

Speech delivered by Chief Justice Higgins

50th anniversary of the Supreme Court Building

9 May 2013

Mr Attorney, Mr Stretton, Ms Blumer, the Judiciary, including the Magistracy, member of ACAT (Mr Stefaniak) and the legal profession (not necessarily in that order), staff of the Law Courts, ladies and gentlemen. I begin by paying my respects to the Ngunnawal people, the traditional owners and continuing custodians of the land on which we gather this morning to celebrate the 50th anniversary of the Supreme Court of the Australian Capital Territory sitting in this building; an historic occasion and one deserving of commemoration.

The first sitting in this building was on 9 May 1963, the day after it was officially opened by then Prime Minister, Sir Robert Menzies. The progress and design of the building was not completely smooth-running, hindered by budget constraints and recognition of the need to adapt the design to the fast growing population of Canberra, however construction was completed on time. I note that among our guests today are some of those who were present at the first sitting or at least practicing at that time, including Tim Johnstone, Allan Nelson, Edward Clancy, David Crossin, N Macphillamy and Allan Hall. John Nutt

provided his apologies with particular sentimental regret. Unfortunately, Jonathon Bell is also unable to attend today.

The building has evolved over time. Initially, it housed quite the complement of services, including the Registrar of Titles, Births, Deaths and Marriages, the Companies Office, and parts of the Court Reporting Service.¹ The Supreme Court sat in courtrooms 1 and 2, and the Magistrates Court in courtrooms 3 through 6, though initially the Conciliation and Arbitration Commission sat in 6. What is now our Sheriff's office was then occupied by the Registrar for Births, Deaths and Marriages. For some years, civil marriage ceremonies were conducted in the Supreme Court marriage room which could cater for 20 seated guests.²

Interestingly, the first sitting in this building was originally scheduled for 13 May 1963 however it was decided that the first case should be listed on the 9th as a 'trial run' to test out the acoustics and enable Court officials to accustom themselves to new surroundings. The Canberra Times reported that the 'sound-proof system was very effective and the proceedings ... were not disturbed by outside noises. The only trouble was a long, drawn out squeaking noise as Mr

¹ Neave, L, 'The ACT Law Courts Building: Heritage Study', Canberra: 1998, at 15

² 'From one registry office bride to another', *Canberra Times* (Canberra), 8 June 1971.

Justice Dunphy entered the courtroom slowly closed'.³ This problem was remedied as soon as the court rose.

The first hearing in this court building lasted only two minutes- if only this precedent could have been followed by all matters in the past 50 years so that we all might enjoy more leisure time. The matter concerned a claim for damages arising out of a traffic accident. 'Edward Barrow, of Grevillea Street, O'Connor claimed damages from Frederick William Barnes, of Lambert Street, Lyneham. Barrow claimed that through the negligence of the servant or agent of Barnes, he suffered personal injuries in a collision at the intersections of Brigalow and Wattle Streets on April 7, 1962. By consent, the Court entered judgment in favour of Barrow for 400pounds.'⁴ Mr Justice Dunphy was quoted as saying 'This is a happy start' as he entered judgment.

Another matter of interest that was heard in the early days of this building was Regina v. Duspara. According to the Canberra Times, Ivan Peta Duspara pleaded guilty to breaking and entering an office and stealing a safe containing money to the value of 689pounds.⁵ Apparently, Mr Duspara and his companions found the safe extremely difficult to open once they'd apprehended it, so they decided to wait until it was reported missing in the newspaper to see

³ 'Courts Given Brief 'Test', *The Canberra Times* (Canberra) 10 May 1963

⁴ 'Courts Given Brief 'Test', *The Canberra Times* (Canberra) 10 May 1963

⁵ 'In The Courts', *The Canberra Times* (Canberra) 14 May 2013

if the contents were mentioned and whether it was worthwhile continuing their attempts to force it open. Upon reading in the paper that the safe contained about 600pounds Mr Duspara and his companions returned to the hiding place in the forest, filled with, I am sure, a renewed sense of purpose, and resumed efforts to open it. After many more attempts the safe was finally opened and the contents shared. The offender was sent to prison for two years by Mr Justice Dunphy.

The Canberra Times reported on the 'New Seat of Justice' on this day, 50 years ago. The article reported the "lightly disciplined" modern architecture techniques utilised by chief architect Mr Roy Freeman creating "a distinction in keeping with a twentieth century city".⁶ The building was described as "at once simple, yet bold and imaginative". The design of the building is intended, and I quote its architects, to "express the traditional dignity of Court design in terms of contemporary materials and building techniques and present day economics"⁷. As such it is representative of the architecture of that period and has been Heritage listed.⁸ The location of the Court is also of significance, being in the precinct designated for "municipal courts" by Walter Burley Griffith in

⁶ 'A New Seat of Justice', *The Canberra Times* (Canberra) 9 May 1963.

⁷ Yuncken, Freeman Brothers, Griffith and Thompson, the Melbourne based Architectural Firm briefed with the design, in their Architectural plans, as extracted in Neave, L, *The ACT Law Courts Building: Heritage Study*, Canberra: 1998, at 15.

⁸ Neave at 41; see also its entry on the Australian Heritage Database, available online at:

http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail&place_id=019700

his plan of Canberra.⁹ I note that the court was wary of the issue of backlog of cases even 50 years ago, with Mr Justice Dunphy assuring the public that with the new building the Court could “clear up the list with reasonable speed and with maximum comfort to the legal profession”.¹⁰

This Court was once a leader in court sound recording capability in Australia. The state of the art set up involved a two-track stereophonic tape recording system. The tape recorders were linked via an underground cable to a transcription centre, the first of its kind in Australian Courts.

Another popular feature of the new building is the internal atrium, which, unlike the two-track stereophonic tape recording system, is still enjoyed by people who visit and work in the Court today. It was one of the earliest buildings in Canberra to have an internal courtyard of this nature, with glass walls and open to the sky.¹¹ Fifty years later, architects who specialise in court design emphasise the importance of court buildings having connection with the outside and natural light. As the former Chief Justice of the Federal Court, Michael Black, well-known for his interest in the architectural aspects of the

⁹ <http://www.idealcity.org.au/>; <http://www.naa.gov.au/about-us/publications/fact-sheets/fs95.aspx>

¹⁰ ‘A New Seat of Justice’, *The Canberra Times* (Canberra) 9 May 1963.

¹¹ L Neave ‘The ACT Law Courts Building: Heritage Study’ Cultural Heritage Management 1998.

administration of justice said, “architecturally, light and access have a powerful connection with justice”.¹² The atrium embodies this notion.

A design feature of each courtroom is the timber panelling and furnishings provided by one of the 6 Australian States. This unique contribution to the building is acknowledged by the placement of the Coat of Arms of the donating State at the entry to each courtroom. This courtroom is replete with Red Cedar from New South Wales. The neighbouring courtroom two is finished in Victorian Mountain Ash. The other courtrooms consist of Western Australian Jarrah, Queensland Silky Oak, South Australian Red Gum and Tasmanian Blackwood.

It is interesting to note that the building is still adorned with the Commonwealth Coat of Arms. The ACT government sought to replace the Commonwealth Coat of Arms with the City of Canberra Coat of Arms in the late 1990s. This proposal received strong criticism for a number of reasons including the fact it was not then recognised as the Territory Coat of Arms and thus not representative of the jurisdiction of the Court, the building is under the control of the Supreme Court and thus the legislative assembly does not have the power to make such decisions, there was an issue as to whether the Territory actually owns the arms and, lastly, what effect such a move would have on the Court’s

¹² Black, Chief Justice Michael "Transcript of ceremonial sitting of the Court to farewell the Honourable Michael Black AC Chief Justice, Federal Court of Australia" (FCA) [2010] FedJSchol 6.

heritage listing. Needless to say the court has retained its Commonwealth Coat of Arms.

At the 50th anniversary sitting of the Supreme Court in 1984, former Chief Justice Blackburn touched on the social significance of the court building.- ‘most members of the community probably have a good general idea of what the words ‘the Supreme Court’ mean, even though they may not be able to describe it in very exact terms. The Supreme Court in any community is such a familiar institution that its function, indeed, its value tends to be taken for granted to the extent of being virtually forgotten’.¹³ Former Registrar, Allan Towill also commented on the importance of a court building to the community stating that, “Most people in the territory can readily identify where the Supreme Court is and have some understanding of the general courts structure... any landmark, you go to any country in the world or any jurisdiction and the parliament and the court system are really public landmarks’”.¹⁴

As well as the architectural features, this building is significant to the Canberra community, many of whom would have some kind of personal or professional connection to the Supreme Court. Countless individuals have walked through those doors and spent a moment or what may feel like an eternity in this building: former and current judges of the court, innumerable legal

¹³ L Neave ‘The ACT Law Courts Building: Heritage Study’ Cultural Heritage Management 1998.

¹⁴ L Neave ‘The ACT Law Courts Building: Heritage Study’ Cultural Heritage Management 1998.

representatives (including certain more memorable ones), legions of staff, and most importantly, all those individuals and families who have experienced triumphs and tragedies in this building, whether because of crimes committed, crimes experienced or other forms of litigations that have caused distress and sadness or fond memories of adoptions, being awarded a judgment in their favour or being admitted as a legal practitioner.

The events which have unfolded within the walls of this great building have impacted on people's lives in the Canberra community. This court has experienced both the high-profile well publicised cases and the everyday unexceptional administration of justice that demonstrate fundamental aspects of our system of governance: independence of the judiciary and rule of law.

It is pertinent in commemorating 50 years in this building that we turn our minds to its upgrade in order to accommodate the volume of matters faced by the court as well as to reflect modern day court architecture. Court design should be relevant, respected, transparent, accessible and affordable.¹⁵ Justice must be relevant to all users. There is a growing understanding and appreciation of the differing needs of court users. Including social and cultural sensitivities, concern for the trauma for victims particularly in cases of a sexual nature, as

¹⁵ Graham Brawn, 'Changing the Face of Justice', 1 September 2009 at <http://architectureau.com/articles/the-changing-face-of-justice/>.

well as the use of improved technology to ensure the most efficient and cost-effective administration of justice.

We have been fortunate enough to be presented with preliminary plans for a new court building. I welcome this as a definite step in the right direction. It is also noteworthy that the current proposal is to retain as its central feature, this very building albeit internally refurbished. I must stress that is vitally important that judges and court users are consulted at each stage of planning for the new building. Without our involvement, those with less understanding of the day to day operations of the court may not be aware of certain aspects of a court's design that are crucial to the timely and effective administration of justice.

Reflecting on the pride once felt in Canberra at the first sitting in this court brings hope that we can once again be a leader in court architecture. "Dignity with few exceptions, has been synonymous with law since its earliest beginnings" to quote the Canberra Times of 9 May 1963.¹⁶

We eagerly await the momentous occasion to be celebrated when the ACT Supreme Court holds its first sittings in another new building. We hope to share the feelings of anticipation and excitement experienced by those present in this court on this day in 1963.

END OF SPEECH

¹⁶ A New Seat of Justice', *The Canberra Times* (Canberra) 9 May 1963.