

Copyright in the Northern Territory Government

---

SUPREME COURT OF THE  
NORTHERN TERRITORY OF AUSTRALIA

CEREMONIAL SITTING  
ON THE OCCASION  
OF  
THE APPOINTMENT OF  
THE HONOURABLE JUSTICE B.F. MARTIN AO. MBE  
AS CHIEF JUSTICE OF THE COURT  
AT  
DARWIN  
WEDNESDAY 31 MARCH 1993

MARTIN CJ: Your Honours, I present my commission from the then Acting Administrator of the Northern Territory of Australia appointing me to be Chief Justice of the Supreme Court of the Northern Territory as from 1 March 1993.

Before proceeding to the discharge of the duties of that office I took the prescribed oath before His Honour Justice Sir William Kearney, a person appointed by the Attorney-General in that behalf. Registrar, would you please read the commission.

REGISTRAR: Commission to the Honourable Brian Frank Martin: Know ye that, reposing full trust and confidence in your loyalty, learning, integrity and ability, I, Keith John Austin Asche, the Acting Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council of the Northern Territory of Australia, in pursuance of sections 32(1) of the Supreme Court Act 1979, do by this my commission, appoint you The Honourable Brian Frank Martin, to be Chief Justice of the Supreme Court of the Northern Territory of Australia from and including the first day of March in the year of our Lord One thousand nine hundred and ninety-three to have, hold, exercise and enjoy the said Office of Chief Justice of the Supreme Court of the Northern Territory of Australia under and subject to the provisions of the Supreme Court Act 1979 as amended from time to time during good behaviour with all the rights, powers, privileges, advantages and jurisdiction thereto belonging or appertaining. Given under my hand and the Public Seal of the Northern Territory of Australia on the twenty-sixth day of February in the year of our Lord One thousand nine hundred and ninety-three. Signed by His Honour, the Acting Administrator of the Northern Territory of Australia. By His Honour's command signed by the Chief Minister acting for and on behalf of the Attorney-General of the Northern Territory.

MARTIN CJ: Thank you. Mr Attorney, do you move?

MR STONE: May it please the court.

I appear on behalf of the Northern Territory Government to welcome and congratulate Your Honour on your appointment as Chief Justice.

Your Honour has made a distinguished contribution to the development of the Northern Territory, in particular Alice Springs. You have done this not only through the law, but also through your community and civic involvement.

Your Honour arrived in Alice Springs in 1963 and commenced practice as a solicitor in September of that year. Thirty years on and Alice Springs is a very different town from the community that you found when you first arrived.

Many of the people of Alice Springs still remember the partnership of Martin and Barker as a practice of unrivalled service. In the minds of many people, you are both legends in Central Australia and not merely for what you achieved in your law practice. That firm of Martin and Barker now survives as Martin and Partners and they do well to retain your name in their practice.

Your commitment to the law has manifested itself in many different ways. You had a long and valuable association with the Law Society of the Northern Territory. You were an inaugural member of the Society when it was formed on 7 May 1968, nearly 25 years ago. You were the Alice Springs representative from 1970 to 1977. That tradition continues with the senior partner of Martin and Partners continuing to this day as the representative from Central Australia.

However, it was not only law that occupied your mind in Alice Springs as you played a large role in the affairs of that community.

Your Honour served the Alice Springs community as a Member and later Chairman of the Alice Springs Town Management Board for three years prior to July 1971.

You also served as an Alderman and Deputy Mayor of the first Alice Springs Council. You were Deputy to the late Jock Nelson, former Member for the Northern Territory, succeeding him as Mayor in 1972. You served three years as Mayor, retiring in 1975. There is a photograph of Your Honour, taken when you first became Mayor, which hangs in the Alice Springs Town Council Chambers.

I am able to say that the people of Alice Springs are very proud of that association and Alderman and Council employees are quick to point out to visitors that their former Mayor is a member of this court.

Your association with Alice Springs is also shared by your wife and four children, all of whom were born in Central Australia. In partnership with your wife Lorraine you have carved out for yourself and your friends a place in a community that is proud to count you among them. Lorraine's support has largely contributed to Your Honour's achievements and we acknowledge and applaud her today for what she has contributed to the Territory as a wife and mother.

It is said that you must see the Todd flow three times before you can call yourself a member of the Alice Springs community, and while Central Australia was in the midst of a long drought when you first arrived, I know that you have well and truly proven your commitment since then.

I am sure that I speak on behalf of the Alice Springs community in saying that we share in the honour of your appointment.

In 1978, the Territory achieved Self Government lead by Chief Minister Paul Everingham, a fellow solicitor from Alice Springs.

At that time you were asked to chair a committee established by the new Northern Territory Legislative Assembly to inquire into the welfare needs of the Territory.

If the 70's were a time of consolidating yourself in Alice Springs, the 80's became a time of service to the Northern Territory Community.

In 1980 you were appointed by the Minister for Lands to chair a Committee of Inquiry into pastoral land tenure in the Territory. In that same year you were appointed to the Board of Directors of the Australian Bicentennial Authority and Chairman of the Northern Territory Council of the Authority. These positions were held by you until 1989.

The following year, in 1981, the Northern Territory gained a Solicitor-General and Secretary of the Department of Law and Alice Springs lost an outstanding member of the community, when you were appointed to these positions on 19 January.

In 1982 you were awarded a Member of the Order of the British Empire for services to the community and on 29 September received your commission as one of Her Majesty's Counsel learned in the law.

No doubt Your Honour is reflecting on the fact that we no longer award imperial honours and that a number of the heads of Government have indicated that they will no longer award commissions as Queen's Counsel. Notwithstanding you have the unique distinction of having bridged the gap between the old and the new when you were awarded the Order of Australia.

You ceased to be Secretary of the Department of Law on 3 May 1986 but continued as Solicitor-General until your appointment as a Judge of the Supreme Court of the Northern Territory on 30 September 1987.

Your efforts in restructuring the Office of the Solicitor-General to make it consistent with the position in other jurisdictions, was and is an important step towards Statehood.

The importance of the office of Solicitor-General, and Your Honour's contribution while occupying that office, cannot be understated. With fellow Solicitors-General you were largely responsible for consideration of important reforms in the law which passed through our Assembly before you were appointed to this court.

I am told by my predecessors that the counsel that you gave was wise, forthright, carefully considered and consistently practical. I am sure that our current Solicitor-General, Tom Pauling QC, has learned a great deal in the time that he spent with you.

Your Honour, it is a long time since you last cycled to court in Alice Springs in full regalia. The exploits of Martin and Barker are firmly enshrined in the folklore of Alice Springs. Your contribution and that of your family to the growth and development of Australia's Northern Territory has already been recognised and documented.

You are a son of the Territory like your predecessor and it was with great pleasure that we extended to you the appointment as Chief Justice.

On behalf of the Northern Territory Government I offer our best wishes to you and your family and wish you well for the future.

If the court please.

MARTIN CJ: Mr Attorney. Mr Hiley, do you move?

MR HILEY QC: If the court pleases.

I appear for the Northern Territory Bar Association which has great pleasure in congratulating Your Honour and welcoming Your Honour as the Chief Justice of this court.

As the learned Attorney has already pointed out Your Honour is a Territorian, through and through, having lived in the Northern Territory for some 30 years.

Your Honour, as the Attorney has pointed out was the Lord Mayor of Alice Springs for many years and one of the senior lawyers practicing in Alice Springs, together with for some time Ian Barker and Paul Everingham. As the Attorney has pointed out Paul Everingham subsequently became a Chief Minister, indeed, the first Chief Minister of the Northern Territory, the first Attorney-General of the Northern Territory and steered the Northern Territory towards and through the beginning of Self Government.

The other senior lawyer in Alice Springs at the time, Ian Barker, went on to become a Queen's Counsel. He then became the Northern Territory's first Solicitor-General and subsequently, his success at the bar both in Darwin and in Sydney, and apparently almost everywhere else in Australia, has been followed by many of us with interest.

So, Your Honour, as one of the three eminent and experienced practitioners in Alice Springs, follows in a slightly different path but has achieved this success at becoming firstly Solicitor-General then a Judge of this court and now Chief Justice.

Your Honour's old firm, as Mr Stone has pointed out, Martin and Partners, is still regarded as one of the oldest and most established firms in the Northern Territory. It is regarded by the practitioners, and I am sure by many in the community, as one of the best firms in the Northern Territory, certainly one of the best in Alice Springs and that, to no extent, is due to the formative years when Your Honour was one of the senior partners at that firm. It is now ably continued by your partners Max Horton and Roger Bennett.

Whilst Your Honour was living in Alice Springs Your Honour, and your partners, was more than hospitable particularly when visiting practitioners were attending Alice Springs for various reasons and it was many of those occasions that I had the pleasure of meeting Your Honour and Lorraine, often in the company of the then Aboriginal Land Commissioner, Justice Toohey.

I was very quick to learn that Your Honour had the uncanny ability to produce the unusual, both at work and at home. To accept the kind hospitality extended by you and Lorraine to visiting practitioners was always a challenge. The first such occasion that I remember was on 'Cracker Night'. Your Honour managed to produce firecrackers that flew off in all directions, threatening the tennis-playing ability of a certain Aboriginal Land Commissioner and the reproductive ability of his counsel assisting.

Your Honour and Lorraine made a second gesture towards making us visitors welcome at your home in Alice Springs. Lorraine had prepared a steamboat and placed it upon a large, thick piece of glass, which we later found out was from the top of your precious office desk.

As the Land Commissioner was about to select his first tasty morsel the ambience of the evening was shattered with a deafening blow, an enormous bang, as the heat of the steamboat cracked the glass. Then followed a further explosion when Lorraine told Your Honour where she had got the glass from.

Your Honour appeared in several land claims and again produced the unusual. During the Wailpiri Land Claim Your Honour acted for the whole population of Rabbit Flat. Indeed, it was during that land claim that the population doubled over night when your clients had twins.

The then Chief Legal Officer of the Central Land Council, another person who lived in the Alice Springs area for a long time, Jeffrey Eames, subsequently Eames QC and now Eames J of the Victorian Supreme Court, was not on good terms with Your Honour's clients. Indeed, when the Land Commissioner was sitting at Yuendumu we all feared that Your Honour's client might attend and do some harm to Jeffrey Eames on that occasion. The Yuendumu Town Hall became something of a fortress and those of us inside, Eames, Toohey J, myself and others, somewhat concerned for our safety.

Your Honour's appearance before that of your client was most welcome and Your Honour managed to persuade your client that there was no need for him to harm anybody and, better still, that it might be in the best interests of everybody concerned if he were to drive back to Rabbit Flat without any further confrontation.

I think, but I cannot be terribly sure about this, that Your Honour also acted in the Ayres Rock Land Claim for a certain gentleman who insisted that Ayres Rock was hollow and that it housed 50 divisions of Panzers who threatened to break-out and cause hostilities if the land claim was successful.

In any event, if that person was your client Your Honour can also be congratulated in managing to diffuse a further potential confrontation in that land claim.

Your Honour has been very active, both with the citizens of Alice Springs as Lord Mayor and within the profession. As the learned Attorney has pointed out, Your Honour was the Alice Springs representative on the Law Society and on the Law Reform Committee for a great many years before assigning, almost apparently by way of a permanent transfer, all of those positions to your partner, Max Horton, who appears to have held them ever since.

In January 1981 Your Honour became the Northern Territory's second Solicitor-General, second to your former partner, Ian Barker. This brought Your Honour and family to Darwin where you all developed strong ties with the Darwin community. Your family has also been drawn further towards the law; Lorraine having become a valued law librarian and one of your daughters presently studying law at the Northern Territory University.

As Solicitor-General Your Honour found yourself appearing in some of the more difficult court cases involving the Crown. Perhaps the most famous of those was that of R v Hoar, which went to the High Court.

Your Honour found yourself having to defend someone else's decision to prosecute the accused for conspiracy in circumstances where substantive offences had apparently been committed. It seems that one of the then Justices of the High Court told his 'little mate', a Sydney solicitor, about the decision, subsequent to which both of them found themselves in some difficulties.

No doubt there were many other difficult court cases in which Your Honour was involved, not all with those sorts of consequences.

Your Honour was appointed as one of Her Majesty's Counsel in 1982 and was appointed to this Bench as a Justice of the Supreme Court of the Northern Territory in 1987. Your Honour also became a Member of the Northern Territory Bar Association when you became Solicitor-General in 1981 and Your Honour has been an active participant ever since.

The Association therefore has particular pleasure in congratulating Your Honour upon your appointment as Chief Justice and assures you its loyalty and support in your new position.

If Your Honour pleases.

MARTIN CJ: Thank you, Mr Hiley. Mr Henwood, do you move?

MR HENWOOD: May it please the court.

I appear on behalf of the Law Society of the Northern Territory and all legal practitioners of the Territory to congratulate Your Honour on your appointment as Chief Justice of this honourable court.

As I remarked at the last ceremonial sitting, it is traditional on these occasions to dredge up embarrassing stories from the past about the appointee or retiree. My efforts to ascertain details of such stories in relation to Your Honour have been less than successful.

One of Your Honour's previous partners, Mr Ian Barker QC, described Your Honour when I asked him rather regretfully as, 'a fairly respectable character'.

Another of your former partners, Max Horton, who is still with Martin and Partners in Alice Springs declined to reveal any prejudicial information whatsoever.



While I might repeat stories of Your Honour's cycling through the streets of Alice Springs clad in shorts and long socks to meet the Queen, in your capacity of Mayor of that town, or Mr Horton's complaint about the breaking with tradition of appointing the senior partner of Martin and Partners as Solicitor-General when Mr Pauling was appointed to follow Your Honour and Mr Barker, I'd rather focus today on the future. This occasion is, after all, to commemorate Your Honour's appointment and not retirement.

It is however appropriate to look to the past to the extent of recognising the qualities and experience Your Honour brings to the position of Chief Justice.

First, Your Honour has practiced as a Barrister and Solicitor in Alice Springs and is no doubt familiar with the trials and tribulations of private practice.

Your Honour also practiced for a time as counsel in the capacity of Solicitor-General and initially combined that with the administrative role of Secretary of the Department of Law.

I am sure Your Honour's experience equips you well to deal with and, if appropriate, to implement the dramatic changes now being called for in the legal system, bearing in mind the often competing claims of Government, consumers and the profession.

We hope that the clamours for reform do not result in change for change's sake and it is comforting to note that the report of the recent Senate inquiry into the cost of justice at least accepted the fundamental soundness and importance of the legal system, while at the same time recognising its weaknesses.

Those weaknesses are well-known to the profession and we are ready to assist Your Honour in addressing them insofar as they may be within the control of Your Honour and the profession.

In this context however I cannot resist the temptation of pointing out that the Cost of Justice Inquiry also recognised that the Parliaments at Federal and State or Territory levels have played a significant part in contributing to what some might consider an unwieldy system and we must hope that if Government is serious about reform this difficulty is recognised and the Government itself contributes to the reform process.

One of the areas which is within Your Honour's control and one which I understand to be high on Your Honour's list of priorities is the question of case flow management and listing matters for hearing in this court. As I have indicated to Your Honour on another occasion, I believe the profession is ready and willing to assist wherever it can to increase the efficiency of the courts.

I do, however, wish to sound a note of caution to those who might expect miracles. Whilst it is true and indeed, self-evident to say that justice delayed is justice denied it is equally true, as has been stated in a number of cases, that speed is good but justice is better.

To put it another way, coincidentally, my desk calendar this morning contained this pearl of wisdom from Aesop which may be relevant, 'Beware that you do not lose the substance by grasping at the shadow'. Therefore, although the profession recognises the need to lift its collective game it is inappropriate that the court become a club with which to beat errant practitioners to the detriment of their clients.

In *Cropper v Smith* (1884) 24 Ch Division 700, a case concerning amendment of pleadings, Bowen LJ said at page 710; 'Now, I think it is a well-established principle that the object of the courts is to decide the rights of the parties and not to punish them for mistakes they make in the conduct of their cases by deciding otherwise than in accordance with their rights'.

And further on he said; 'Courts do not exist for the sake of discipline, but for the sake of deciding matters in controversy'.

Although those words were spoken in 1884 they remain true, being as they are a recognition of the adversarial nature of our system and recognising that within reason the parties should be masters of their own destinies in bringing their matters to resolution and it is not for the courts to drag them where they do not want to go at the expense of their legal rights. Any calls for the courts to take that role should be resisted.

The challenge for Your Honour then will be to find an appropriate balance within the ambit of those competing concerns.

With those words I wish Your Honour well in your term as Chief Justice and look forward to working with you in the processes of reform for which I have referred.

It is apparent that when we gather here many years hence to farewell Your Honour the legal system will be substantially different from that which we now know. It will be Your Honour's challenge to preside over those changes.

Once again, on behalf of the profession I congratulate Your Honour on your appointment.

May it please the court.

MARTIN CJ: Your Honours, Mr Attorney, Mr Hiley, Mr Henwood, I'm most appreciative of your generous remarks and the warm good-will which you have shown.

In taking up the Office of Chief Justice I am greatly encouraged by your expressions of confidence and by the attendance of so many members of the legal profession, distinguished members of the community and friends; not the least, my wife and children and grand-child are here and thus, to continue to give the support which they have always so freely bestowed.

The court is especially honoured by the presence of my immediate predecessor, His Honour the Administrator Mr Ashe QC and Doctor Ashe. It is a particular pleasure that His Honour has agreed to join us on the Bench which he occupied with considerable distinction when discharging his judicial duties.

Indeed, I follow in the foot-steps of distinguished Chief Justices of this court who, by their efforts and those of their fellow judges, including my present colleagues here and elsewhere, have seen to the firm establishment of the court and its development in accordance with the high standards and traditions of superior courts throughout the land.

In accepting this position I singularly failed to take heed of a quotation I heard recently which I mentioned to some of my acquaintances as my then adopted creed. The proposition went this way; 'Have you ever heard a man on his deathbed say, gee I wish I'd spent more time at the office'. But, to use the words of Sir Owen Dixon, 'When one man goes another must take his place and it is of little use for the man who succeeds to consider his inadequacy to take the seat of those who preceded him. His duty is to his best'. That I will do. In words frequently heard around the building, 'Let's get on with it'.

However, I seek your indulgence for a short while. Having referred to the traditions of the court it would be most ungracious of me to break that which requires that on occasions such as this the recently appointed Chief Justice speak up about matters to do with the administration of justice in this court's jurisdiction.

It may seem surprising to contemplate it but, God willing, I expect to be here at the turn of the century; that extraordinary moment when we will reflect upon the past from our various perspectives.

Hopefully it will then be said that much progress has been made in remedying those things which trouble us and the community now.

Much has been achieved since St Luke proclaimed, 'Woe unto you lawyers for you have taken away the key of knowledge' or since Shakespeare caused Dick in Henry VI to prognosticate, 'The first thing we do, let's kill all the lawyers'.

Nevertheless, there remains much to do and the court must be ever-ready to adapt to the real needs of the community it serves, particularly in matters of practice and procedure.

The starting point is the statutory responsibility cast upon the Chief Justice of this court for ensuring the orderly and expeditious discharge of its business.

What is the business? It is not widely appreciated that the court is of unlimited jurisdiction except insofar as it has been especially effected by the Parliament. Its current duties include the adjudication of disputes at first instance between citizen and citizen and citizen and state. It applies the law to be found in the Common Law, Equity and Statute. It is responsible for the administration of the judicial aspect of the criminal justice system in relation to the more serious offences. It is empowered to hear and adjudicate upon appeals from decisions of the Court of Summary Jurisdiction, Local Court, Work Health Court and Motor Accident Tribunal.

As well, it exercises a general supervisory jurisdiction over the exercise of power by government and its instrumentalities insofar as it effects the rights and expectations of individuals.

All of those duties and the work undertaken ancillary to them are important, not only to the parties involved in the particular matter but to the community at large. Its business also involves the administration of the judicial system.

The Court of Appeal and Court of Criminal Appeal administer discipline when the decisions and reasons leading to decisions of single judges are subjected to rigorous examination and correction if necessary.

The judges are very busy, each taking his or her place in the discharge of all of those duties. The scope of work and the number of judges does not afford the benefits or luxury of specialisation. If an urgent matter arises it must be dealt with as best it may be whilst the regular and ordered work of the court goes on.

Until quite recently this court sat permanently only in Darwin and intermittently at Alice Springs, though quite regularly. A few months ago Justice Mildren sat at Ali Curung. It was appropriate and convenient to do so and suitable arrangements were able to be made.

I recall the predecessor to this court often sitting in Alice Springs and 30 years ago, almost 30 years ago, as it had done so long before that. The population of that town was then much less than that of Katherine now and to that must be added the significant numbers living in communities which relate to those places.

Early judges in superior courts in this jurisdiction sat in numerous places throughout the Territory. Although there may well be some additional cost to the court in sitting in other centres of the Territory there may well be offsetting savings to government and especially the parties.

Not only may it be in the interests of justice that the courts sit elsewhere but modern communication technology will undoubtedly be employed more and more in enabling parties, witnesses and legal representatives to appear before the court wherever it may be sitting.

We have already employed telephone and video conferencing facilities to receive evidence from both inside the Territory and out. The cost savings are enormous. Compare the cost of having an expert, residing in a remote area such as Melbourne, coming to a studio in that city and having his evidence beamed into the court in the Territory at a few hundred dollars an hour with that of the expense of his being flown here and back, including his fares, travelling expenses and professional fees, to say nothing of the inconvenience to the witness and those who depend upon him or her in his other normal daily work.

Some legal problems may arise in that connection and therein lies an opportunity, Mr Attorney, for you and your colleagues to provide a solution by way of uniform legislation.

Having the means of reducing the costs and other expenses of conducting trials does not go to the root of the problem now perceived, in actually having time within which to expeditiously conduct trials once the parties are prepared.

Delay is said to be a millstone hanging around the neck of the present system. It drags it down. Time taken to prepare cases is too long and time taken to have them brought on for hearing, once set down for trial, is an added burden. It may amount to a disincentive to the attainment of justice through the courts.

What is required is a radical change in professional culture and in the attitude of the court. It has already started to happen. The time when it was up to the parties and their legal advisers to regulate the progress of civil litigation, in particular, from originating process to listing for trial has gone.

Over the past couple of years this court, along with others, has taken a vigorous, pro-active role in case management. The court sets the agenda and the time-table in each case in consultation with and, for the most part I must say, with the co-operation of legal representatives. It is prepared to exert its authority to force the pace if necessary. It may be expected that the court will develop fresh rules to give added impetus to this role.

Beyond that is the need to adopt an ethos which induces the view that if a civil trial is had then the system has failed, not for the want of trying on the part of the court, the parties or its practitioners.

It is far better for litigants to resolve their differences rather than have the resolution imposed upon them. On the one hand they know the outcome and are prepared to accept it and thus, everybody wins. On the other, they do not know the outcome and the surprise ending will not always be pleasant because someone must lose.

Greater disclosure by all parties once the issues are properly defined will enable them to assess their respective strengths and weaknesses and be receptive to sound advice.

Of course, some disputes or more particularly, some parties will be intractable and then the court will willingly hear and determine the issues between them.

Much is being said about diverting civil disputes away from the courts and there is activity in that direction. The primary objective must be to ensure that there is no need for the diversion process to take root in the Territory. The rights of people can only be properly protected within the court system wherein, if needs be, their disputes may be resolved with the assistance of and by those who are not only trained for the task but whose impartiality and independence is guaranteed by the state.

That is not to say that alternative dispute resolution, that is, alternative to the trial process such as mediation and conciliation do not have their rightful place. Of course they do but it is preferable that they be available through or annexed to the courts which can control and monitor the process.

People must not be left to feel that they must go elsewhere in despair, that the time-honoured and proven institutions established to assist them are not able to respond to their needs. We are here to serve the public not ourselves.

These and other measures may well reduce the cost of litigation and thus, be of assistance to those who presently feel they are dis-enfranchised from access to the court system.

Compared with many other jurisdictions the delay from when a matter is ready for trial to when it is heard here is not poor. Nevertheless, all acknowledge that improvements can be made. Just an example. Although we have only just commenced compiling meaningful statistics to prove the point, experience shows that many civil matters listed long before for days of hearing settle at the last minute.

In the criminal list again trials listed long before to take days of hearing collapse because of a late change of plea or other circumstance. Those committed days, and there are far too many of them, are then largely lost for the use of other litigants.

As things stand it is rare that another case can be brought on at short notice. The reasons for late settlement or plea are many. Amongst the primary ones is that the parties and their legal advisers do not devote the required attention to the case until the last minute when, for the first time, the strengths and weaknesses are disclosed and it is realised that abandonment or compromise is the better solution.

The effective use of listing back up trials is tempered to some degree by the availability of suitable counsel to appear on short notice. Difficulties in having witnesses from remote places will be overcome by the technology of which I have already spoken.

It cannot be rightly said that delay, after setting matters down for trial until trial, in either the civil, criminal or appellant jurisdictions, lies at the door of the judges of this court. We turn up for work everyday and are available to hear whatever is ready to be heard.

In time the question of the continuation of the appointment of Queen's Counsel to mark barristers of eminence will be resolved. In that regard I note that many efforts are being made through the legislatures and otherwise throughout Australia with a view to achieving a degree of uniformity throughout this nation in relation to the recognition of practitioners and their rights to practice the law.

The status of the court as the place where justice is judicially ministered and as one of the most important institutions and arms of government must continue to be respected.

It was not so long ago that in the Territory copies of memoranda for distribution amongst public servants were delivered to the Chief Justice and judges as a matter of course. The distinction has since been forcefully made and is now properly observed.

There remains, however, some areas of concern, perhaps not major in themselves but nevertheless indicative of a view, probably born of ignorance or lack of thought or sensitivity, that the court and the resources devoted for its use through the parliamentary process can be summarily altered.

The Chief Justice, as I have mentioned, has a statutory responsibility to see to the orderly and expeditious discharge of the business of the court. That responsibility cannot be properly discharged unless he or she has the opportunity to take part in the ongoing processes related to allocation and re-allocation of resources insofar as they may have any deleterious effect upon the administration of the court.

The establishment of the Office of Courts Administration as a unit within the Department of Law provides a valuable focus and resource for the acquisition, maintenance and proper administration of the court's infrastructure, an infrastructure which must be continually serviced, maintained and improved as required if the independence of the judiciary is to be maintained. By infrastructure I mean not just physical assets but money and not the least, people.



One day soon we hope the Office may be established as a Department in its own right involving the greater responsibility that that entails but, perhaps, presenting greater opportunity for the court, through its judges, to assist in the ordering of priorities and the allocation of resources.

Much has recently been said about sentencing. It is a lively debate involving the community as a whole, the offenders, the victims, the Parliament, the Executive and the courts. As in many other matters the position varies immensely from place to place throughout Australia and what may be of concern in one area may not be a true reflection on the position in another. Nevertheless, it is essential that the rule of law be maintained in this area, as in all others, and that in every case the court continues to look at the circumstances of the offence, including its consequences, but as well, the circumstances of the offender.

These and many other things will continue to be upon us over the next few years. The days of the quiet life, of golf on Wednesdays and long lunches have long-since gone for the modern judge. He or she must be ever alert to the rapidly developing and sometime dramatically changing law, whether by statute or by reason of judicial decision.

The indications are that the judge must also become computer literate. It will not be long before counsel and the judge will all be equipped with lap-top computers, set up on the Bench and the Bar table and upon which, amongst other things, they can each instantaneously recall the transcript of evidence and documentary exhibits. At the same time they may be receiving a facsimile copy of a document just referred to by a witness in Hobart who appears on the television screen within the court room.

Who knows, at future special sittings our absent colleagues will take their place on the Bench per medium of a television screen?

It goes without saying that the judges must also continue to have a sensitivity to community values such that it cannot be said that if one fails in that regard all fall.

It is the law which determines so much of the life and happiness of the community and the individuals within it. Sir Garfield Barwick said, 'If carelessly or indifferently administered it can cause human suffering and, at times, distort the human spirit till only hopeless bitterness remains'.

In all these things the court and the profession must work together, not only as between themselves but amongst themselves. The courts' relationships with the profession, the Bar in particular as might be expected, is good and may it remain so. We have come to trust you and to rely upon you. Without your continued support much of what is hoped will be achieved may be found wanting.

To succeed may well mean adapting legal practice to accommodate the needs of the times in the interests not only of the practitioners or the particular client but of the court and more particularly, the community as a whole. Our efficiency depends much upon that of the profession.

I do not claim many firsts, though some have been claimed for me today, but if I may be permitted to boast a little, this is the first occasion upon which a Chief Justice has been welcomed in this building. It is, may I remind you all, dedicated to the use of the judges. It is without doubt the most orderly, modern and efficient building of its type in the nation. It has been built to last. We are the envy of our colleagues everywhere because of these material benefits. My hope and expectation is that the work which is done within this building and elsewhere in the Territory will mirror those same qualities and that our administration of justice will not falter.

The court will now adjourn.

-----