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SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

THE HONOURABLE CHIEF JUSTICE McCALLUM
THE HONOURABLE JUSTICE ELKAIM
THE HONOURABLE JUSTICE MOSSOP
THE HONOURABLE JUSTICE LOUKAS-KARLSSON
THE HONOURABLE JUSTICE KENNETT
THE HONOURABLE JUSTICE BAKER
THE HONOURABLE ACTING JUSTICE REFSHAUGE
THE HONOURABLE ACTING JUSTICE CROWE
THE HONOURABLE ACTING JUSTICE BURNS
THE HONOURABLE ACTING JUSTICE BALLA
THE HONOURABLE ACTING JUSTICE BERMAN
THE HONOURABLE ASSOCIATE JUSTICE MCWILLIAM

CEREMONIAL SITTING

ON THE RETIREMENT OF THE HONOURABLE JUSTICE ELKAIM

CANBERRA

9.33 AM, FRIDAY, 9 DECEMBER 2022

ELDER W. TOMPKINS appeared for Welcome to Country.

MR S. RATTENBURY, the Attorney-General, appeared on behalf of the Australian Capital Territory.

MS R. CURRAN appeared on behalf of the Australian Capital Territory Bar Association.

MS F. CHOUDHURY appeared on behalf of the Australian Capital Territory Law Society.

5 McCALLUM CJ: Welcome all to today's ceremony. I begin by acknowledging the traditional custodians of the land on which we meet, and pay my respects to their elders past and present, and I call on Mr William Tompkins to welcome us to his country.

10 MR TOMPKINS: Thank you. Hi. My name is William Tompkins. This is my daughter Minnie. I work at Galambany Circle Sentencing, and very honoured to be working there helping our clients, like I said before, stay out of jail and keeping them on the right track. I'm a Ngunnawal-Ngambri Wiradjuri man. So my mother is Wiradjuri and my father is Ngambri-Ngunnawal.

15 We're here today to honour Michael Elkaim J, and on behalf of my ancestors, my elders past, present and emerging, and my father, Howard Crow Williams, welcome to Ngunnawal-Ngambri country.

WELCOME SONG

20 Welcome.

25 McCALLUM CJ: Thank you, Mr Tompkins, for that beautiful welcome. Elkaim J, happy birthday. We don't know how old you are. We can only guess by reference to the terms of section 4(3) of the Supreme Court Act and the timing of today's mandatory retirement ceremony.

30 This time next year when you turn 71, I hope you will look back with pride and fondness on your time as a judge of the Supreme Court of the Australian Capital Territory. Since your swearing-in as a resident judge of this court on 4 July 2016 you have published 559 judgments, an average of 87 a year. Many were right.

35 A number of your judgments concern criminal conduct at or near a certain establishment. Recently, in a judgment published less than a fortnight ago, you noted that a search of the court's judgments database would reveal just how often that establishment plays a part in criminal activity. I have undertaken that search. The result is indeed alarming. It identifies 56 judgments in total, and yet only six of those are judgments of yours. In other words, despite your protestations – complaints – while you form 20 per cent
40 of the resident judges, you yourself have determined only 10 per cent of the cases involving that establishment. I'm not upset about that; I'm just disappointed.

45 Two hundred and ninety-six of your judgments, a whopping 53 per cent, include the word 'imprisonment'. I was surprised by that result until further reading revealed that in most of these you were merely recording a submission put by the Chief Crown Prosecutor. Seventeen of those were

civil matters in which the Chief Crown Prosecutor sought to intervene as facts checker of the plaintiff's evidence.

5 Even without the support of these statistics, no-one could doubt
your Honour's dedication and hard work in the discharge of your judicial
function. Apart from being many, your judgments are learned,
compassionate and concise. You have served with distinction on the Joint
Rules Advisory Committee, chairing its meetings with such efficiency that
10 any latecomer would miss the event altogether and be left to read in the
minutes that they were recorded as an unexpected apology.

15 You have been a tireless workhorse on this court, so much so that I have
frequently been called upon by the registrar to reallocate matters to you in
order to keep you out of mischief. This past week has been a particular
challenge. Your judgments are up to date, there is no more work to allocate,
and you have been restless. The halls are now decked with paper aeroplanes.
Your associate has been called upon to put aside important legal research to
teach you how to attach a document to an email. Perhaps you have taken to
20 sending even more paper aeroplanes electronically. Such is the measure of
your ennui when there are no more disputes to quell or worlds to conquer.

25 Most importantly, Elkaim J, you have been central to the collegiality of this
small, happy court. You have been a kind and supportive friend to each of
us. You established our tradition of eating lunch together in the common
room every day. You have brought us together and made us laugh. I am
personally deeply grateful to you for your wisdom and support in my role.

30 Elkaim J, I know you did not want this ceremonial sitting to be convened.
Your shyness and humility are such that you do not seek or even like to hear
your praises sung. But, as the registrar and I have said to you privately, it's
not about you. The court and the legal profession are aching with the sadness
of your departure from the jurisdiction. We needed to be allowed to give
communal expression to that pain. You will be sorely missed.

35 On behalf of the court, I thank you for your years of service and wish you
and the lovely Susannah a long and happy retirement together. Mr Attorney.

40 MR RATTENBURY: Thank you, Chief Justice. Billy Tompkins, thank you
very much for your welcome to country this morning. We appreciate you
joining us again this week and sharing culture with us today as we reflect on
the long history of the traditional custodians in this part of the world and the
continuing culture that you bring to our city and our lives.

45 Chief Justice, Chief Magistrate, the ACAT President, members of the
judiciary, colleagues, good morning everybody. It is a mixed emotion
ceremony this morning as we thank Elkaim J for his service, but, as the

Chief Justice has touched on, to convey our sense of loss at your leaving our jurisdiction, because today does mark your retirement.

5 Six and a half years ago we welcomed you to the Bench of the ACT Supreme Court. Over that time Elkaim J has made a rich contribution, both personally and professionally, to the environment here at the court and we profoundly thank him for the diligent and gracious way he has worked towards facilitating access to justice here in the ACT.

10 Today, Elkaim J's retirement from our Supreme Court is a time to reflect on the years he has spent here with us in the ACT and the application of his considerable skills in this arena. However, it also reflects a longer contribution to the legal profession. Elkaim J's career in law has spanned multiple jurisdictions, roles and life phases. On occasions such as these it is
15 important to reflect not only on an individual's service to the Territory but also how this has fitted into the tapestry of their life. Elkaim J has had a long and distinguished legal career, from when he commenced his legal studies at the University of Rhodesia, his Master of Laws at the University of London, being called to the Bar of England and Wales in 1978, and migrating to
20 Australia to practise at the New South Wales Bar in 1980.

Over the next 20 years Elkaim J had a wide-ranging practice and was appointed Senior Counsel in October 2002. In May 2008 Elkaim J was appointed to the Bench of the New South Wales District Court. At the time
25 Elkaim J joined our court in 2016, he had spent eight years presiding over a long list of cases, principally in the civil lists. During this time he was also appointed as a deputy chair of the New South Wales Medical Tribunal.

30 In 2016 Elkaim J was the first fifth resident judge to be appointed to the ACT Supreme Court. The legal profession and the jurisdiction were very grateful that Elkaim J had taken up the mantle and joined the court to commence this important role. The appointment was the culmination of a long period of discussion and debate within the Territory about both the need to and the benefit of appointing a fifth resident judge. As such, the appointment process
35 in which Elkaim J was recruited was extensive and merit based. It included wide consultation with key justice stakeholders and the process attracted a very wide variety of strong candidates.

40 One of the key considerations the jurisdiction had in mind when making the appointment was the ability of the appointee to act promptly and decisively and without compromising on the quality of the decision-making the court produced. It was strongly hoped that the new appointee would be able to help the court deal with the jurisdiction's rising case load and lend their skills to the swift and judicious resolution of disputes. Elkaim J has proven more
45 than capable in this respect, as the Chief Justice has highlighted with a statistical analysis this morning. Indeed, the first civil case he presided over,

heard in July 2016, his decision was handed down two days after the case concluded. We couldn't have hoped for a judge more able to respond to the challenges of the ACT Supreme Court that the court was facing at the time of his appointment. We thank Elkaim J for the timely contribution of his skills and for his diligence in lending his abilities to the courtroom.

The creation of the fifth resident judge position also signified the ACT government's commitment to improving access to justice in the Territory and to ensuring that the court system respond to the growing and changing community needs. Elkaim J has represented that purpose and those values with good humour and integrity.

Whilst certainly all our judicial officers have a wit that may surprise the hypothetical average reasonable person on the street, I must confess that I will miss the anticipation I'm sure we all feel when we see the smirk upon Elkaim J's face right before he delivers the punchline of an intricately crafted joke.

Known as an individual who is eminently hardworking and of deep knowledge, Elkaim J's investment in the administration of justice in this jurisdiction has been for the benefit of all of us. His Honour's practice of treating litigants and practitioners with politeness and courtesy in the courtroom has made him esteemed among people who come to the court. I can actually say, as I came up the stairwell this morning that very observation was made to me by one of the practitioners, and I think it was a testament to the remarks that I intended to make today. In this respect, Elkaim J has been an exceptional representative not only of the ACT Supreme Court but also of our justice system as a whole.

On behalf of the ACT community and the ACT government, I wish to warmly thank Elkaim J for his time here, congratulate him on his years of service not only in this jurisdiction but in those others where he has so expertly contributed his skills. I wish you every happiness and fulfillment in the years that lie ahead of you, Elkaim J.

McCALLUM CJ: s Curran.

MS CURRAN: Chief Justice, judges of this court, visiting judicial officers, retired judicial officers, including our former Chief Justice Murrell, Attorney-General, members of the profession, other distinguished guests.

Thank you, William, for the welcome to country, and Minnie for being here. I acknowledge the traditional owners of the lands on which we meet today and pay my respects to elders past, present and emerging. I recognise the role which law played in the traditional societies of Australia's First Nations people, the first legal systems of our country, and acknowledge that sovereignty was never ceded. I acknowledge the importance of the Uluru

5 Statement from the Heart. The Bar Association of the Australian Capital Territory repeats its urging to governments at all levels within our Commonwealth to do more to achieve reconciliation. We celebrate the diversity of First Nations people and their ongoing cultures and connections to the lands and waters of the Australian Capital Territory.

10 It's a great privilege on behalf of the ACT Bar to speak today to mark your retirement, your Honour, as a judge of the ACT Supreme Court and to honour and acknowledge your service to this court and to the ACT. My goal today, your Honour, is to emulate your judgments in my speech: intelligent, to the point, and only if necessary containing a passing reference and, by implication, sage advice about local locations to avoid. Although I am confident courtroom privilege applies, out of an abundance of caution I shall adopt the nom de plume of any such location as 'Caribou Caps.'

15 Two weeks ago I had the great privilege to speak on behalf of the members of the ACT Bar at the swearing-in ceremony for her Honour Baker J. As I said then, we are fortunate to have in the ACT exceptional jurists who began their legal life in other jurisdictions and who chose to migrate to the small but mighty ACT Supreme Court. For your Honour, migration is in your blood. 20 Initially I believed your migration commenced in Northern Rhodesia. I am however now reliably informed that your Honour was in fact born in Johannesburg, South Africa. But, wherever the journey began, your Honour has made a significant contribution to the jurisprudence of both the ACT and New South Wales. 25

30 I would like to acknowledge and welcome the members of your family who are present, your wife, and your daughters Natalie, Jessica and Rachel. There is no doubt they will be looking forward to spending more time with you on your retirement.

35 Your Honour grew up in Northern Rhodesia, now Zambia, and was educated from secondary school level in Rhodesia, now Zimbabwe. Your Honour completed your Bachelor of Law degree at the University of Rhodesia in 1974 and then moved to England, where you completed a Master of Laws degree at the University of London in 1976, specialising in international law subjects.

40 Your Honour also obtained a Diploma in Air and Space Law from the London Institute of World Affairs. Your Honour has pressed upon the next generation of solicitors in the Territory the importance of this area of law. I am informed that a hypothetical legal question regarding a flying drone delivering an Uber Eats order and an innocent pedestrian was left as your Honour's food for thought for many an admissions ceremony. 45

Your Honour was admitted to the Bar of England and Wales in 1978, and in 1980 your Honour came to Australia, being admitted to the Bar of New South

5 Wales in June of that year. Your Honour was appointed Senior Counsel in October 2002. You practised at the New South Wales Bar for some 28 years and in that time developed a broad and balanced practice. Your reputation at the New South Wales Bar was that you were an excellent lawyer, you were level-headed, careful and respected. You were also very funny. The qualities for which you are most remembered, however, are of your courtesy and efficiency. You were, even before your elevation to the District Court Bench, said to be perfectly suited for judicial office due to your intellect and character.

10 At the Bar of New South Wales and on the Bench, I am told your Honour was sphinx-like. I am advised by one of your then juniors that your Honour appeared in a common law trial where the presiding judge ordered everyone to have expert evidence by conclave that very day and, with your usual alacrity, your Honour adapted and simply got on with it.

15 I am told your Honour as counsel was always prepared. Your Honour was in the commendable habit of having the relevant text with you on the bar table, until one day when your opponent, senior counsel, reached across the table and helped himself to your text to assist him to respond to your submissions.

20 In May 2008 your Honour was elevated to the Bench as a New South Wales District Court judge, where your Honour continued with your reputation of intellect and efficiency, something that has carried over to your time as a judge of the Supreme Court of this court. On 4 July 2016 your Honour was sworn in as the ACT Supreme Court's fifth permanent judge.

25 There are some emerging themes that I respectfully wish to suggest stand out as hallmarks of your career in the law and the high esteem in which you are held by all those you have worked with in the ACT and New South Wales. Your Honour's efficiency, intellect, courtesy and humour have been identified as those hallmarks. At your swearing-in to this court, you were noted as being regarded by your colleagues for your diligence, decisiveness, good humour and approachable style, and that has continued.

30 Your Honour was quoted in The Canberra Times at the time of your appointment as saying that you had, on the District Court, done your best to be fair, to listen and to make timely decisions and that you were honoured to take up the appointment here. Your Honour has continued to be fair, to listen and to make timely decisions.

35 On a personal note, I have discovered that your Honour has a love for bike-riding and bushwalking and is a talented and competitive tennis and squash player. In fact, I'm reliably informed that at one Bench and Bar Tennis competition your Honour was 'so desperate to win that you insisted your partner play on with a ruptured Achilles.' You sadly lost that match to Macfarlan J and his partner, who on a proper day, I am informed, you and

Hammerschlag J would have smashed on the court. I understand Hammerschlag J was only out of action with that Achilles injury for around three months, a price you were prepared to pay.

5 Your Honour's humour has reached legendary status. I say that because every person I spoke to has a story of your dry wit and perfect delivery. It must be noted, however, that at the beginning of your Honour's time on this Bench there were some occasions when counsel were not sure whether to laugh. Recently, in dialogue about an issue of fitness to plead determined by
10 your Honour, your Honour made a remark and only the accused, whose fitness to plead presumably was in question, and your Honour laughed. I'm not sure what that says.

Your Honour has encouraged and educated many law graduates who have
15 had the privilege of working with you as your associate. The impact you have had as a mentor and supporter of those you have worked with is immense. You have instilled in your associates also a fine sense of humour, as reflected in the drafting of the Coffee Purchasing Act, an Act about the law of purchasing coffee for the chambers of Michael Elkaim J. It's here if
20 anyone would like to see it. Your Honour has also instilled in your associates a fine sense of competition, displayed, I am told, in the Friday morning Judge versus Associate ABC Friday News Quiz. My information is that your Honour remains undefeated, although on one occasion it was rumoured to have been a draw.

25 Perhaps, your Honour, your greatest virtue is your courtesy. From the perspective of the Bar, you have extended that courtesy to all who appear before you.

30 Elkaim J, on behalf of the ACT Bar Association I thank you for your service to the Territory and wish you well in the next chapter of your life. I trust that retirement will provide you with more time to enjoy the family you cherish and the activities you enjoy. May it please the court.

35 McCALLUM CJ: President of the Law Society, Ms Choudhury.

MS CHOUDHURY: McCallum CJ, members of the judiciary, Attorney-General and members of the legal profession, good morning. Thank you so much, Uncle Billy, for your very warm welcome to country. I
40 would like to acknowledge the traditional custodians of the land on which we're meeting, the Ngunnawal and Ngambri peoples. I pay my respects to the elders past, present and emerging, and also extend that respect to any Aboriginal and Torres Strait Islander people who are here today. On such a beautiful summer day I am especially grateful to be on this land and I thank
45 the traditional custodians for nurturing and looking after this land for countless generations so that we can enjoy it today. So thank you.

I am delighted to be here today on behalf of the ACT legal profession to honour the service and contribution of Elkaim J to this court. Thank you to the Attorney-General and to Ms Curran for sharing many of these contributions today.

5

They say that imitation is the sincerest form of flattery, so this morning I'll be doing my best to follow your Honour's fine example by being brief and funny in my address this morning. Your speed and your humour were the top two characteristics that the local legal profession and your associates attributed to you when reflecting on your time on the bench. So let's see if the evidence checks out.

10
15 Firstly, your speed. You have become famous in the ACT for running the fastest Joint Rules Advisory Committee meetings in that body's history, and you're also known for your speedy judgments. I understand your very first civil case in the ACT was heard over 11 and 12 July 2016 and you handed down your decision at lightning speed on the 14th. I am told this quick turnaround is standard practice. I also understand that you're very good at quickly appearing in the courtroom out of nowhere. On one occasion your unannounced arrival was so skilful that a senior counsel jumped out of their chair in surprise and had to quickly pull their wig on.

20
25 Now on to your Honour's reputation as the Bench's resident comedian. Your sense of humour has been described by those who know you as being dry, sarcastic and unique. One example: at a lunch where you were discussing your childhood growing up in Northern Rhodesia, now Zambia, you were asked if you spoke any foreign languages, and to that you replied that you'd got a real knack for learning languages and that you could say hello in every language except Greek. So this is a very amazing admission, of course, and you were asked to say hello in Finnish, to which you replied, 'Finnish? I don't know. It's all Greek to me.'

30
35 I was also really pleased to hear that you've been in the business of providing careers advice, and very sound careers advice, to legal professionals and associates. For example, in court once you asked your associate to determine how old the accused was. The tech wasn't working and you watched with bemusement the shaky attempt at long subtraction which followed. Counsel at the bar table also struggled with the calculation, and you quipped to both that both had clearly chosen the right career path – 'Lawyers are not mathematicians.'

40
45 On another occasion you took the time to explain the nuances of civil law to an associate, and I think this may have happened more than once, mentioning how civil law produced very good, intelligent solicitors. Despite the sell, the associate applied for a job as a criminal solicitor. They describe having to pluck up the courage and prepare for your Honour's eye rolls when asking you to be their referee. You remarked that you'd only give a good reference

if they promised to give civil law a go one day. They told you that they couldn't make any promises that they can't keep. Fortunately you gave them the reference anyway, and I'm pleased to advise everyone here that they did get the job.

5

From the references that we have received from your staff and Law Society members, it's clear that your presence on this Bench will be missed by all of those who have worked with you. You've had a profound impact on the lawyers that began their careers in your chambers. They describe you as being a kind person who is patient and good-humoured, who shared coffees and lunches with your staff, cared about their wellbeing and ensured that they went home on time.

10

I also acknowledge that you were instrumental through your leadership on the Rules Committee in replacing the obligation to notify probate and estate administration applications in a newspaper, so instead these notifications can happen on the Supreme Court website, and this is a practice that I know has been appreciated by practitioners who work in ACT probate and estate related matters. So thank you very much for your leadership on that matter.

20

I'm sure there are lots of things that you will miss about your time here. Ms Curran has referred to the Coffee Purchasing Act, which unfortunately I couldn't find on the ACT legislation register, because I'd really have liked to have got a copy here. I do understand it covers important issues like local approved coffee vendors, how your Honour takes your coffee, which I understand is skim flat white, extra hot, with an optional cookie, just in case there are any baristas joining us for morning tea, and it also covers a requirement for years of stored coffee trays to be fashioned into a single large cup as your Honour's final non-gift from former associates. Very exciting. Clearly takings are a waste of the next level with this innovative legislation.

25

30

Now, you might miss Timmy the Rabbit, and his many friends on City Hill. I know how much Timmy meant to you, so I actually arranged for Timmy to join me as my plus one. He's on the guest list, and he doesn't actually talk much but does say that he's so honoured to be here for your birthday but also to have this final opportunity to appear before you on the bar table. So I'm just going to put Timmy right here. I was sorry, and Timmy was sorry as well, to learn that your Honour's proposed internal direction requiring new judges to identify 10 different rabbits before being allowed to take the Bench never made it past draft. But happy birthday. You can have Timmy instead.

35

40

I'm sure you will miss coming first, ahead of your associates, in the weekly ABC News Friday Quiz, and I've got it on good authority that there's a signed admission of loss that you gave them for the one time that you didn't win. One thing that you probably won't miss is your Honour's very own nemesis, who I won't mention, and I won't say any more about that.

45

On behalf of the members of the ACT Law Society, thank you so much for your service to this court and the Canberra community, and we wish you many laughs and every success in the future, at whatever pace you choose. Thank you.

5

McCALLUM CJ: Thank you. Elkaim J.

ELKAIM J: My talk will be concise but not learned. I pay my respects to the traditional owners of this land and to their elders past, present and emerging. Thank you, Mr Tompkins, for your welcome. Ironically, everyone else here is hoping for my farewell. Thank you, Chief Justice, Mr Attorney, Ms Curran and Ms Choudhury for all the nice things you have said about me.

10
15 It's not often that a judge praises a politician. However, I would like to specifically express my admiration for the current Attorney-General, who has defended this court when under attack. He has also been responsible for three excellent appointments: the new horse-riding, rock-climbing, tennis-playing and generally adventure-seeking Chief Justice; the effervescent Kennett J; and my replacement, Baker J, who I'm told was chosen because she is the opposite of me in every possible regard.

20
25 It has been six and a half years since I came here. They were different times. There was a different Chief Justice and there was an assortment of random judges, three of whom have since been replaced and, I'm happy to say, are here today. I thank them for that.

30 When I arrived I had an expectation of the work that I would be doing and I was particularly looking forward to its diversity. I have done a lot of cases that I would not have encountered as a judge of the District Court, but I have also heard many more criminal cases than I anticipated. The Office of the Director of Public Prosecutions will tell you that this is a great disappointment.

35 Almost every sentence I have imposed has not been long enough. As far as leniency is concerned, the Court of Appeal has sometimes agreed with the DPP, but I have never gone out of my way to be lenient. I have simply tried my best to be just. I am forever grateful to the former Chief Justice, who told me I should wear my leniency as a badge of honour.

40

When I started, I came under the effective tutelage of Helen Murrell CJ, who I knew from the District Court. Her Honour took over the reins of this court and imposed an efficiency and discipline which was much needed. My wife and I also had the great benefit of the friendship of her Honour and Paul Westwood.

45

On the subject of guidance, I owe an enormous debt to Richard Refshauge J, who is always available to answer my basic questions and direct me to one of his numerous judgments on everything possible. The only time he became exasperated was when I asked him if I should order interest on the compensation I had awarded to the victim during a jury trial. I would also like to thank John Burns for his assistance, and Hilary Penfold as well, for the assistance they gave me when I was learning about crime.

Thank you to all of my fellow judges, especially including the associate judge, for their friendship over the years, which has made a sometimes trying job easier to deal with. I have walked with them, even shared a bathroom with one of them, chatted over lunch in the common room, or sometimes at a pub after work. Their comradeship has provided me with the diversion that is required from sometimes quite awful cases. I have also had the benefit of friendships with people in the Magistrates Court, and even, incredibly, a judge of the Family Court with a ponytail, Doc Martens shoes and an assortment of earrings.

Another great benefit I had was having associates, including an executive assistant, who were able to help me in understanding criminal procedure. All of my associates have been young, clever lawyers, who I am sure will achieve great success. They have also pretended to find me amusing and responded in kind, for example with the Coffee Purchasing Act, as you have heard. I'm very happy to see many of them here today.

The court staff have been wonderful. The principal registrar, the registrar and the registry have always been helpful and supportive. The sheriff and her officers have kept me in order, as well as the court, and I have derived great pleasure in chatting to the sheriff's officers while waiting to go into court or during an adjournment.

The library has kept me up to date with the law and news, and quickly published my judgments without regard to their quality. They have also ensured there is no coconut on the cakes made for the monthly morning teas. The press in Canberra have always honoured true journalism when reporting about me – that is, to report fairly and honestly of things that have occurred in court – and I thank them.

I have said some nice things about the former Chief Justice. I am now going to say some nice things about the current Chief Justice. It's not easy taking over a court which is working well. There is an inevitable expectation that things will keep going well. Things have kept going well because our new Chief Justice is hardworking, fair and, as far as the judges are concerned, she leads from the front and has no expectation greater than the one she imposes on herself. I am sure the success of the court will continue in her hands.

As far as highlights of my work are concerned, I think the most interesting case was also the most tragic. It was a medical negligence claim in which the Canberra Hospital was sued for the mismanagement of a woman pregnant with twins. Ultimately, contrary to the wishes of the parents, the twins were born, with one of them being severely disabled. I found negligence on the part of the hospital, but the plaintiffs failed on a causation issue. Their appeal failed, as did their application for special leave in the High Court. I can honestly say that I wish they had succeeded.

The case that gave me the most pleasure involved statutory interpretation relating to the Wreck Bay Community. My interpretation of an ACT Act was overturned by the Court of Appeal, incredibly. The appellant in the High Court was represented by Mr Kennett of senior counsel, as he then was. He was persuasive. The High Court told the Court of Appeal that it was wrong. Not only did I derive great satisfaction from this result, but it also entitled me to my second entry in the records of the Court of Appeal Reversal Club. Membership of this club, whose president is here today, is the aspiration of every first-instance judge.

I would like to thank the local profession for its competency whenever one of its members has appeared before me. I will miss noticing the cut of Mr Pappas's suits. I will miss Mr Purnell and I both being confused by his submissions. I will miss the minimalism of Mr Sabharwal, who never responded positively to an invitation to question a witness. I will miss those Crown prosecutors who ran cases efficiently and, above all, fairly.

The Covid pandemic was a challenge, although I did enjoy the competing arguments that arose from the emergency judge-alone legislation, but most enjoyable of all were the weekly Zoom sessions I had with friends in Sydney, which kept me connected and amused. Hammerschlag J and Stephen Klotz are here today, and I genuinely thank them for their friendship, together with the Honourable Peter Jacobson. I also thank Judge Levy, whose frequent calls kept me in touch with insanity.

When discussing my retirement, the most common question I am asked is whether I will miss Canberra. The answer is, I will miss no traffic, some people, and easy access to exercise, in particular riding my bicycle. I hold no grudges against Canberra for my bicycle accident, notwithstanding the metal now in my body and the shaking in my hand. The person who will miss Canberra is my wife Susannah, who enveloped herself in the many attractions of the ACT. She has ridden her bicycle throughout the Territory, walked all over the Territory, joined book clubs, mulched half of the Arboretum, and made good friends. Most of all, she supported me when I undertook this adventure.

I would like to thank my daughters and their families for coming here. Because they live or have lived in different places, it has been a long time since we have been together. So goodbye and good luck. It has been an absolute buzz. Thank you.

5

McCALLUM CJ: The court will adjourn.

ADJOURNED

[10.10 am]

10