

**Special sitting to pay tribute to the Late,
the Honourable Justice John Foster Gallop AC QC RFD**

2 November 2017

Supreme Court of the Australian Capital Territory

Chief Justice Murrell

Distinguished guests, the Gallop family and friends.

The Court acknowledges the traditional custodians of this land. We pay our respects to their elders, past and present.

This special sitting is convened to honour the Late Honourable John Foster Gallop (AC QC RFD), a former member of this Court, who sadly passed away on 24 September 2017, aged 87.

On the bench, we welcome Justice Mildren, representing the Supreme Court of the Northern Territory.

In the courtroom we are joined by the Honourable Jeffrey Miles (AO QC) who sat on the Court with Justice Gallop.

The judges and former judges of the Supreme Court and Justice Mildren extend their deepest sympathy to all members of his Honour's family, including his children, grandchildren and great-grandchildren, his partner Judith, his wife Joy, and his friends.

I would like to thank those who have contributed to this speech, particularly the Honourable Richard Refshauge and Mr Ken Archer, President of the ACT Bar Association.

Life before appointment

John Foster Gallop was born in Perth in 1930.

In 1951, he graduated from Sydney University with a Bachelor of Laws degree. He was to devote more than 50 years to the law. His legal career began in the year that the High Court handed down the monumental Communist Party decision, and around the time that then Prime Minister Robert Menzies declared that he was "British the boot heels". His Honour retired from the bench in the year after the High Court handed down *Sue v Hill*,¹ ruling that British citizens were citizens of a "foreign power".

After serving articles with the Commonwealth Crown Solicitor's office in Sydney, his Honour was admitted to practice as a solicitor in 1953. His Honour went on to work in the Crown Solicitor's Office in Darwin and Port Moresby.

In 1962, his Honour joined the legal firm Snedden & Hall, transforming it into Snedden, Hall & Gallop. At that time, his Honour was one of only 23 solicitors in

¹ (1999) 199 CLR 462.

private practice in the ACT. His Honour was one of first practitioners to represent clients in this Law Courts Building when it opened for business in 1963. It is fitting that this is one of the last ceremonial occasions to be held in this building in its original form.

In 1964, the year after then Prime Minister Menzies officially opened this building, his Honour played cricked in Menzies' Prime Minister's XI against South Africa. I understand that Menzies had hoped for a tied result but, as the final batsman, his Honour accidentally hit four to win the match.

In 1973, his Honour joined the bar, where he gained a reputation as a fearless advocate, his particular forte being cross-examination in criminal trials.

It was a testament to his skill as an advocate that only three years later, in 1976, his Honour was appointed Queen's Counsel for the ACT and NSW.

From 1976 to 1978, his Honour served as President of the ACT Law Society.

Life as a Judge

On 10 March 1978, his Honour received the first of many judicial appointments: as a judge of the Supreme Court of the Northern Territory. This remained his Honour's primary appointment until he was appointed to the ACT Supreme Court.

On 11 March 1978, his Honour received a concurrent commission as a judge of the Federal Court of Australia, which his Honour held until his retirement in 2000. At the time, the Full Federal Court was the appeal court for this jurisdiction.

On the Federal Court, his Honour's contemporaries included some of Australia's finest jurists, including the current Chief Justice of the High Court, Susan Kiefel, former Chief Justices Robert French and Sir Gerard Brennan, and former judges Sir William Deane, Michael Kirby and William Gummow. With Sir Gerard Brennan and Sir William Deane, his Honour decided *R v Tait and Bartley*,² which remains an important judgment concerning prosecutorial roles and the discretion open to an appeal court.

On 20 September 1979, his Honour was appointed a judge of the Supreme Court of Christmas Island. In 1980, his Honour was appointed Presidential Member of the Commonwealth Administrative Appeals Tribunal, and from 1985 he served as President of the Defence Force Disciplinary Appeals Tribunal.

On 14 May 1982, his Honour took his primary commission as a judge of this Court. At the time, the other resident judges were the late Sir Richard Blackburn, who was the Chief Justice, the late Honourable John Kelly, and the late Honourable Douglas McGregor. That his Honour was invited to join such a distinguished bench was a reflection of his Honour's legal expertise and personal qualities.

His Honour made an invaluable contribution to this Court, the ACT legal profession and to ACT jurisprudence.

² (1979) 24 ALR 473.

Holding deep respect for the traditions of the judicial system, his Honour was firmly committed to maintaining the dignity of the institution.

His Honour was famous for running his courtroom in a no-nonsense manner. He was known for his prompt and direct decisions, reflecting his keen intellect and concern for efficiency. Although some of his Honour's comments in sexual offence proceedings attracted criticism, it did not daunt him.

Not one for inappropriate informality, when counsel greeted his Honour with a good morning or afternoon, his Honour would suggest that the courtroom was not a tea party and counsel should proceed with the case.

His Honour insisted on punctuality and would sometimes come onto the bench and commence the proceedings regardless of whether counsel were present. In one judgment, his Honour noted that "the right of the citizen to a speedy hearing of an action had been acknowledged by Magna Carta itself".³

His Honour brought his skills as a cross-examiner to the bench. His Honour was sure to let counsel know if they were not assisting him. Mr Archer recalls that those who appeared before his Honour "never forgot the experience". It was a game of cat and mouse. But Mr Archer also insists that it was a valuable learning experience when viewed in hindsight.

When dealing with those who appeared before him, his Honour did take a shining to those who showed promise (or were interested in sport).

At the ceremonial sitting on his retirement, his Honour remarked that it was "satisfying to know that my insistence upon proper standards and punctuality has been of benefit to those who practice in these courts because, to my mind, standards are very important". He then elaborated by saying "there is nothing like watching a fellow practitioner cop a rebuke to advance learning of etiquette and court demeanour".

His Honour also stressed the importance of respect within the profession and towards the community, saying:

The law places great strains on the individual, but it also builds respect for other members of the profession, the servants of government and the man and woman in the street. Respect within the profession in the practice of law, whether in the contest of a trial or the rarefied world of the alpaca coat and quill pen, in the conveyancing world where Norm Snedden spent so many years, is enormously important.

In this jurisdiction, his Honour's judgments span almost a century of reports. The first reported judgment, a workers compensation appeal, is in volume 42 of the ACT reports, while the last, on the duty of frankness as a requirement for admission to practice, is in volume 136.

Although his Honour had a reputation for being stern towards the profession and, in general, he was conservative in his decisions, he was also sensitive to the problems of those who appeared before him. His Honour agonised over sending vulnerable

³ *Paramasivam v Flynn* [1998] ACTSC 10 [36].

young men into custody and was willing to find creative solutions. He pioneered the “Griffiths remand” whereby offenders were offered an opportunity to enter a rehabilitation facility before sentencing. If progress was made, they could hope to avoid full-time custody. Later, this practice was legislated into the *Crimes (Sentencing) Act 2005* (ACT) as the deferred sentence order.

Ever conscious of the importance of the institution of the judiciary, his Honour helped to establish the Judicial Conference of Australia (JCA), the body that represents Australian judges and which aims to maintain a strong and independent judiciary. In 1993, his Honour asked the Honourable Richard Refshauge, who later became a judge of this Court, to incorporate the JCA. Membership of the JCA now stands at over 700, more than half the judicial officers in Australia.

His Honour was a supporter and friend of the ACT Bar. His Honour shared his wisdom through lectures on a wide range of legal topics. He made generous donations of legal texts and a framed copy of the Magna Carta. His Honour also made valuable contributions to the Bar’s cricket team as captain, wicket keeper and batsman. His Honour was made a lifelong member of the ACT Bar. I understand that the Bar is enormously proud of Justice Gallop, who was one of its own.

On his 70th birthday on 31 July 2000, his Honour retired from the Court under compulsion, having served with distinction for 18 years. His Honour was the first judge of this Court to reach the statutory retiring age while still in office. At the time, he was one of the longest serving judges of an Australian superior court.

However, far from taking a break, on the day after his retirement Justice Gallop was appointed as an Acting Judge of the Supreme Court of the Northern Territory – where he presided until 2002.

In addition, from 2000 to 2002 his Honour headed an inquiry into the ACT Disability Services. In 2003 and 2008, he chaired an Advisory Panel the Australian Fisheries Marketing Authority. For a period after his retirement, he was the Deputy Chair of the Legal Profession Disciplinary Tribunal.

In 2012, aged 81, his Honour came out of retirement to sentence a fraudster (who was described as a “Harvard dropout turned white collar criminal”). His Honour had been waiting to sentence the man since 2000, when he had disappeared on the eve of sentencing proceedings in this Court.

His Honour remained a familiar face around the Court, attending ceremonial functions until very recently.

His Honour’s contributions went beyond the legal field to the sporting field. His Honour was not only an exceptional cricketer and true devotee of the game, but a leading figure within the cricketing community. From 1983, his Honour served as President of the ACT Cricket Association for a remarkable 27 years. His Honour was affectionately referred to as “Justice John” or “the Judge”, and his speeches at Prime Minister’s XI matches were a much anticipated highlight of the event. In 2002, his Honour was inducted into the ACT Sports Hall of Fame. The ACT First Grade one day competition remains the John Gallop Cup.

Throughout his adult life, Justice Gallop maintained a strong association with the defence forces. In 1964, he took a Commission in the Royal Australian Navy Reserves, attaining the rank of Captain. As I have mentioned, he served as President of the Defence Force Disciplinary Appeals Tribunal, where he was joined by Justice Mildren.

In recognition of his service to the military, the law and the community, in 1998 his Honour was appointed a Member of the Order of Australia.

Off the bench, his Honour was great company and tremendous fun; he was always up for a chat and a good red wine. His Honour was a true raconteur with a mischievous sense of humour.

During his Honour's farewell speech to the Northern Territory Supreme Court, his Honour read the following poem:

*A judgment surely need not bore,
The judge can postulate the law,
Adjudicate on point of fact,
And do so with finesse and tact,
But still engage in moderate fun,
A quip, a joke, a harmless pun.
It's rather nice if judgment draws on
Shakespeare, Pope or Henry Lawson.
And why should critics get all
Snooty
At metaphors from sport, like footie?
So I don't think that one should curb
Adventurous use of noun and verb.
And why not play up to the gallery,
At least have some fun, if not much
Salary.*

Today we farewell a great sport who will long be remembered by the Australian judiciary, the ACT legal profession and all those whom he educated and entertained.