

TRANSCRIPT OF PROCEEDINGS

**SUPREME COURT OF THE
AUSTRALIAN CAPITAL TERRITORY**

CEREMONIAL SITTING

FOR THE

RETIREMENT OF MASTER HARPER

CANBERRA

9.35 AM WEDNESDAY, 22 MAY 2013

THE REGISTRAR: Ceremonial sitting to mark the retirement of Master David Harper from the Supreme Court of the Australian Capital Territory.

5 HIGGINS CJ: Ladies and gentlemen, first may I warmly welcome our guest of honour, Master Harper, and Mrs Harper and their family. I also take this opportunity to welcome the new Master, Master Mossop, Mrs Mossop, and their family, and Mr Attorney, Mr Stretton and Ms Blumer.

10 I also welcome the judges who are present, including Acting Justice Nield, the former Master Hogan, and Ms Watchirs, the wife of the former and late Master and Justice Connolly. It is a great pleasure to have them with us today.

15 I also welcome the magistrates, members of the ACAT, Senator Humphries, members of the Legislative Assembly, practitioners and their respective carers, staff members, ladies and gentlemen.

20 I acknowledge the Ngunnawal people, the traditional owners of the land on which we gather, to celebrate Master Harper's time on the Bench.

25 It is a particularly momentous occasion as I believe this is the first time Master Harper has been on the Bench before 10 am in his ten years with the Supreme Court. It is a great pleasure to be presiding over the ceremonial sitting in honour of Master Harper as he and I have been predominantly in lock-step since his arrival in Canberra in 1970, as well as the fact that we were both admitted as lawyers in 1967, and on the same day, prior to his arrival.

30 While I was partner in my own firm, the Master was partner in what became Abbott Tout until 2002 when he joined the independent Bar. We have both been involved in the ACT Law Society and ultimately we have shared these past 10 years as judicial colleagues; his Honour being sworn in as the third Master of this court on 7 April 2003, the same year, of course, as my swearing in for my current appointment.

40 I also note with some hesitation that the inaugural edition of the Australian Law Reports contains the 1973 matter of *Aikamn v Brown (trading as Capital Travel Service)* in which I appeared for the plaintiff and Master Harper appeared for the defendant before the Honourable Fox J. Ultimately, judgment was entered for the Master's client with costs.

45 Master Harper has made a valuable contribution to the legal profession of Canberra. His Honour was a member of the Legal Practitioners

Admission Board from 1981 and chairman from 1983 to 2007. Thus he oversaw the entry into legal practice of countless practitioners, possibly including some in this courtroom today.

5 Master Harper was President of the Law Society of the ACT from 1978 to 1980, a member of the Legal Aid Commission from 1980 to 1985 and again, not content with that, from 1988 to 2003. He is an honorary member and former Councillor of the Australian Institute of Judicial Administration and a former President of the ACT Council of Professions.

10 His Honour also find time, surprisingly, to be a part-time senior member of the Administrative Appeals Tribunal ACT from 2000 till 2003 and indeed he managed to discover additional hours in his day to represent the court on the Law Admissions Consultative Committee and the Joint Rules Advisory Committee.

15 From 2006 to 2009 he was Chairman of the Legal Profession Disciplinary Tribunal. Not content with that, his Honour was also Chairman of Directors of Goodwin Aged Care Services. Now, that's not laying down for himself mana in heaven, by the way. A member of Barnardo's Canberra management committee, and President of the Commonwealth Club.

20 In 1999, his Honour's contribution to the legal profession was recognised in the award of the medal of the Order of Australia and, as is clear, he made a valuable contribution to the wider community as well as to the legal profession. This contribution is reflected in the large audience gathered here to date to celebrate Master Harper's career on the Bench; just pausing to note that we have insufficient seating for everybody who wanted to come.

25 The respect gained from the legal profession and the formal yet relaxed atmosphere in his courtroom, as well as life membership of the Law Society, are other achievements. They are not lightly gained and it is important to recognise the sacrifice made by his Honour and his family through his long working days and attendance at many meetings out of work hours.

30 The jurisdiction of the Master is restricted to civil law, save for bail applications, and civil law, though sometimes perceived as less glamorous and certainly the subject of fewer prime time TV shows, is crucial to our community.

As a visiting judge of this court said, and I am paraphrasing, “Without civil law, crimes would increase, as people would take matters into their own hands to avenge civil wrongs.”

5 Master Harper took up his appointment with great gusto, dealing astutely and professionally with anything from motor vehicle accidents and personal injury claims to the fallout of family disputes and medical negligence. I have been told that the Master has made passing comments to the effect that if he were to deal with the criminal jurisdiction, they may
10 need further to extend the AMC.

Master Harper will be remembered for his meaning jurisprudential contributions and significant cases. Perhaps most significantly was his Honour’s world-first decision in allowing lawyers to serve documents on
15 two people via their Facebook pages. This was broadcast far and wide and was the subject of media reports and journal articles including, amongst others, the Texas Bar Journal, the Human Rights Law Review and the Singapore Law Gazette.

20 Even Facebook itself commented on the decision, a spokesperson stating:

“We are pleased to see the Australian court validate Facebook as a reliable, secure and private medium for communication. The ruling is also an interesting indication of the increasing role that
25 Facebook is playing in people’s lives.”

They didn’t comment as to whether that was positive or negative.

30 The Master was always one to keep up with modern technology, though I am told he currently cannot access his own Facebook page as he has misplaced his password.

Another matter over which Master Harper presided was certainly significant enough to make the front page of the “Australian” newspaper.
35 It was a matter of *Omari & Omari v Omari* and it involved a bitter dispute as to whether a mother’s three sons should inherit twice as much as her daughters on the grounds that under Islamic law one boy is equal to two girls. Her sons arranged for a will to be made and one of the daughters challenged it upon her death. Master Harper ultimately declared
40 Mrs Omari had died intestate based on the evidence suggesting that she was suffering dementia at the time the will was made. It was ordered that her estate be divided up by the Public Trustee in accordance with Australian law, which most likely would mean that each child would gain an equal share regardless of gender.

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5 A further interesting case was that of *Cairns v Woolworths & Ors* in which his Honour awarded over \$500,000 to a woman who slipped on a chip in Woden Plaza while walking to her car after work. I am reliably informed that this judgment was often raised by his Honour's friends at dinner parties.

10 The position of Master of the ACT Supreme Court has evolved somewhat since its inception in 1989. Master Harper experienced a change in title during his time on the Bench when the practice transitioned from addressing the Master in court as "Master" to addressing the Master as "your Honour". Additionally, there have been discussions advocating the increase of the status of the Master to that of a District Court Judge. Now, whether it's an increase or simply a recognition of the fact may be a subject of some debate.

15 During the former Master Alan Hogan's appointment he raised the issue of how he should be referred to by his colleagues on the Bench. As practice denotes that judges of this court should refer to each other as brother or sister as the case may be, it was deemed appropriate that the Master should be designated as "nephew" - or, of course, in the event of a lady Master, "niece" - of the judges of the court.

20 Interestingly, former Chief Minister Rosemary Follett sought to have the title of Master and other titles in the ACT adjusted to remove sexism. This created, of course, the issue as to what, in fact, a less sexist version would be. Should counsel refer to the Mistress of the Supreme Court? Should university graduates line up to collect their Spinster of Arts? The matter was promptly and quietly dropped.

30 Unfortunately, we have not had a female in this position to date. However, I can assure you that there are many women who would regard as entirely appropriate to be referred to as Master.

35 I would like to take this opportunity also to welcome Master Mossop to the Bench. He will certainly be the longest Master ever; noting that Master Allan Hogan is about 5 foot 6, Master Harper 5 foot 8. My judicial colleagues and all of the staff at the Supreme Court welcome you, Master Mossop, to where the grass is literally greener. While maintaining a single registry between both courts, each court has a different contractor to manage its surrounds and it has been observed that the Supreme Court side, the grass is kept in a much healthier condition.

40 What previous Masters may have lacked in stature they have definitely made up for in judicial expertise and Master Mossop joins a tradition of appointments of a very high calibre. The first Master was

5 Master Allan Hogan appointed at the end of 1989 in response to former Miles CJ's attempts to secure an additional judicial officer. Whilst the appointment was welcomed, particularly with the knowledge that the employment of the Master in New South Wales in 1970 had been effective, it was noted that maintaining the limited jurisdiction of the Master would create issues in a small court. As a result, the Master's jurisdiction has been extended to include all civil matters.

10 As a first appointment Master Hogan led the tradition of Masters of this court to take an active role beyond conventional judicial duties, taking part, for example, in regular revision of the court rules of procedure and proving case management. Former Connolly J appointed as Master in 1996, prior to his appointment as a judge in 2003, was similarly involved in reform of the court procedure rules and also the publication of the ACT Law Reports prior to his untimely death in 2007. As mentioned, Master Harper continued this tradition as a very active judicial officer of the ACT Supreme Court contributing above and beyond the conventional judicial duties.

20 In fact, his Honour has been known to take up the role of handyman at the ACT Supreme Court sometimes being observed roving the corridors with a screwdriver in hand to cure door handles of wobbling. One quiet weekend his Honour popped into the court, courtroom 6, armed with a drill and modified courtroom 6's back panel to create a peephole allowing his Honour to observe counsel prior to coming on to the Bench. Let counsel be warned it's still there.

30 We congratulate the Master on his successful contribution to the ACT community and wish him and Jenny all the best for the future as we welcome Master Mossop and look forward to his contribution to the court.

Mr Attorney.

35 MR CORBELL: Your Honours, I am honoured to be here this morning to acknowledge the contribution and the retirement of your Honour Master Harper. I also wish to acknowledge to the traditional custodians for the country we are meeting on this morning, the Ngunnawal people, and I pay my respects to their elders and the continuing contribution they make to our community. I also acknowledge the presence this morning of family and friends of Master Harper. I am sure this an important and proud moment for you all.

45 I also note that his Honour Master Mossop starts his appointment today. I am pleased to welcome you to this new role and I wish you all the best in your functions in this role. I am confident that your experience in civil

proceedings across a range of ACT and federal matters will serve you well and I wish you all the best.

5 In gathering to farewell his Honour Master Harper, this morning I first of all join with the Chief Justice in recognising the distinguished career of his Honour in the law, culminating with the office that he has currently held. Going back to where it all began, his Honour was born in Sydney in 1943 and, after Sydney Grammar School, went to Sydney University, admitted as a solicitor in New South Wales in 1967 and a partner in the firm Abbott Tout Solicitors from 1971 until 2002. As has already been 10 acknowledged, his Honour was president of the ACT Law Society from 1978 to 1980 and awarded the medal of the Order of Australia for service to the legal profession through the ACT Law Society in 1999.

15 Colleagues and friends from this time speak highly of your Honour's working knowledge of the civil law. You always knew the right precedent. You knew how almost any conceivable civil matter would unfold. Such knowledge comes from hard work. You started in the civil motions list and went on to act in a wide range of accident and commercial matters, including your work acting on behalf of the Law Society and your pro bono contributions to our community. 20 Colleagues from your time in practice talk of you as a lawyer who was not afraid of hard work. Some remember your tendency to work late and sometimes, indeed, on the weekends or perhaps that was also for court maintenance matters. Some also talk in hushed tones of your occasional Friday lunch with other senior lawyers. 25

You, of course, are no stranger to the service of the law at the time you took on the appointment as Master. In 1988 you were a Commissioner of the Legal Aid Commission; in 2000 a senior member of the ACT Administrative Appeals Tribunal; and from 1983 to 2007 Chairman of the ACT Legal Practitioners Admissions Board. On behalf of the government and the broader community I thank you for more than 30 10 years of dedicated service to the administration of justice in the Territory. The role of Master, as has been noted, is an important one. Under the rules of the court the civil jurisdiction of the Supreme Court that may be exercised by a single judge is exercised by your Honour. 35

The office deals, therefore, with a very broad range of matters, many of them not straightforward or simple. During your time on the Bench you have heard and determined a large number of civil numbers. While, inevitably, some have involved the assessment of damages in rear end collisions you have also been called on to deal with more challenging ones. Some of the hardest fought civil cases concerned family disputes. 40 Family are often at their worst when disputes are fuelled by fights over 45

wills or property. Unlike most commercial disputes family disputes are often shrouded in conflicting claims. It is in these disputes that our judicial officers are often called upon to exercise the judgement of Solomon.

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As Master you have been called upon to decide cases such as these. One recent case dealt with complex evidentiary issues around testamentary capacity. Patiently, you attempted to get family matters to settle their differences through mediation, however, when family members failed to take that option, you quietly unpicked the knots that tied up this dispute in a series of legal riddles. In another case involving a family dispute again, you were invited to consider whether an arrangement between family matters had crystallised sufficiently to create enforceable legal obligations. While the case traversed difficult issues in the law of equity, your decision was simple, clear and decisive.

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You have been instrumental in setting the Supreme Court's approach to complex limitation of action cases through a number of cases. This involved your consideration of the interplay of ACT law and the Commonwealth Evidence Act; an issue now resolved with the passage of the ACT's own Evidence Act in 2011. You have not been deterred by the challenges of the civil cases that have come before you and it is also important to note your membership and contribution to the Law Admissions Consultative Committee since 2003 and the Joint Rules Advisory Committee since 2005.

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On behalf of the Territory and the community, I thank you for your distinguished service as Master and the other public offices you have held. Your skills and dedication to justice will be missed by the courts and its users. I wish you all the best in your retirement.

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May it please the court.

HIGGINS CJ: Thank you, Mr Attorney. Mr Stretton, President of the Bar Association of the ACT.

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MR STRETTON: Master Harper, members of the Bench, ladies and gentlemen, what a pleasure it must be to the Attorney-General to see five resident judges sitting on the Bench today.

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When I had to make a speech in honour of Master Harper I felt a little cheated because usually, when one makes a speech, the judicial officer has retired and has no outstanding judgements and therefore one can speak freely and slander the judicial officer as much as you want. Very cunningly, Master Harper has contrived, albeit it through serious illness,

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not to achieve that status and so I must be very careful, bearing in mind that his last two decisions were decidedly against me.

5 Now, when I learnt that I had to make a speech I decided to go to a good friend of Master Harper's and mine, Gary Parker, and I asked Mr Parker if there were some stories I could tell about the Master. He said, "Well, I did teach David everything he knows about drinking alcohol." I thought, well there's a mentor one could be very proud of. The other stories, however, were quite unrepeatable in these precincts.

10 Now, Master Harper has, of course, dealt with all these complex family cases, but the day-to-day bread and butter of the Master's Court is deciding questions of negligence, often between two stationary vehicles on their correct side of the roadway, both keeping a proper lookout, sounding their horn, who have come into collision. Sorting out this sort of situation can be very difficult, but he has always done so with great patience and great courtesy.

20 Master Harper knows that for many practitioners an appearance in the Master's Court for a mention is their first appearance and it is an important one. He has always given first time practitioners, indeed all practitioners, respect. He has been careful to remember names. He has a wonderful facility for remembering names. For somebody like myself, who is always confusing names, I hold him in particular awe. He can remember everybody's name who appears in court, most people he happens to run into and that is a particularly wonderful characteristic of Master Harper's.

30 The other thing, which has been observed, is his unfailing courtesy in court and that, in my view, is a very important attribute of a judicial officer.

35 One thing that I should say, in conclusion, is this: Master Harper, have a look around; this room is not just filled with grateful plaintiffs but people who have come from interstate, not just from the ACT, to wish you farewell. That is a tribute, sir, to your 10 years on the Bench. Thank you.

40 HIGGINS CJ: Thank you, Mr Stretton. Ms Blumer, President of the Law Society.

MS BLUMER: Your Honours, Attorney-General, members of the profession and friends and family, it is a great privilege to honour the service and contribution of Master David Harper OAM. I would like also to acknowledge the Ngunnawal people, who are the traditional custodians of this land on which we sit today and pay my respect to their elders, past

and present.

5 Your Honour spent 35 years as a solicitor, and that was your vocation for most of your adult life before going to the Bar in 2002 and appointment to the Bench in 2003.

10 Your leaving the Bar was a bit disappointing for those of us who briefed you as your years of wisdom and experience far outshone your somewhat junior status at the Bar, but the profession was pleased with your appointment and the depth of experience you brought to the position of Master.

15 The ACT Law Society has a very special relationship with your Honour. You served on council for 29 years, including as president from 1978 to 1980, at the tender age of 35. Still a record, I believe. Your photograph shines out from the rouges gallery in the boardroom at the ACT Law Society and, I must say, you haven't changed a bit.

20 For many years you comprised the entire panel as the solicitor for the Law Society, a job now needing at least four solicitors. When the free Legal Advice Bureau commenced in 1973, your Honour was one of the first solicitors to volunteer and provided free advice every six to eight weeks for 17 years.

25 Just some of your contributions to committees and organisations within the legal community included chairing the Legal Practitioners Act & Ethics Committee, serving on the Law Council of Australia and, along the way, your Honour made substantial contributions to the Legal Practitioners Act and the model rules for professional conduct.

30 At the instigation of the Society, your Honour was awarded the medal in the Order of Australia, in June 1999. In 2003 you became the fourth person to be accorded honorary life membership of the Law Society.

35 We will miss you on the Bench. You have been unfailingly courteous, wise and tolerant. You are a shining example of fine judicial officers who have come from the ranks of solicitors. Tolerance is not an easy job on the Bench, particularly with the number of self-represented litigants appearing again and again. I have watched, astonished, as your Honour
40 patiently and politely handled the most difficult members of the public as they came to the court to obtain justice.

45 As Mr Stretton has mentioned, your Honour has always been kind and helpful to junior lawyers who are usually terrified, nervous and bumbling when they start appearing in court and appreciate a kind and considerate

judicial presence to help them along the way. Hopefully their performance improves.

5 I cannot fail to mention the Friday lists. It was almost always a full house and was enjoyable to attend, just for the collegiate atmosphere, camaraderie and humour over which you presided with grace and style, often delivering witty asides.

10 The job of Master is not an easy one, as the Attorney-General has said, and the work that comes before the Master is some of the most complex in the jurisdiction. Your Honour's intellectual capacity to produce finely written but sensible judgments has been admired and appreciated by the profession.

15 We have been well-served by our Masters, first Master Allan Hogan, here today, and I note that your Honour had the difficult task of filling the shoes of his Honour the late Connelly J, who was Master before his elevation and had, through his own talents, earned great respect from the legal profession.

20 Today I also stand before our new Master, David Mossop, who will now be walking your path and along your corridors, perhaps with a slightly raised ceiling. Master Mossop's appointment is very welcome, bringing an acute legal mind and tremendous experience from his career at the Bar and his service as a magistrate. Your Honour will face new challenges, as the nature and jurisdiction of the Supreme Court continues to evolve, and there is no doubt that your Honour's particular talents will ensure that you earn as much respect as the Masters before you.

30 Master Harper, I do not believe that your retirement from this court will be your retirement from the legal profession. We are aware that you will be continuing to deliver judgments in the next few months and look forward to more of your work. When that is finished, I would be very surprised if I didn't see you continuing in some aspect of the profession and lending us your acquired wisdom.

40 I acknowledge and welcome your family, including - I won't mention everybody - your wife, Jenny, and children, Charlotte, Sophie, Nicholas, Jessica, Michael is in New York, and three grandchildren, Sebastian, Alexander and Astrid. We wish you, Master Harper, a happy, healthy and productive life after your service as Master of this court and, by the way, happy birthday.

45 HIGGINS CJ: Yes, well I won't ask for a round of Happy Birthday to you, but that concludes the ceremony, and the court will now adjourn.

I forgot the swansong. Here's Master Harper.

5 MASTER HARPER: Chief Justice, a neat trick and you almost got away with it. You do me a great honour by convening this ceremonial sitting to mark my retirement, as do my judicial colleagues by their presence here this morning. And Mr Attorney, I am honoured also by our attendance and your kind words today.

10 It is a great pleasure to see so many friends - some competition from one of my grandchildren. It is a great pleasure to see so many friends in the body of the court, members of the Bar and of the wider legal profession, and court director of management and staff.

15 I have worked closely with so many of you during my 10 years as Master and for many years earlier as a lawyer in private practice. It is a particular pleasure to have here this morning members of my immediate and extended family, including my children and grandchildren. Most of my grandchildren, perhaps all of them, are a little young to retain much of a
20 memory of this occasion but we will see what we can do to prompt their recollection with photographs as the years go by.

25 When I came to live and work in Canberra in 1970 I scarcely expected that I would still be here 43 years later or that I would spend most of my life here in Canberra. I came to work in the then reasonably new Canberra office of Abbott Tout Creer & Wilkinson, which had been opened in 1967. That office had been opened to serve the needs of its principal client, NRMA Insurance Ltd, which then accounted for some 80% of the compulsory third-party insurance market in the Australian Capital
30 Territory and has since seen off its few competitors who seem reluctant to re-enter the fray, notwithstanding the encouragement of the executive government and the legislature of the Territory.

35 The Canberra office of Abbott Tout had been opened by John Ellis, my partner until he was appointed to the Family Court of Australia late in 1975. I remained with the firm with other partners over the years, including - I see here today - Richard Garnett and, most notably, Col Blain, with whom I worked closely for nearly 25 years at Abbott Tout.

40 My involvement with the Law Society has been mentioned. I joined the Council of the Society in 1974 and I was thrust unexpectedly into the office of President in March 1978, with the appointment of my predecessor as President, the Honourable John Gallop, as a judge of the Supreme Court of the Northern Territory and of the Federal Court of
45 Australia.

5 During my time as Master it has been my good fortune to have served with judges who have fostered a friendly and collegiate atmosphere on the court and with whom it has been a pleasure to work. Crispin J and Gray J, who honours me by having travelled from Adelaide to be here this morning, retired during my time as Master, and Justice Terry Connolly sadly died far too young and with so much more to achieve.

10 Chief Justice Terry Higgins has served on the court for 23 years this year, and for the same period of time as a judge of the Federal Court, of which he, I think as of only last week, is now the longest serving judge. His long professional and judicial experience has been of enormous benefit to the court and to me.

15 He follows in the footsteps of others whose portraits are on the walls of this courtroom. Chief Judge Russell Fox, who was here when I came to Canberra, the first Chief Justice of the court, Sir Richard Blackburn, who was appointed a year after I came to Canberra, and Chief Justice Geoffrey Miles, who is on the Bench this morning, as well as on the wall, and who
20 served as Chief Justice for 17 years from his appointment in 1985. I learned a great deal from each of them and I respected and admired each of them enormously.

25 I should just add that one of the great benefits that this court has enjoyed is the assistance of additional judges who have been judges of the Federal Court of Australia. I mention two of them simply to indicate the judicial quality and calibre we have been able to enjoy from that source. When I was first appointed, Justice Robert French was one of our additional judges and came here from time to time, sitting both at first instance and
30 as a member of our Court of Appeal, and he of course is now Chief Justice of the High Court of Australia. During my time as Master, Justice James Allsop was appointed to the Federal Court and as an additional judge of this court. He sat here in both capacities and went on to become President of the New South Wales Court of Appeal and now Chief Justice of the
35 Federal Court of Australia.

40 The Registrars and Deputy Registrars and staff of the court play a very important role in ensuring that the business of the court is handled efficiently and effectively. If I mention names, I will inevitably leave out some who deserve to be mentioned, but I don't propose to allow that to deter me from making particular mention of the present Registrar, Annie Glover, Deputy Registrar Grant Kennealy who worked with me as a solicitor at Abbott Tout many years ago, and particular mention of Gaeleen Curley who is in court today, the indefatigable List Clerk and

secretary over more than 20 years of the Legal Practitioners Admission Board on which she and I worked together closely for such a long time.

5 The Sherriff's Officers, the library staff and the registry staff all provide friendly and helpful assistance to the judges, and I suppose to the community, and they keep the system working smoothly.

10 We worked most closely with the chambers staff and, in my case in particular, with my associates. In my 10 years I have had 10 associates. I have enjoyed a close working relationship with all of them. They are now spread around Australia and indeed the world, two of them working in New York City as I speak, and I thank on their behalf and in a representative capacity, the two who I can see here today, Anthony Crowe standing up the back somewhere, and my present and last associate Katie Van Den Bos who is sitting in court also.

20 The work of a judicial officer is intensive and demanding, far more so than I realised when I accepted my appointment. There is rarely an opportunity to start immediately on preparing reasons for decision when a case finishes. Nearly always, the parties and their counsel and solicitors in the next case are there ready and waiting to start and so, regrettably, the reserve judgments can build up, causing criticism by the media, the public and the profession, in which, I am ashamed to admit, I was prepared to join in earlier years. I am now far more understanding of how long it can take to prepare reasons for judgment which cover all of the evidence that needs to be covered, which set out and analyse the statute law and the case law that needs to be applied to the facts and which expose properly the reasoning process that leads to the conclusions forming the basis of the decision. I now recognise how much easier it is to criticise than it is to write a good judgment.

30 During my time as Master, as the Chief Justice said, the jurisdiction of the Master has greatly expanded. The Master now has the same civil jurisdiction as a judge at first instance. When the office was created in 35 1989 with the appointment of Master Alan Hogan, who we still refer to affectionately as "the old Master", the jurisdiction was then very limited. The Master could not hear personal injury actions other than motor vehicle claims in which liability was in issue and could not deal with interlocutory applications arising under legislation other than the Supreme Court Rules.

40 That has changed greatly over the years, and I am going to take advantage of my captive audience to make one plea for legislative amendment. It is time to do away with the right of appeal to a single judge from an 45 interlocutory decision of the Master. Such an appeal should, as is the case

5 with interlocutory decisions of judges, lie only to the Court of Appeal and only by leave. The present system exposes litigants to an unnecessary extra level of appeal and whether they are exposed to that or not depends purely on whether the interlocutory application happens to have been listed to be heard by a Master or by a judge.

10 The Supreme Court Act should, in my opinion, be amended to make this change in the interests of reducing the workload of the court and in the interests of saving legal expense to litigants.

15 I thank my judicial and professional colleagues and the staff we work with. It remains for me to thank my family for their support during my time as Master, in particular my wife Jenny, who is capable of doing all of those things that are beyond my capacity and, when I think about it, a lot of things I can do myself too but not as well as she can.

I thank all of you for helping to make my 10 years as Master such a pleasant, stimulating and fulfilling part of my life.

20 HIGGINS CJ: Yes, thank you, Master Harper. You nearly lost that opportunity but we have been uplifted by it now.

Thank you, everybody. The court will now adjourn.

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ADJOURNED

[10.15 am]

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