law. You have pioneered the conduct of the Supreme Court criminal proceedings in remote communities. You have supported the consideration of matters of customary law and cultural practice in the sentencing process. You have led deputations of Supreme Court Judges to observe Yolgnu parliaments and legal structures and you have addressed the Judicial Conference of Australia in relation to matters of customary law. Your Honour has also paid special attention to the administration of justice in Alice Springs, increasing the Court's presence in Alice from 30 to 40 weeks per year.

Now is not the time to deal in any great detail with your Honour's contribution to the jurisprudence of this Court in the many carefully-reasoned decisions you have delivered as Chief Justice. I might simply refer, by way of example, to your Honour's reasons for the decision in *Ladd v The Queen*. In that case your Honour conducted a careful survey of the diverging interpretations that had been given to the High Court's landmark 1971 decision in *Green v The Queen* in relation to the meaning of the term 'beyond reasonable doubt'. Your Honour subsequently delivered a paper at the 2010 Federal and Supreme Court Judges Conference identifying the appropriate approach to adopt where jurors seek clarification of the term. The fact that the High Court refused special leave to appeal in *Ladd v R* might be seen to indicate the Court's agreement with your Honour's analysis.

Your Honour has aided the development and stature of the Court by promoting the appointment of distinguished interstate Judges as acting Judges of this Court. During your Honour's tenure, we have seen on this Bench former Chief Justice King and former Justice Olsson of the South Australian Court and Mansfield J of the Federal Court. In fact Olsson J has taken such a liking to the place and spent so much time here over the last few years, he may soon have to transfer his driver's licence.

Your Honour has overseen the commissioning of the portraits of the Chief Justices that hang outside this Courtroom in preparation for the Court's centenary next year. Your Honour's skill in bureaucratic combat at close quarters may be seen in the fact that the Court building will have a new coat of paint in time for the centenary. And speaking of that particular skill, your Honour has always vigorously defended the independence of the Court but has, at the same time, maintained an effective working relationship with the Executive and the Attorney-General of the day. On a personal note, I have particularly appreciated your Honour's frankness and decency in all of our dealings.

But perhaps your Honour's most important contribution is that you came to this Court as an outsider at a time when effective leadership was truly required. By your personal qualities and your unfailingly principled approach, you quickly gained the confidence of the other Judges and the profession and, with their support, have achieved the results of which I have already spoken.

We are sad your Honour is leaving us. That sorrow is tempered by the knowledge that your Honour will be able to enjoy the quality of life that you so richly deserve after 40 years in service of justice. We also take comfort from the fact that having Territorian grandchildren, Ellery and Darcy, we will no doubt see your Honour as a frequent visitor.

We have been truly privileged to have you as our Chief Justice. We thank you and we wish your Honour and your very lovely wife, Leigh, all the best in the next stage of your life. May it please the Court.

RILEY J: Thank you.

Madam President of the Northern Territory Bar Association, do you move?

MS WEBB QC: May it please the Court. Your Honour, I rise on behalf of the members of the Northern Territory Bar Association to wish your Honour a fond farewell from the Supreme Court of the Northern Territory. I rise to wish you well for the future and to thank you for your contribution to the institution of the Supreme Court and its reputation.

It seems like only yesterday that your Honour was welcomed to this Court, but how time flies. In the six years you have been Chief Justice, you have quietly put your stamp upon the Court and enhanced the institution. In the tradition of previous Chief Justices, you have made a real contribution to the life of the Court and the life of the law in the Northern Territory. Your Honour's period as Chief Justice has been good for the Court.

You set about early in your time as Chief Justice to promote and maintain a true collegiate atmosphere amongst the members of the Court. You have been an excellent communicator among fellow Judges. You have brought rigour to the judgments of the Court of Criminal Appeal and have demonstrated throughout your time as Chief Justice both a good analytical mind and an excellent grasp of principle. In demonstrating these qualities, your Honour brought with you a rich and deep experience of the law as an active and hardworking practitioner.

For the members of the Bar, your Honour has shown an admirable ability to get on top of the facts, sometimes complex facts, in the individual case. In the manner of some modern Judges, your Honour has been prepared to be interventionist as the case requires. You have been concerned at all times to maintain the integrity of the Court and its reputation for doing justice fairly and efficiently. Your Honour adhered to and reinforced, in a contemporary context, the constitutional principle that the Supreme Court is an open Court, to be seen to be open and to be accessible to the community. In the pursuit of this principle, your Honour has engaged with the media, engaged a media officer and sought to have the Court record properly recorded in the press. Always a difficult task but you did it with distinction.

Sometimes your Honour's engagement with the media has had an unexpected edge. If I can read from one article:

'The Northern Territory Chief Justice wants Fairfax Newspapers to apologise for their portrayal of Darwin as a hick town in the Peter Falconio murder trial. Chief Justice Brian Martin said an article which appeared in the Sydney Morning Herald and The Age on the weekend was objectionable for a number of reasons. The newspaper article, which also appeared on British newspaper, the Guardian's website, said, "Darwin had pulled out all the stops for the trial but small town feeling had crept in." It said, "Northern Territory Director of Public Prosecutions, Rex Wild QC, referred to the Chief Justice in Court by his first name." Justice Martin said the article reflected unfairly and inaccurately on Mr Wild, the Court and the Northern Territory criminal justice system. "Mr Wild has never in Court referred to me by my Christian name," Justice Martin said. The British journalist who wrote the article was no longer in Darwin, the Northern Territory Supreme Court heard. Seeing that his article portrayed Darwin as something of a hick town, how did he get out? "Presumably by horse and carriage," Justice Martin said. He urged the newspaper's lawyers to get instructions for an appropriate retraction and apology for all concerned. "I will consider after I have seen that what further action should or should not be taken," Justice Martin said. "Nobody in the Territory minds being sent up in a fair way. We all have a sense of humour. But there's a right way and a wrong way of doing things".'

That is how you dealt with the media on that occasion, your Honour.

There is, your Honour, a completely unsubstantiated rumour that your retirement was brought on by a rather interesting litigant, in person one, Mr Mofalesi, whom we understand to have fled the country since his last trial before you, if your Honour wishes to change your mind about retiring.

Farewells are always emotional occasions. We reflect upon what was, what has been shared and what you have contributed. We thank you for your principled contribution to the law and its practical application in this Court. But professional life is only one aspect of life's wider journeys. You have acquitted yourself so well in the former and we wish you and your wife, Leigh, well in the latter. And, in the spirit of Lord Byron, make the journeys, make the journeys.

We thank you for having given so much of yourself and your talents to the people of the Northern Territory. May it please the Court.

RILEY J: Thank you.

Mr President of the Law Society of the Northern Territory, do you move?

MR STOREY: May it please the Court.

Your Honours, here we are again. I have addressed this Court previously as to the dilemmas I face in these situations. I could make submissions demonstrating to the Court that my research skills in identifying your Honour, Martin CJ's career

highlights exceed those of the Honourable Attorney by revealing that your Honour, at law school, had to sit a supplementary examination in the subject of civil procedure.

MARTIN CJ: What happened to privacy law?

MR STOREY: After failing the original exam, having scrawled on the paper in angry letters, 'The whole system leads to unacceptable delay and should be reviewed. I suggest introduction of Practice Direction 6.' However, as I can't be sure of my sources, I won't. Similarly I could exceed the Honourable Bar Association President and display a personal knowledge of your Honour based on numerous appearances before you and joint attendances at social engagements. However, I wasn't there and I'm sure that the rumours of table dancing at the last Bench and Bar Dinner are greatly exaggerated. Tomorrow night might be different.

So your Honours, I am left to comment on the perception of your Honour, the Chief Justice, I have formed by my observation both as a member of the profession and of the community. I say 'community' advisedly in this context because it's on this matter that I wish to focus.

Chief Justice, my main impression of you is as a Judge with a preparedness, indeed a passion, for engaging your Court with the community which it serves. This passion has manifested itself in the support your Court has given to our law school, in your patronage of the Young Lawyers Organisation and in your participation and assistance with the events the Law Society has arranged so that young people can gain a better appreciation of the processes of the law.

More than this though, your Honour has engaged with the community through a preparedness to have the Court and its workings discussed in and scrutinised by the media; to have the conclusions of the Court and the rationale by which it reached them publicised and debated. This course is not without its dangers. The media has its own objectives which do not necessarily include those of the Court of delivering accurate and effective community legal education. Indeed, there are some of my colleagues that have suggested a Court is ill-equipped for this task and should not embark upon it. Such of my colleagues are, in my respectful opinion, wrong.

At a time when our community faces great challenges many of which impact so greatly particularly upon our criminal justice system, it is imperative that the community understands and supports our justice system, the protections it affords and the responsibilities it imposes upon us all irrespective of our background. Such community understanding cannot be assumed, your Honours. It is a goal that must be pursued diligently. In the process, there will inevitably be many knocks and infrequent laurels. In my respectful submission, your Honour, this is a goal you have effectively and successfully pursued, Chief Justice.

In so doing, you have enhanced the position of this Court within our community and furthered the principles for which it stands. I can think of no finer achievement that a member of our profession could aspire to. May it please the Court.



RILEY J: Thank you.

Chief Justice, do you wish to respond?

MARTIN CJ: Thank you, Justice Riley.

Your Honour, the Administrator, Mrs Tessa Pauling and ladies and gentlemen. In February 2004 when I presented my commission as Chief Justice, it was a daunting experience to sit here for the first time and look out into this Courtroom full of people with whom I was not familiar and who possessed undefined hopes and expectations of an unknown bloke from down south.

The welcome was quite exceptional and ongoing in its warmth and genuine message of goodwill and support. Today, with rampant mixed emotions – I said I wasn't going to do this again – I look out on familiar faces and reflect on that welcome, on your wonderful support both in and out of Court and above all your friendship.

I find myself embarrassed listening to descriptions of a person far removed from my perceptions of this country boy from the Adelaide hills. This was a boy who did not appreciate being told by vocational guidance people, who were supposed to help you, that he would do well in the army. This was a boy who had no idea, and I mean no idea, what he wanted to do and he took on law because he had to do something and thought it might be handy. This was a boy who understood absolutely nothing for the first six months of the law course. Elements of law? Absolute mumbo-jumbo and I suppose some might say nothing has changed.

So today I wonder how all this happened. I am very grateful for the exceptionally good fortune that has attended my life. I am very grateful to you, Madam Attorney, and to you, Presidents, for honouring the traditions of these occasions by both exaggerating in my favour and by avoiding uncomfortable truths. Of course, Madam Attorney, I should have known that you would hear somehow about my recent exploits when Kurt Tippett from 15 metres out, dead in front, we're about to beat Geelong and he missed. It was no wonder I leapt from my chair and executed a wonderful, straight left-foot goal. Twenty-four hours later it caught up with me and I couldn't move my left leg.

You have been exceedingly generous in your remarks and I appreciate very much the kindness and generosity of spirit that lies behind them. In your remarks you expressed gratitude for my contribution to the work of this Court, but I must tell you that the gratitude flows entirely the other way. It is Leigh and I who thank all of you, the Territory and its community at large for taking us in and enriching our lives immeasurably.

I mentioned a country boy with no idea what to do. My childhood was a brilliant life of freedom to ride horses, play sport, race stripped-down cars around the orchard - particularly when my father was not there - and to wander the hills shooting, that is, attempting to shoot rabbits. I interrupted that life as little as possible with school

work and in school holidays particularly in my teenage years, it was interrupted when my father insisted it was good for my character to weed around, using a hand hoe, young apple trees in 100 degree heat. That's 37.7 for most of you.

MR MARTIN SENIOR: (inaudible)

MARTIN CJ: You wonder where I get it from.

So I will be forever grateful to my parents for that wonderful start in life, for the example they set and the opportunities they provided for me. And, despite the fact that he can't keep quiet, I am delighted that my 92-year old father is here today and is in great shape.

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. Foremost among those is my wife, Leigh.

As a young person looking to enter the legal profession as an articled clerk, I was standing outside an office in Weymouth Street, Adelaide waiting to be interviewed for a position as an articled clerk and I saw this blonde bombshell walking down the road and I thought 'Wow'. The next minute, she turned right and went up the stairs into the building into which I was going. It turned out she worked at the solicitors' firm where I was seeking a job as an articled clerk. I have never worked so hard for a job in my life.

Well for three months she wouldn't talk to me. She figured that I was a big-headed young footballer. I can hear all of you saying 'A very perspicacious woman, that Leigh'. But eventually, despite the fact that I was earning an enormous wage of \$5 a week as an articled clerk, she agreed to marry me and she has stuck with me for 41 years for which I am grateful beyond words. Together with the joy and fortune of having children and grandchildren, and my children have had a lot to put up with, but their love and support also has never wavered. My grandchildren have actually been ejected from the Courtroom, I think. It must be something in the genes.

There are many others, too many to mention by name, but they include Judges, practitioners, advocates of experience from whom I was able to learn. Justice Sulan was one of the earlier ones and I am delighted that he is here with us today. He put up with my inane questions when I first became a Crown prosecutor. Justice Duggan, who can't be here today, who, I might add, when I first applied to be a Crown prosecutor, refused and rejected my application. How dare he? Anyway he took me on the second time round, and Chief Justice Doyle, who I'm also delighted to see here today, from whom I learnt much when I first went on to the Supreme Court. And, Madam Attorney, I think I have to 'fess up. Chief Justice Doyle is the first one who took on talkback radio and I followed his example. He has done so very successfully.

It is a matter of regret that time and budgetary constraints today deny young practitioners those invaluable opportunities to learn by watching and working with experienced advocates. The luxury of time that I had in the '70s has disappeared. However, despite time and budgetary constraints, the legal profession here in Darwin and throughout the Territory is entitled to be proud of the service it provides and of the contributions the practitioners make to the community. From the perspective of the Court, the Judges greatly appreciate the spirit of cooperation that exists between practitioners and between practitioners and the Court. This is essential for the operations of the Court, particularly as we do face the ongoing problem of an increasing workload in the criminal jurisdiction both here and in Alice Springs.

Currently we manage to dispose of approximately 90% of our cases within 12 months, but maintaining this rate of efficiency is becoming increasingly difficult. While our civil sitting times have dropped, in 2009/10 the number of jury sitting days was up by 27%. In 2009/10 the sitting days and hours in Alice Springs were up by almost 40% on three years ago. The circuit sittings, as the Attorney mentioned, have increased to 40 weeks a year. In fact, this year it will be 42. And yet, despite Judges, practitioners and staff working long hours, squeezing cases into small time slots, we are struggling to keep pace.

Already we hear Justices Appeals from Darwin and we overlist because matters are expected to resolve at a late stage. Judges conducting trials cannot be expected to continue indefinitely the practice of sitting daily on pleas and other matters before and after jury sittings. The burden will become intolerable. If we cannot reduce the number of matters in the Alice list awaiting trial and if we are to avoid a blowout in waiting time, we will need again to increase sitting times which will mean, Madam Attorney, having two Judges sitting in Alice at the same time. As you are well aware, currently this is not possible because of the limited number of Courts and it leads me to an issue close to my heart.

I regret to say that I leave my position as Chief Justice without achieving an Alice Springs objective. In 2004 in my remarks in Alice Springs, I told the Attorney-General of the day, Dr Peter Toyne, that there was only one solution for the Alice Springs Court. That was a very large bulldozer. I suspect it is still the solution but I do know that the Attorney-General has a solution in mind. I hope, Madam Attorney, that the solution comes to fruition before the next Chief Justice retires. It should. As you can all see, he is a mere lad.

So bulldozers aside, we need to work hard on the problem. We need to put more resources into trying to solve matters before they get to the Court. And when I say 'we', I use that word 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 we cannot achieve effective change without the full cooperation and assistance of the profession.

Delays and questions of efficiency of course must never take priority over the need to ensure that our procedures are as fair as possible. In the Territory, this

includes the provision of properly trained interpreters to assist accused persons and witnesses. This is an area that has received too little attention and insufficient funding.

On a broader front, my retirement coincides with the election. I need to say that I announced my retirement first. Now, an election is a reminder that we are lucky to live in a country which abides by the rule of law. It is 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 efforts of the past. I know a lot of good people are out there on the ground working very hard for disadvantaged children, but political leadership, resources and appropriate delivery are required. Here, in my view, lies a critical moral and practical challenge for our political leaders.

While on matters political, permit me also to comment briefly on another significant challenge for our political leaders and the community. Darwin presents a wonderful kaleidoscope of people of different cultures, colours and ethnic backgrounds. The vast majority live and work together in harmony and go about their daily lives without giving any thought to our differing colours, backgrounds or our differing dress customs. So I become disturbed and agitated when I hear people espousing their intolerant views and pressing for laws prohibiting the wearing of a particular form of dress under the guise of helping the few who wear such dress. I heard someone say that it is un-Australian. What arrant nonsense. These people are of course perfectly entitled to express their views. I am equally entitled to be disturbed by them.

I urge political and other leaders of our community not to pander to the intolerant by conveying negativity with statements such as being confronted by a particular form of dress. We do not talk about feeling confronted by a motorcycle helmet or a hat and a scarf which effectively obscures a face. Those prominent in our political and community landscapes should be brave enough to provide strong demonstrations of leadership by positively embracing and celebrating diversity of cultures.

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

In 2005 the clans on Elcho Island invited representatives of the Attorney-General and the judiciary to witness and participate in the final stages of their Nara, that is, their chamber of law. It was an enlightening experience and was followed by the

presentation to the Chief Justice and to a representative of the Attorney-General of a document setting out the essential laws of the clans. It was the first time the laws had been reduced to writing. A wonderful gesture of goodwill which evinced 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 serious loggerheads and the matter was listed for trial. However, the parties agreed to a mediation, which was conducted by Justice Sally Thomas, who unfortunately can't be here today and, as you all know, has since retired. The mediation resulted in the signing on 29 June 2009 of an agreement of mutual respect between a group of elders being the peak body of all seven language and clan groups in the northern area and the Northern Territory Police. It was an outstanding result which not only resolved the immediate issues between the parties but acknowledged the respective rights and duties of the parties and looked to the future development of ways to ensure mutual respect and understanding.

The second matter of importance I wanted to mention has been touched upon by the Attorney and other speakers. It concerns 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 and the Attorney-General has mentioned that it took some years, five in fact, but we finally have a courts liaison and education officer and I thank you, Madam Attorney, for your active support in that regard. We will need to increase this to a full-time position.

Expectations of the Court and the system have changed and we must earn public confidence. 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, particularly in connection with education concerning the contentious issue of sentencing.

Well, there are other people to thank. First, I want to thank the juries with whom I had the pleasure of working over many years. Every institution of human invention, based on human decisions, has its flaws, but our system of justice is also attended by features of excellence and the involvement of jurors from our community is one such feature. To those who contend otherwise I say, with respect, your views are misguided. Jurors work hard. They are conscientious. It is not often that they get it wrong. If there are failings, they concern inadequacies in the presentation of evidence and in our communication with jurors.

And if I may be permitted to reminisce about one highlight of juror participation. This is probably not strictly correct to do this but I'm going to do it anyway. I'm nearly gone. It was in the Snowtown trial. The comprehension of the jurors during an extraordinarily difficult nine months was absolutely remarkable and I hold a vivid

memory of all jurors, including the forewoman, resolutely looking directly at the offenders as the forewoman firmly delivered each verdict of guilty.

Madam Attorney, thank you for your active support of our Courts and the judicial officers of the Territory who serve this community so well. I thank my associates and secretaries over the years, all of whom have gone out of their way to support me and all of whom I regard as friends. In particular, Margaret Babington, who many of you know and would realise has been outstanding in her support and guidance. My thanks also to the Court staff and the people in Court Reporting who quietly and effectively and without recognition provide the invaluable day-to-day support that is so essential. And I will pick out one because Chris Cox is an outstanding administrator who previously Justice David Angel said is the one who manages to cut through the bureaucratic tape and to do so so effectively and we really appreciate that.

Finally, the Judges. Truly, they're not a bad bunch when you look around. From day 1, without exception they have worked diligently and cooperatively, making my job much easier than it might otherwise have been. The Territory community is well served by its judicial officers and that message needs to be sent out loud and clear.

Justice Riley, from one country boy to another, congratulations and good luck. The Court is in excellent hands.

Ladies and gentlemen, to the group of you, I greatly appreciate your presence here today. Thank you and thank you for the privilege of serving as your Chief Justice.

RILEY J: Thank you, Chief Justice.

Mr Grant, do you move?

MR GRANT QC: I so move the Court.

RILEY J: Mr Karczewski, do you move?

MR KARCZEWSKI QC: May it please the Court.

RILEY J: Mr Tippett, do you move?

MR TIPPETT QC: May it please the Court.

RILEY J: Ms Cox, do you move?

MS COX QC: May it please the Court.

RILEY J: Mr Barr, do you move?

MR BARR QC: May it please the Court.

RILEY J: Mr Wyvill, do you move?

MR WYVILL QC: May it please the Court.

RILEY J: Are there any motions from the Bar? Thank you.

Ladies and gentlemen, that concludes this special sitting. The Judges will be pleased if you will join us in the foyer of the Supreme Court for refreshments following the adjournment.

The Court will now adjourn.

SHERIFF'S OFFICER: Silence. All stand.

This honourable Court now stands adjourned.

God save the Queen.

ADJOURNED 3:50 PM INDEFINITELY