

## **“Vale Former Chief Justice Jeffrey Miles”**

**Speech delivered by Chief Justice Murrell at a Memorial Sitting to Pay Tribute to the Late The Honourable Former Chief Justice Jeffrey Allan Miles AO**

**Supreme Court of the Australian Capital Territory**

**29 March 2019**

Tricia, Anna, other family and friends of the late and great Jeff Miles, judicial officers of the ACT Magistrates Court, former judicial officers of this and other courts, Attorney General, legal practitioners and other friends of the Court,

The Court acknowledges the traditional custodians of this land, who have lived here for over 20,000 years, and we pay our respects to their elders, past and present.

We gather to honour former Chief Justice Jeffrey Miles, who died on 11 February, 83 years young.

We remember Jeff as a modest man of great integrity. He was a fine jurist, a strong judicial leader, and a committed advocate for social justice.

At this Court, he created “a friendly and supportive small community”.<sup>1</sup> He lead the Court in accordance with his creed that ‘it is the public and, in particular, the litigants, for whom the Court exists’.<sup>2</sup>

### Early career

Jeffrey Allan Miles was born in Newcastle on 20 March 1935.

After attending Newcastle Boys High School, he studied arts and law at Sydney University. In 1954 he was admitted as solicitor. He worked in a Sydney firm for five years.

He spent the next two years as a volunteer English teacher with the Indonesia Civil Aviation Institute. His Honour lived with an Indonesian family and became adept at the language.

From Indonesia, his Honour travelled to London, where he developed an interest in litigation work, as well as contacts that resulted in his ‘first appointment of note’<sup>3</sup> - as solicitor for The Beatles on their Australian tour. Unfortunately, despite the show of screaming and fainting fans that met the band each night, the tour gave rise to no litigation.

In 1965, his Honour was called to the NSW bar. He became a Public Defender in 1978.

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<sup>1</sup> Former Master Alan Hogan correspondence.

<sup>2</sup> Chief Justice Jeffrey Miles, Speech delivered at the Ceremonial Sitting for the Retirement of Chief Justice Jeffrey Miles, 30 September 2002, 7.

<sup>3</sup> Justice Terence Higgins, Speech delivered to the ACT Law Society and ACT Bar Association on the Occasion of the Retirement of Chief Justice Jeffrey Miles, 26 September 2002, 1.

In 1976, Jeff married Tricia, a true kindred spirit. They had two children, Anna and James, and five grandchildren.

Their journey through life led Tricia and Jeff on many adventures.

#### Earlier Judicial Appointment – PNG and NSW

His Honour's first judicial appointment was to the National Court of Papua New Guinea, where he sat for two years from 1980 to 1982. Former Chief Justice Higgins (who, himself, later became experienced in that jurisdiction) has observed that, unlike Australia, in PNG the sources of uninformed criticism of the judiciary are not confined to shock jocks and politicians, but extend to '[loca/s] bringing out their bows and arrows and waving war-axes'.<sup>4</sup> Upon delivering a verdict in a judge alone trial held in a remote area, Justice Miles 'found it prudent to have the departing aircraft already warming up on the air strip,' leaving the translation of the verdict up to local authorities after his departure.<sup>5</sup>

In 1982, his Honour returned from PNG to become a judge of the NSW Supreme Court.

#### Appointment in the ACT

Three years later, on 17 June 1985, his Honour was sworn in as a Federal Court judge and as the third Chief Justice of this Court.

His Honour said that his appointment as Chief Justice 'seems to have come as a surprise,' having 'not practised in the ACT,' nor been 'on any Commonwealth list of preferred counsel'.<sup>6</sup>

It should not have been a surprise. His Honour's intellect, experience and - most importantly - his temperament defined him as a model judicial leader.

His dear friend John Purnell SC recounts a story concerning a two-week attempted murder trial over which his Honour presided. The colourful Ken Horler QC appeared for the accused. Every day, there were heated exchanges between Ken and Jeff, no doubt fuelled by Ken's usual luncheon beverage. At the end of the trial, Ken complained bitterly about Jeff's courtroom behaviour, saying:

That bastard is supposed to be a mate of mine; he does not need to be that fair!

His Honour accepted the appointment as Chief Justice of this Court 'on the understanding that [the ACT judiciary] would continue to be a Commonwealth responsibility and that the Commonwealth would proceed with established plans for a new Commonwealth Courts Building which would include the Supreme Court'.<sup>7</sup>

Alas, neither of these events came to pass.

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<sup>4</sup> Ibid 3.

<sup>5</sup> Ibid.

<sup>6</sup> Jeffrey Miles, *A History of the Supreme Court of the Australian Capital Territory: the First 75 Years* (Thomson Reuters, 2009) 21.

<sup>7</sup> Ibid 66-67.

In 1989, the Australian Capital Territory became a self-governing territory. His Honour oversaw this transition, and stalwartly advocated for safeguards to ensure judicial independence. It was not until 1992 that the Supreme Court became the responsibility of the Territory, and both the Commonwealth and the newly constituted ACT Legislative Assembly enacted legislation ensuring the continuing independence of the ACT judiciary, including security of tenure.

His Honour said:

The rule of law in a democracy requires that judicial officers, who stand between the citizen and executive government, should be free to adjudicate without the threat of removal by that government. Indeed, in a federal system where it is the duty of the judicature from time to time to rule on whether a legislature has exceeded its powers, the power even of a legislature to remove a judge or magistrate should be clearly defined and not exercisable lightly.<sup>8</sup>

From the judicial perspective, his Honour's advocacy for judicial independence, which is essential to the rule of law, is his most important legacy.

His Honour's retirement in 2002 was short lived; thereafter, he worked for three years as an acting judge in the ACT and NSW. Notably, his Honour presided over the first Eastman Inquiry, a challenging task that took its toll.

In December 2008, his Honour agreed to write a history of the Court, a feat that he achieved in a matter of months. *A History of the Supreme Court of the Australian Capital Territory: the First 75 Years* remains the definitive reference tool concerning the history of the courts and the judiciary in the ACT. Much more recently, his Honour agreed to oversee the drafting of our Jury Handbook.

### Building

When he retired, his Honour reflected with sorrow that, during his term, the Supreme Court had not found a new, and more fitting, home. He said:

I once had fanciful thoughts that like Sir Christopher Wren I would come one day to be able to say with pride "If you want to see my memorial, look around you." I read and digested quite a lot on the subject of court architecture both here and overseas and spoke to many people with skills and experience in that area. Suddenly, it occurred to me about two years ago that I might not see anything achieved in my term of office.<sup>9</sup>

He urged his successor to seek:

[a] firm undertaking from the Government in writing, in concrete if possible, made known to the world, that this court will be provided with the premises

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<sup>8</sup> Chief Justice Jeffrey Miles, 'The State of the Judicature in the Australian Capital Territory,' speech delivered for the Eight Sir Richard Blackburn Lecture, Supreme Court of the Australian Capital Territory, 3 May 1993, 3.

<sup>9</sup> Chief Justice Jeffrey Miles, Speech delivered at the Ceremonial Sitting for the Retirement of Chief Justice Jeffrey Miles, 30 September 2002, 8-9.

and facilities that are necessary for the proper discharge of its role in the public interest.<sup>10</sup>

However, his Honour did live to see his dream materialise. This year, his Honour toured the new Supreme Court building, which was constructed on the foundations of his Honour's efforts. It is a fitting memorial to him.

### Life outside the law

The law was only one of many facets to his Honour's life.

His Honour loved Canberra and its beautiful natural surrounds. After his retirement, he remained a dedicated Canberran and, Renaissance man that he was, he enriched the Canberra community in many ways.

He was a founding member of the ACT Chapter of the Australian Academy of Forensic Sciences and became a life member of that organisation. He was a dedicated member of the Australian Decorative and Fine Arts Societies. He was a passionate civil libertarian and served as Chair of the ACT Chapter of the International Commission of Jurists. He was an avid gardener who volunteered in the Rose Gardens at Old Parliament House for 14 years. And he was an habitue of Costco.

Jeff and Tricia enjoyed bush walks on most weekends. Once a year, their walking group undertook a longer walk and "the highlight was said to be the evening poetry reading by Miles and Patricia and animal impersonations which had the rest of the group in fits of laughter, with tears streaming down their cheeks."<sup>11</sup> His Honour was also a cyclist, and once rode from Washington to New Mexico.

Jeff may have missed out on the trip to the Kimberley that he and Tricia had planned to take this year, but there is not much else that he missed out on - in a life that was well and fully lived.

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<sup>10</sup> Ibid 9.

<sup>11</sup> Former Justice Richard Refshauge, *Obituary – Jeffrey Allan Miles*. The Court is grateful for Justice Refshauge's willing assistance in providing the Court with the full version of the obituary that he wrote for the Canberra Times: Richard Refshauge, 'A standout judge and citizen: Jeffrey Miles obituary,' *The Canberra Times* (online), 23 February 2019 <<https://www.canberratimes.com.au/national/act/a-standout-judge-and-citizen-jeffrey-miles-obituary-20190221-p50zer.html>>.