

SUPREME COURT OF THE NORTHERN TERRITORY

STATE SQUARE, DARWIN

CEREMONIAL SITTING FOR
THE HONOURABLE CHIEF JUSTICE MICHAEL GRANT

TRANSCRIPT OF PROCEEDINGS

COURTROOM 1, FRIDAY 8 JULY 2016 AT 2:00 PM

PRESIDING JUDGES:

THE HON CHIEF JUSTICE MICHAEL GRANT
THE HON JUSTICE STEPHEN SOUTHWOOD
THE HON JUSTICE JUDITH KELLY
THE HON JUSTICE JENNY BLOKLAND
THE HON JUSTICE GRAHAM HILEY
THE HON JUSTICE JOHN REEVES
THE HON JUSTICE TREVOR RILEY

IN ATTENDANCE:

THE HON CHIEF JUSTICE ROBERT FRENCH AC QC
THE HON AUSTIN ASCHE AC QC
THE HON BRIAN F MARTIN AO MBE QC
THE HON DAVID ANGEL QC
THE HON SALLY THOMAS AC

Transcribed by:
DTI

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

All persons having any business before this Honourable Supreme Court of the Northern Territory, now draw nigh, give your attendance and you shall be heard - God save the Queen.

Please be seated.

HIS HONOUR, SOUTHWOOD J: Your Honour, the Administrator of the Northern Territory, Mr John Hardy and Mrs Hardy; Chief Justice of the High Court of Australia, Chief Justice French; fellow judges of the Court; former Chief Justices of the Court, Asche and Martin; former Judges of the Court, Angel and Thomas; Judges of the Local Court; Solicitor-General Brownhill who is representing the Attorney-General; the Speaker of the Legislative Assembly, Ms Kezia Purick; Shadow Attorney-General, Ms Lynne Walker; the President of the Northern Territory Bar Association, Mr Ben O'Loughlin; the President of the Law Society of the Northern Territory, Mr Tass Liveris; Solicitor-General for the ACT, Mr Garrison; Solicitor-General for Queensland, Mr Dunning; Solicitor-General for Tasmania, Mr O'Farrell; Solicitor-General for the Victoria, Mr Niall; the President of the Bar Association of South Australia, Mr Andrew Harris; members of the Bar and of the legal profession; ladies and gentlemen, a warm welcome to all of you on this happy occasion when we formally welcome Chief Justice Grant as the seventh Chief Justice of the Supreme Court of the Northern Territory.

His Honour, Chief Justice Grant's appointment has been received with much enthusiasm and warmth by all of the Judges of the Supreme Court. As his Honour is home-grown, we are all very proud of his appointment. A number of us on the Court claim to have had a hand in his progress. It makes us seem rather old, but three of us lectured Chief Justice Grant while he was at university.

HIS HONOUR, GRANT CJ: And continue to do so.

HIS HONOUR, SOUTHWOOD J: Justice Riley and I lectured him in Civil Procedure and Chief Justice Grant went onto write the loose-leaf service on Civil Procedure for the Northern Territory. Justice Blokland lectured him in Evidence and, she believes, International Law. Her Honour is confident, as evidence is everything in the criminal jurisdiction, that the Chief Justice is extremely well-qualified to sit in that jurisdiction. Also, Chief Justice Grant has had the benefit of being my junior counsel on one or two occasions when I was at the Bar, and Justice Hiley's instructing solicitor. Otherwise, he is unspoiled.

While we have been on the court, we have all had the opportunity to see his Honour become an outstanding advocate. As his Honour was born in the Northern Territory, he has a deep understanding and appreciation of the history and the people of the Northern Territory and their great diversity, which is one of the best features of the Northern Territory. His Honour has all of the qualities to be an outstanding Chief Justice.

In the last paragraph of his book on the history of the Supreme Court of the Northern Territory, the Honourable Dean Mildren QC, who was then a Judge of the Supreme Court, wrote:

Finally, it may be surprising to realise that, although the Court has been in existence for a century, and there were Judges of the Northern Territory for 25 years before that, there has never been a Territory-born Judge. The closest we have come in having two Judges who has spent some of their childhood in the Territory and one Judge whose mother was born in Darwin. Not that long ago, the first Territory-born barrister took silk and we are still waiting for the second. I hope that, too, will change.

That has now happened. On behalf of the members of the court, I warmly welcome your Honour as the seventh Chief Justice and we wish you well for the future.

Chief Justice, do you present your Commission?

HIS HONOUR, GRANT CJ: Your Honours, I present my Commission as Chief Justice of this honourable Court. I took the prescribed oath before his Honour, the Administrator, on Tuesday, 5 July 2016.

HIS HONOUR, SOUTHWOOD J: Master, would you please read the Commission?

HIS HONOUR, LUPPINO M: Commission to the Honourable Michael Patrick Grant, know ye that reposing full trust and confidence in your loyalty, learning, integrity and ability, I, John Lawrence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council under s 32(1) of the *Supreme Court Act*, do by this, my Commission, appoint you, Michael Patrick Grant, to be Chief Justice of the Supreme Court of the Northern Territory of Australia, from and including the 5th day of July in the year 2016, to have, hold, exercise, and enjoy the said office under and subject to the provisions of the *Supreme Court Act*, as amended from time to time, with all rights, powers, privileges, advantages and jurisdiction thereto belonging or appertaining.

HIS HONOUR, SOUTHWOOD J: Thank you, Master.

Solicitor-General Brownhill?

SOLICITOR GENERAL BROWNHILL: May it please the court. I acknowledge the Larrakia peoples as the traditional owners of this land. On behalf of the Attorney-General, I congratulate your Honour, the Chief Justice, on your appointment as the Chief Justice of the Supreme Court of the Northern Territory. The Attorney deeply regrets that his Ministerial responsibilities have rendered him unavailable to attend and speak himself on this occasion. I have also been asked to convey the regret of the Attorney-General for the Commonwealth that he is unable to be here.

By this appointment, as your Honour Justice Southwood recognised, your Honour continues an ongoing theme in your Honour's professional life, becoming the

first Territory-born practitioner appointed as a Judge of this Court, and also, obviously, the first Territory-born Chief Justice. Your Honour was born at the old Darwin Hospital and spent the first five years of your life in Pine Creek. Your Honour then returned to Darwin where your Honour attended primary school and then St Joseph's College in Sydney for your secondary schooling, returning to the Territory during holidays.

After completing Year 12, your Honour spent some time travelling and working and, at the end of 1985, took a job as a clerk in the then Department of Law. Shortly thereafter, the University of Queensland joined with the University College of the Northern Territory to offer a Bachelor of Laws degree. Your Honour enrolled, being one of the first batch of students to study Law in the Northern Territory.

Your Honour combined full-time work at the Department with full-time study and your Honour ultimately completed your degree with First-Class Honours in 1991; thanks, no doubt, to the assistance of their Honours who lectured your Honour in the subjects referred to. During that period, your Honour's studies were placed on hold for an 18 month secondment to the law firm, Freehills, in Sydney, which had been engaged by the Northern Territory Government to act in defending a very large claim in the Federal Court.

Your Honour's first daughter, Courtney, was born while you and your wife, Marita, were living in Sydney and Freehills were so impressed with your Honour's potential that they offered you a job. Luckily for the Territory, your Honour and Marita decided that Darwin was a better place than Sydney for bringing up kids.

With your degree completed, your Honour remained with the Department and the Solicitor for the Northern Territory and took the roles of articulated clerk, then solicitor, and then, solicitor-advocate. In each of those roles, your Honour excelled. Your Honour also lectured at Charles Darwin University in Torts, Taxation Law, and Advanced Taxation Law, and was a special tutor for Indigenous students undertaking legal studies.

On the home-front, your Honour and Marita had two more daughters, Jamie and Hannah, and your Honour's gender minority status in the family was not overcome by acquiring a male dog; he was a Labradoodle. That status is evidenced today by the presence in court of not only your mother and your wife and your three daughters, but also your four nieces. Your brother, Tony, is present as well. The support of your family has, no doubt, been fundamental in your Honour's professional achievements.

In 1996, your Honour acted as instructing solicitor for the Territory in *Wake and Gondarra v Northern Territory* in the Court of Appeal and the High Court special leave application where the Territory's euthanasia law; the *Rights of the Terminally III Act*, was held to be constitutionally valid. In 1997 and 1998, your Honour was also instructor for the Territory in *Wynbyne v Marshall* in the Court of Appeal and the High Court special leave application, involving a constitutional challenge to the Territory's mandatory sentencing legislation. These were seminal decisions about the

Territory's capacity to make laws in the exercise of the powers conferred by the *Northern Territory (Self Government) Act*.

In 1998, your Honour was appointed as the Director of Litigation in the Attorney-General's Department. Your Honour was called to the Bar in 1999 and joined William Forster Chambers. Your Honour's stellar skills and reputation as an advocate ensured that from the outset, your Honour had a successful and ridiculously busy practice, where back-to-back trials and working all hours were commonplace.

That reputation only grew as your Honour practiced in a broad range of civil matters; notably, constitutional law, property law, administrative law, medical and professional negligence, and personal injuries. In 2006, your Honour took silk and became the first Territory-born Queen's Counsel. Your Honour also has the distinction of being the last Territory Queen's Counsel appointed by the Administrator. Silks thereafter were and are, of course, appointed as Senior Counsel in the Northern Territory by the Chief Justice of this Court; a function now part of your Honour's domain.

In 2007, your Honour was appointed as the Solicitor-General for the Northern Territory, and so became the first Territory-born Solicitor General. Your Honour's first appearance before the Full Bench of the High Court in that role was in *Gypsy Jokers Motorcycle Club v Commissioner of Police*. The case concerned a *Kable* challenge to Western Australian law, permitting the Police Commissioner to put before the Court confidential information which would not be disclosed to any other party.

Your Honour's greatest challenge in the case was deciding what to say as the most junior, and therefore last heard, Solicitor-General amongst the six Solicitors-General intervening in the matter. Last did not mean least, as your Honour was engaged in somewhat rigorous debate by Justices Kirby and Kiefel ; but your Honour's performance clearly confirmed your Honour as the perfect choice for the Solicitor-General position.

In the role over the past nine years, your Honour has represented and advised six different Attorneys-General, the Cabinet office, the Legislative Assembly, Ministers and other Members, and all manner of statutory office-holders, departments and agencies. Of the past four years, the Attorney-General wished me to convey his great appreciation for your Honour's advice to him which he likened to a beacon in the dark, lighting a path so as to avoid the shoals and reefs that had to be navigated in his role as Attorney. He also said that to call your Honour's knowledge of the law encyclopaedic would be to overstate the merit of encyclopaedias.

In 2009, your Honour appeared for the Attorney-General, intervening in the High Court matter of *Wurridjal v Commonwealth*. Your Honour successfully argued, over submissions to the contrary by the Commonwealth, that the constitutional guarantee of just terms in s 51(xxxi) of the Constitution applies to acquisitions of property from

persons in the Northern Territory affected by laws passed by the Commonwealth, pursuant to the Territory's power in s 122 of the Constitution. The decision overturned High Court authority from 1969 and took a decisive step along the path towards integrating s 122 territories, such as the Northern Territory, within the freedoms and guarantees arising under the other provisions of the Constitution. It is an important instalment in the Territory's legal and constitutional development.

Your Honour has held many other appointments in the course of your legal career, including member of the Legal Practitioners Admission Board; Statutory Supervisor of the Northern Territory legal profession; inaugural member of the Australian Rugby Union National Judicial Committee; member of the Northern Territory Rugby Union Judiciary; President of the Health Professional Review Tribunal and its predecessor; Chairperson of the Police Disciplinary Appeal Board; and a member of the Northern Territory Bar Council. And now your Honour is appointed as the Chief Justice of this Court. The appointment has received nothing but acclaim amongst the legal profession, and approval and pride amongst the general community as such a crucial role is filled by a true local.

There is overwhelming confidence that your Honour will discharge your new functions in the same outstanding manner and refined style with which you have performed all of your professional roles to date. Expectations of what you will achieve in this role are very high. Your Honour is expected to tackle all manner of things. One which has been recently suggested is the question whether counsel should continue to wigs in criminal jurisdiction. I am not advocating a particular view; but the abandonment would avoid the situation which arose when your Honour, the Chief Justice, appeared before your Honour Justice Southwood in a matter which was arguably a criminal matter with a civil flavour, or vice versa.

Your Honour the Chief Justice was at the Bar table bewigged, but your Honour Justice Southwood came onto the bench wigless. As your Honour the Chief Justice properly removed your wig, your Honour Justice Southwood said words to the effect: "Just so, Mr Grant, counsel must adopt whatever form of dress is adopted by the Bench". Your Honour the Chief Justice, replied: "Well, it's lucky that your Honour is wearing pants". However your Honour the Chief Justice might respond to the debate about wigs, I am confident you will not have to resolve any proposal to do away with pants in court.

On a personal note, it has been my privilege to act as your Honour's junior from time to time over the past nine years. Like many others in the legal profession, many things I know about the practice of law I learnt from you. I am grateful for your Honour's forbearance, generosity and leadership. Your Honour has led the Bar and the broader profession for many years. It is only proper that your Honour now lead the Territory's highest court as its Chief Justice. May it please the Court.

HIS HONOUR, SOUTHWOOD J: Thank you, Ms Brownhill. I also congratulate you on your appointment. It, too, is well-deserved.

SOLICITOR-GENERAL BROWNHILL: Many thanks, your Honour.

HIS HONOUR, SOUTHWOOD J: Mr O'Loughlin.

MR O'LOUGHLIN: I rise to address the Court on behalf of the barristers in this jurisdiction. It is a pleasure to speak for the Bar today as your Honour's appointment has been universally welcomed. Donna Dreier, the long-ago head of Litigation at the Department of Law, would be proud that one of her articulated clerks has been appointed to the position of Chief Justice of the Supreme Court of the Northern Territory. She had many star candidates back in the early 1990s, but if she had been asked to guess who of them would reach this position she would have needed only one guess.

Even before your Honour joined the Bar, your Honour had a reputation as a solicitor-advocate with considerable skills. Your Honour's knowledge of the law, both in breadth and depth, was impressive then and has only increased over time. Your Honour also has the important but sometimes overlooked skill of good judgement; knowing when to run a matter or argument, and knowing when not to.

Your Honour has a formidable memory that appeared to store hundreds of facts in a particular proceeding that could be retrieved at will. This was coupled with an enviable long-term memory where complex legal principles, seemingly learnt once and catalogued, could be later deployed as needed. And, on top of that, your Honour was not only courteous with opponents, but quite often willing to inject humour into an otherwise dry atmosphere.

When a solicitor announces that they are making the leap of faith to join the Bar, the first reaction from practitioners is often: "Interesting; I wonder how he or she will go". When your Honour stated this intention in 1999, the reaction was more like: "I wonder how far will he go?" On joining the Bar, your Honour was immediately swamped with work and there are probably a number of solicitors here, right now; thinking: "I gave him his first brief". Your Honour accepted briefs from plaintiffs, defendants, insurers and workers in jurisdictions including the Local Court, Work Health Court, Coroner's Court and this Supreme Court.

In the era before electronic diaries, your Honour once complained that Chambers' colleagues might be noticing in the Chambers paper diary when your Honour had been double-booked; and then seeking to use that information to their advantage in settlement negotiations. It was an imagined offence; but, from then on, access to the diary was restricted.

Ten years is considered a reasonable time before counsel with special abilities apply for silk. But, by 2006, the pressure was building. Some of that pressure came from fellow juniors who wanted to push your Honour up and out of their market. In 2006, all practitioners would have agreed that a claim to be considered for silk had clearly been established. But, in a moment of what was not false modesty, your Honour paused in Chambers, literally surrounded by work, and said to a colleague: "But assuming I was appointed, what if they stop briefing me?" That friend and colleague, possibly with an eye on those briefs, said: "No, no; you'll be fine".

Your Honour was not convinced by this and it was not until the last afternoon of the due date for applications when a Judge paid a visit and said, using direct language: "Put your bleeping application in now". Your Honour's appointment as Queen's Counsel surprised no one and the work kept coming, and some of those briefs included special leave applications and appeals to the High Court. Although counsel are treated courteously in the High Court, and even more so over the last few years, it can still be, rightly, the most stressful and demanding of jurisdictions.

Your Honour has appeared in the High Court on more than 20 times in your capacity as Queen's Counsel at the private Bar and as Solicitor-General. Your Honour's exceptional skills were evident, even at this highest level and even when appearing against some of the most talented counsel in the country.

On one occasion in 2012, your Honour had to overcome a profound personal conflict by joining the other Solicitors-General in successfully resisting the challenge by big tobacco companies in the Commonwealth's plain packaging legislation. The scene in Court 1 of the High Court was impressive. Two Bar tables stretched the width of the court room. They were populated with a range of the country's foremost silks and most over-worked juniors. The public galleries were packed with interested onlookers and bewildered children on school trips.

As was the convention in the High Court, counsel were robed according to requirements of their respective jurisdictions. Some wore wigs, but some from the Northern Territory and other jurisdictions did not. Following an adjournment, and just before the judges returned, the usually stern Court Crier approached your Honour's group. Unusually, he was giggling. He then related a conversation he had had with some inquisitive members of the public in the gallery regarding the differences of the costumes of the various counsel. He said that they generally discussed whose outfits looked best. Although there was some disagreement about the robes, there was general consensus about one thing: your Honour's wig was the best!

Although your Honour's career in the law shows a person of substance, this doesn't stop your Honour from obsessing about form, and by that I mean fashion. Shirts and shoes are purchased and posted from London, and in a jurisdiction where male lawyers might have one suit, usually only used for proceedings interstate – sometimes referred to a "suit case" – your Honour has a multitude of suits. Your Honour's taste for different styles and colours of suits is known by many and appreciated by some. The cream suit, in particular, has inspired a wish by one practitioner that your Honour will one day don that cream suit and in your voice, or impersonating Gregory Peck, recite the closing address made by Atticus Finch in the novel *To Kill a Mockingbird*.

There is a draft Practice Direction 4 of 2016 being circulated, which we think is in jest; but given how seriously your Honour takes fashion we are not sure. It reads:

Henceforth, the standard of dress for male barristers in interlocutory applications is to be as follows: Charcoal, three-piece suit with chalk stripe; pocket square

complementing the tie; tie restrained by tie bar no wider than the tie; shirts with French cuff; socks matching the tone of the trousers; and –

Perhaps this is to answer your critics who say you are insufficiently progressive –

- brown shoes.

Counsel would be wise to take note of this interest of your Honour, and there are a couple of gestures which should also be noted by counsel. One gesture is spanning the hand over the width of your Honour's glasses. It might just mean you are adjusting your glasses; but sometimes, some suspect, it means: "I'm tired of looking at you". Another trait should definitely worry counsel. If your Honour is disapproving of a point, the speaker will sometimes hear a faint, low-pitch grumble; think Marge Simpson, but deeper. If counsel hears this sound, it will mean: "I'm tired of hearing this point; please move on".

I will finish, your Honour, and on a more serious note may I add that we at the Bar are sure your Honour has all the traits, the well-known traits that make a good judge: knowledge of the law; sound judgement; courtesy; and industry. The necessary attributes of a Chief Justice are less known and rarely discussed. But, in a recent set of unfortunate circumstances in another jurisdiction, a learned commentator said this:

The Chief Justice is the leader of one of the three branches of government; a branch which keeps a check upon the Legislature and the Executive which may have to decide controversies between a citizen and the Executive government. There can, in the nature of things, only be less than a handful of truly qualified candidates for the position of leader of one of the three arms of government.

He added:

The position of Chief Justice requires a lawyer of long experience at the peak of the profession who commands the general respect of his or her peers, and of the wider profession, and, very importantly, who has the respect of the judges of the Supreme Court itself. Very few men or women could claim to have any of these qualities, let alone all of them.

These are high standards, indeed, and with your Honour's appointment as Chief Justice of the Supreme Court of the Northern Territory, they have been more than met. May it please the Court.

HIS HONOUR, SOUTHWOOD J: Thank you, Mr O'Loughlin.

Mr Liveris?

MR LIVERIS: May it please the Court. I acknowledge the Larrakia people as the traditional owners of the land on which this court sits. I pay my respects to elders, past and present, and to emerging community leaders.

The legal profession of the Northern Territory is extremely proud to welcome your Honour, Chief Justice Grant, as the senior Judge of this honourable Court. Your Honour is one of our finest and is well-known for your work ethic, your intellectual acumen and your command of the court room. Your Honour is also one of our own and your appointment continues the wonderful trend of local lawyers being appointed to judicial office.

A former Law Society President, the late, great, Ian Morris, had a nickname for everyone, and he affectionately referred to your Honour as 'the Pope' or 'Il Papa' because he reckoned it was more difficult to get an audience with your Honour than it was with the Holy Father himself. He was right about that, but it could equally have been because of your Honour's kind of papal infallibility or your apparent power to call upon divine intervention from time to time.

Another former Law Society President and one of your Honour's regular instructors, Peggy Cheong, talks about a Supreme Court case in 2001 where your Honour's advice was that she should stop briefing you in losers. Your Honour was five years off taking silk at the time and your opponent was interstate Senior Counsel. In your characteristic way, your Honour worked a difficult argument with strategy and effect, and went on to persuade the Court to find in your favour.

Your Honour has had an important relationship with the Law Society and I thank your Honour for the time and expertise that you have given the Law Society in various capacities. Your Honour was the Northern Territory Bar Association representative on the Council in 2002 and, since 2007, your Honour has been the Statutory Supervisor of the legal profession under the *Legal Profession Act*.

The office of the Statutory Supervisor was only established in 2007. The purpose was to transfer the responsibility to monitor and review certain actions of the Law Society away from the Attorney-General and to the Statutory Supervisor. This was a fundamental shift in legal profession regulation and in the early discussions about the proposed reforms the profession was concerned about who the Statutory Supervisor should be. An eminent member of the independent Bar came up with the idea that the *Legal Profession Act* should appoint the Solicitor-General as the Statutory Supervisor. I am not sure whether it was a carefully planned coincidence or whether it was divine intervention, but your Honour became the Solicitor-General not long after you successfully made that submission and have, therefore, been the Statutory Supervisor ever since.

One of the important duties that is not written into the legislation, but one which your Honour has carried out for the Law Society during times of need, is Chairman of selectors of the President's XI cricket team in the annual turf warfare against the Chief Justice's XI. This role further showcased your Honour as a tactician and a strategist, not to mention your considerable competitive streak. Your Honour has been such an integral part of the profession's pursuit of the silverware over the years it is difficult and a bit painful to think of your Honour now leading the charge for the old rival. The President's XI will miss your Honour, although with bragging rights at

stake I don't expect there to be much room for sentimentality come Law Week next year.

Your Honour is well-published. As Southwood J said earlier, for many years, your Honour has been the general editor of *Grant on Civil Procedure*. That loose-leaf publication is a comprehensive commentary on the rules and procedures that apply in the Local Court and the Supreme Court. It is a much valued resource for Territory lawyers and we thank you for your contribution to it.

Your Honour has an earlier and lesser known publication *Grant on Apologies*. It was published by William Forster Chambers as a bit of a satirical tribute to the times on which your Honour was briefed to issue a *mea culpa* or two in this Court for high-profile clients. The catchy title is printed in gold on the black hardcover, but the book is notorious because the pages are completely blank. It was published in a limited release of two and the only copy that can be accounted for sits on a bookshelf in Chambers. Recently, one of your Honour's regular juniors stumbled across the book and, as they curiously flicked through the clean, empty pages was overheard to exclaim: "That'd be right. Grant doesn't apologise for anything." I will move on.

In 2014, your Honour was a member of the panel of three that was commissioned by the government to conduct a review of the processes for the appointment of judicial officers in the Northern Territory. The review has significant consequences, including the adoption of a protocol for the appointment of judicial officers. The protocol is underpinned by concepts of openness and transparency, and the legal profession acknowledges your Honour's involvement in that landmark review and the long-term, positive legacy that the protocol will have on enhancing public confidence in the judiciary. Again, I am not sure whether it was a careful and planned coincidence or whether it was divine intervention, but as it has turned out your Honour is the first appointment to be made to this Court under the very protocol that you were responsible for drafting.

Your Honour is a fashionista and has a penchant for online shopping. In early April this year, your Honour called me while I happened to be on leave interstate. I told your Honour that I was at David Jones but that I could find a private place to talk. Before I could do so, your Honour started asking me about the suits: What are the colours and styles? What are the latest trends? Are pinstripes in? And as I was rifling through the racks and reporting back to your Honour on those important issues, you eventually got around to saying to me: "Oh, and by the way, I'm calling to tell you that I'm going to be announced as the new Chief Justice this afternoon."

As soon as that announcement was made there was popular acclaim within the legal profession, because your Honour has all of the high qualities that are required as the head of jurisdiction and you take office with the support and confidence of the legal profession. The historical significance of your Honour's achievements as a law student, a legal practitioner, Queen's Counsel, and now, Chief Justice, are to be celebrated.

In a broad sense, the chapters of your Honour's career signify important steps in the maturing of the legal profession and the courts in the Northern Territory as they each become increasingly reflective of the community they serve. On behalf of the legal profession of the Northern Territory, it is my great pleasure to welcome your Honour as our Chief Justice and to wish you well in your years of service ahead. May it please the Court.

HIS HONOUR, SOUTHWOOD J: Thank you, Mr Liveris.

Chief Justice, would you like to respond?

HIS HONOUR, GRANT CJ: Your Honour the Administrator, ladies and gentlemen, I thank you for the honour you do me by your attendance here today and by the warmth of your welcome. Although I know it is tradition on these occasions, I am embarrassed by the over-exaggeration of my qualities and successes in the welcome speeches, and by the very diplomatic omission of any mention of my failings.

Madam Solicitor, we have had a long and close working relationship and I am extremely gratified that you have been able to address the Court on this occasion in your new role as Solicitor-General. Your appointment is a tribute to you personally, and a boon to the office.

Mr O'Loughlin, I am grateful for your kind words. You have been a close associate since I moved from Crown practice to the private Bar some 18 years ago now. You welcomed me to William Forster Chambers and helped make my time there a very enjoyable experience from the outset, as you have done for so many others since. I am also very pleased that you have been able to deploy my personal idiosyncrasies for their comedic value here today. I will make sure I thank you much more robustly for that at some other time.

Mr Liveris, your appearance here today also gives me much satisfaction. I have known you since you were a young law student, and today you not only represent the profession but you also reflect the very significant and positive contribution the Greek expatriate community has made to the Northern Territory, particularly in the Top End.

In this role I follow a Chief Justice who has given great service over many years to the Northern Territory, and not just on this Court. Justice Riley was sworn in as an Additional Judge of this Court this morning and we are pleased that service will continue. That I am following Justice Riley into this role as he leaves is broadly representative of our professional relationship over the years.

I started working at the then Crown Solicitor's Office at about the same time Justice Riley left practice as a solicitor and went to the private Bar. I then joined the private Bar on the very same day that Justice Riley left to take appointment to this Court. And then, on Monday this week, Justice Riley's term as Chief Justice concluded as mine commenced. We have had a very productive and convivial

relationship throughout that time, but I still have the nagging feeling that he structured his entire career in order to avoid working in the same place as me.

Whatever his career motivations may have been, Justice Riley has left behind a strong, happy and united court and that is a legacy that I will strive to continue. In terms of legacy, I also register my complete agreement with the former Chief Justice's public comments concerning the importance of adequate legal aid funding for the proper administration of justice; the need for courts to be able to sentence offenders having regard to all relevant considerations, including matter of traditional law and practice; the propensity of mandatory sentencing regimes to produce unjust results; and the manner in which alcohol abuse feeds tragically and catastrophically into offending in the Territory community. There is not a cigarette paper between us on those issues.

I am also honoured by the presence here today of former Chief Justices Austin Asche AC QC and Brian Frank Martin AO MBE QC, and former Justices David Angel QC and Sally Thomas AC.

I am particularly honoured by the presence here today of the Chief Justice of Australia, the Honourable Robert French AC. Chief Justice French has been a tireless supporter of State and Territory court systems and legal professional associations throughout Australia. Throughout his term, he has been just as likely found addressing the annual dinner at the Albury-Wodonga Law Society as found walking the corridors of power in Canberra. He has been the very model of a national Chief Justice.

During a trip here some years ago to address the Bar Association, Chief Justice French also displayed a rather esoteric knowledge of the robust dealings in the early days of the Northern Territory legal profession. He reminded us in very amusing terms that in the 1920s Ross Mallam distinguished himself as probably the only practitioner in Australian legal history to be suspended from practice for misconduct and then appointed as a judge of the Supreme Court shortly thereafter. He also reminded us that in 1926 another practitioner called Bateman set the formidable record of being struck off within four days of his admission. But the Chief Justice was kind enough to observe in conclusion that things seem to have improved a bit since then.

It is true that following its separation from South Australia in 1911, the Territory community quickly demonstrated its unique character. In December 1918, the Administrator was chased out of town for refusing to unload the Christmas beer ration. As a good friend of mine who knows more than anybody should told me the other day, it has been the only peacetime civil rebellion in Australia's history as a nation.

After that, the leader of the rebellion was briefly gaoled for refusing to pay taxes, and then almost died of dehydration while attempting to ride his motorcycle from Darwin to Adelaide. Keen to reward such rare talent, the people of the Territory elected him as the inaugural Member for the Northern Territory in the Australian

House of Representatives. Rather intriguingly, his name was HG Nelson. That was the Territory into which I was born.

My earliest memories are of life in Pine Creek with its eclectic mix of Aboriginal, Chinese and European inhabitants. It was the place in which Xavier Herbert worked as a fettler in the 1920s, and later described so colourfully in his novel *Capricornia*. I always felt comfortable in and part of this community, and I remain so today.

The Territory and its institutions have developed at some pace since then. Of course, the most significant development was the grant of self-government in 1978, and on that grant the Territory became a separate body politic and took its place alongside the States. Just as in the Commonwealth and State contexts, the Territory enjoys strong parliamentary, executive and judicial institutions and the people of the Territory should take pride in those institutions. As many before me have observed, courts and judicial independence exist to serve the people, not the other way around. They protect and promote the system of values to which we subscribe as a community and we have been well-served in that respect by our judiciary.

The transition from feudalism to liberal democracy released us from despotism, and one of the fundamental planks of that evolution was the development of an independent judiciary to stand between the citizen and what would otherwise be the untrammelled power of the state. As has been observed before, nobody can truly appreciate just how important an independent judiciary is until the Tax Commissioner comes after you claiming you owe money when you don't think you do, or until you are arrested and prosecuted for something that you didn't do.

Allied to the essential role and character of the judiciary is the structural, constitutional, historical and political process by which appointments to the judiciary fall to be made by the Executive; by which the Executive is responsible to the Parliament for those matters; and by which the Parliament is ultimately responsible to the people. The success of that model is reflected in the aptitude and learning of the women and men who sit with me on the Bench today.

I have worked with all my fellow judges in various capacities over many years and, on the basis of those dealings, I have the utmost respect for them and a clear certainty of their dedication to the task and of their continuing ability to serve the people of the Territory well. The capacities in which I have worked with my fellow judges have included instructing them as barristers when I was a solicitor; junioring them as silks when I was a barrister; appearing before them as they constituted various courts and tribunals in the Territory system; and on some occasions, advising and acting for them as clients in professional roles. In all of those relationships, it struck me as I thought about it the other day, the dynamic has been one of them telling me what to do; and if the last three days are anything to go by, it appears that is a dynamic which will thankfully continue.

Justice Barr is the only permanent member of the court not present here today. This morning he sent me an email from Mount Etna in Sicily. The purpose of his email was to suggest that as significant as today might be, the highlight of my legal

career was undoubtedly receiving the Peter Barr Prize in International Law during the course of my university studies. I remember the occasion vividly. It was the first time I had met Peter. I could not understand what he said as he presented me with prize because he insisted on delivering his speech in French. However, I do remember being impressed by his *savoir faire* and I remain so to this day.

In noting the successes which the Territory has enjoyed in its evolution, I do not seek to paper over the very significant failures and challenges. Many of them remain as identified by Herbert in his polemic 80 years ago. There is a clear disjunct between legitimate Aboriginal entitlement and aspiration, and what is actually experienced in many remote traditional communities. Herbert railed against a bureaucracy which was hampered by inflexibility in dealing with those issues. Although self-government has brought government closer to the people, it has not been successful in addressing those issues satisfactorily.

Of course, the tools available to the judiciary to address those matters are extremely blunt in nature. As a newly appointed Judge I will not presume to speak yet on matters in which those who precede me have had far greater experience. I would observe, however, that the Territory courts have been in the vanguard of ensuring such things as proper interpreting services; attention to matters of traditional law and practice; and the development of principles such as the Anunga Rules to prevent unfairness to Aboriginal people in the justice system. The Court's focus going into the future will remain on such matters, together with a continued consideration of alternative sentencing regimes for Aboriginal defendants, an examination of the utility of general deterrence in sentences for Aboriginal defendants, and the involvement of communities in sentencing outcomes.

Of course, the courts can only deliver justice in partnership with the practitioners who appear before them. I echo the comments made recently by the Chief Justice of New South Wales that the dialogue between the Bench and a well-prepared advocate, aided by focused submissions, provides the best mechanism for quickly identifying the real issues in a matter and aiding in its just disposition. The relationship between the courts and their practitioners should be marked on both sides by hard work, courtesy and collaboration, and that is the model I will strive to achieve.

As is apparent from the speeches delivered earlier today, my path to this point has been somewhat circuitous and there have been a number of significant influences along that road. My time at boarding school in Sydney was probably instrumental. It exposed me to a more cosmopolitan life than Pine Creek somewhat earlier than I might otherwise have been, and it gave me the benefit of a highly traditional education which focused on core subjects such as Mathematics, English Literature and Latin.

It was also a place in which I made enduring friendships and I am both gratified and honoured that three of those friends have been able to attend today from far-distant places. Two of them were the other members with me on the school

debating team. They were far more accomplished public speakers and critical thinkers than me, but both chose paths other than in the law.

My employment in the Crown Solicitor's Office, as it then was, and the resumption of my studies in Law was, obviously, also a turning point. I enjoyed the benefit of many mentors too numerous to name here, but I would make special mention of Professor Ned Aughterson for his outstanding academic leadership. I also had the good fortune to be dragged through the degree by my two study mates, Greg Macdonald and Eric Hutton. They sought to demonstrate by example the virtues of industry and humility. I eventually picked up the first, but the second remains a work in progress.

I also record the presence here today of Samantha Miles and Karen Christopher who were with me from the start of that journey so many years ago, as fellow members of the inaugural class. My time at William Forster Chambers was obviously crucial in my professional development. I enjoyed the collegiate atmosphere immensely, and particularly the friendship and support of Alderman, Barr, Bruxner, Chrstrup, Kelly, McNab, O'Loughlin, Reeves, Silvester and Young, amongst others. Although located in other Chambers at the time, Southwood was also an important mentor to me, both during my time at the Bar and as a solicitor. I also make particular mention of my dear, departed friend, Ian Morris, and note the presence of Jill Morris here today.

My time as Solicitor-General has been, without doubt, the most rewarding experience in my professional career thus far. The quality of the work is unparalleled and my relationship with the other Solicitors-General over the years has given me great professional and personal satisfaction. I am honoured by the presence in court here today of the Solicitors-General for the Australian Capital Territory, Queensland, Tasmania and Victoria.

I also note that four of the five people who have held office as Solicitor-General for the Northern Territory are in court here today; only Ian Baker is missing. I make special mention of Tom Pauling AO QC who was my predecessor and went on to the office of Administrator. I will always have the deepest gratitude to him for his recommendation. I was also fortunate to have two strong, hardworking and competent Attorneys for most of my tenure as Solicitor-General; first in Delia Lawrie, and more recently in John Elferink. Although they did not always follow my advice, I am grateful to them for always giving it appropriate consideration.

I also want to acknowledge the invaluable assistance and friendship which I have received from Debra Carr. She has been working with me for approximately 15 years now, since her time as Clerk at William Forster Chambers, and has done me the honour of coming to the Supreme Court with me. When I first asked her to come to work with me following my appointment as Solicitor-General, she said she would as long as I understood two things clearly: the first was that her family was more important than my job; and the second was that she didn't make coffee for anyone. That understanding has formed the bedrock of our working relationship since and will, no doubt, continue to do so into the future.

I want to pay tribute to my mother for the love and support she has provided throughout my life, and to my two brothers on that same account. It is a matter of great regret for all of us that my father is not with us today, but we are reminded of him by many of the people here for this occasion, including his former colleague and friend, Mick Palmer; the Chin family; and Benny and Sandra Lew Fatt.

I thank my three daughters, Courtney, Jamie and Hannah for their love and good humour; even though that humour is usually exercised at my expense. You have been the greatest joys in my life and you continue to be so. Four of my nieces are also in court here today, and they are like surrogate daughters to me and bring me the same joy.

Most importantly, I thank my wife Marita. We have been together for almost 29 years now, and those of you who know me well will understand how significant an achievement that is on her part. She has always supported and looked after me and our daughters, putting our needs above hers. She understands the depth of my appreciation and gratitude.

My ambitions for this court going into the future are as first advanced by Sir Gerard Brennan many years ago now, and recently reiterated by Chief Justice French. The reference points for the Court's success are as follow.

First, the Court must be seen by the community as impartial, independent and fearless in applying the law.

Secondly, the work of the Court must be undertaken by judges and practitioners who know the law and its purposes, and who are alive to the connection between abstract legal principle and its practical effect.

Thirdly, the Court must accept and observe the limitations on judicial power and, within those limitations, develop or assist in developing the law to answer the needs of society as they present from time to time.

Finally, the Court must, within the limits of its resources, be reasonably accessible to those who have a genuine need for its remedies.

I am grateful for the opportunity to serve on this Court and I thank all present for doing the Court, and me, the honour of being here today.

The Judges of the Court invite you to join us for refreshments in the foyer directly after the ceremony. Would you please now adjourn the Court?

ADJOURNED 2:55 PM INDEFINITELY