

THE SUPREME COURT OF
WESTERN AUSTRALIA

FAREWELL TO THE HONOURABLE JUSTICE NICHOLAS HASLUCK AM

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON FRIDAY, 7 MAY 2010, AT 9.34 AM

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MARTIN CJ: The Court sits this morning to mark the retirement of his Honour Justice Nicholas Hasluck from the Court. I would like to particularly welcome this morning members of his Honour's family including his wife Sally-Anne, his son Anthony, daughter-in-law Kelly, grandsons Sebastian and Samuel, and other members of his Honour's family. I also extend a warm welcome to his Honour's many special guests.

I would also like to welcome Justice Tony Siopis of the Federal Court of Australia; his Honour Judge Peter Martino, acting Chief Judge of the District Court of Western Australia; President Denis Reynolds of the Children's Court; her Honour Deputy Chief Magistrate Libby Woods, representing the Chief Magistrate; the Honourable Professor David Malcolm AC QC, former Chief Justice; Ms Cheryl Gwilliam, Director-General of the Department of the Attorney-General; and many other distinguished guests too numerous to name, including former members of this and other Courts.

I would also like to particularly welcome those who will address the Court this morning, being Deputy State Solicitor Mr Robert Mitchell SC, representing the honourable Christian Porter MLA, Attorney-General of Western Australia, on behalf of the government, and unfortunately the Attorney can't be with us this morning; Mr Hylton Quail, President of the Law Society; and Mr Grant Donaldson SC, President of the WA Bar Association.

His Honour Justice Hasluck joined the Court on May Day 2000. His Honour was the only Judge appointed that year. There might be room for interesting debate on the question of whether his Honour was the last Judge appointed to the Court in the 20th century or the first Judge appointed to the Court in the 21st century, depending upon the view one takes of the placement of the year 2000, but his Honour was certainly one or the other. However, I fear I digress as there are obviously many more important aspects of his Honour's appointment and time on the Bench appropriately recognised.

Prior to his appointment, his Honour had chosen a breadth of interest and endeavour which went well beyond the law. Those endeavours included service to the community in a variety of capacities, including membership of the Western Australian Arts Council from 1975 to 1978, Deputy Chair of the Australia Council between 1978 and 1982, member of the Committee of Management of the Australian Society of Authors between 1992 and 1995, Deputy Chair of the Western Australian Academy of Performing Arts between 1993 and 1998, member of the Copyright Law Review Committee of Experts Group between 1994 and 1997, and Chair of the Literature Fund of the Australia Council between 1998 and 2000. Your Honour's

distinguished service in the fields of literature and arts administration was recognised by membership of the Order of Australia.

Of course his Honour's appointment to the Bench in 2000 transmogrified the form of his service to the community into the channel of judicial service, and his Honour was no stranger to service of that kind, having served as President of the Equal Opportunity Tribunal between 1989 and 2000.

Somewhat remarkably, prior to his Honour's appointment to the Bench he was able to combine his conspicuous endeavours in the fields of literature and arts administration with an outstanding legal career. After practising in partnership with the late Robert Holmes a Court, your Honour became a partner in the firm of Keall Brinsden before leaving to join the West Australian Bar Association in 1984, taking silk in 1988.

When I joined the Court in 2006 there were four ex-partners of Keall Brinsden on the Court, a number which rivalled or indeed surpassed the historical prominence of ex-partners of Muir Williams Nicholson or Freehills on the Bench. Your Honour's departure reveals the transience of these things as there will now be just two, President McLure and myself.

Your Honour's appointment also changed the nature of your publications. Prior to appointment you were a distinguished author of fiction, short stories, poetry and essays. As a novelist your Honour was twice short-listed for the Miles Franklin Award, a joint winner of the West Australian Premier's Book Awards, having also been short-listed for that award for another novel, and a recipient of The Age Book of the Year Award.

Your Honour's appointment to the Bench has been a loss to the Australian literary community. Since appointment, your many publications have been almost exclusively in the field of non-fiction, although not uncommonly including sections of historical drama. Regrettably, your conspicuous attention to the duties of your office has precluded significant extracurricular literary activities, to the disappointment of the Australian reading public.

Your Honour has shouldered a very significant share of the work of the Court over the 10 years or so since your appointment. The Court's web site and the Law Reports of Western Australia are replete with your Honour's judgments. The facility of expression evident in those judgments portrays your Honour's literary origins.

Your Honour's contribution to the work of the Court has not been limited to your judicial duties. Perhaps not surprisingly, given your literary background, your Honour has served for many years on the library committees of the court and has made an outstanding contribution in that area.

As I have mentioned, your Honour's appointment to the Bench deprived the literary world of a significant author. The tables are now reversed. Your retirement will mean that the Court will lose the benefit of your significant contribution but, on the positive side, the literary world will be enhanced by your Honour's ability to return to your literary pursuits. I think we can be confident that not too many judicial secrets will be revealed through the pages of your forthcoming works, although I am sure we all expect to see some subtle reference to the insights derived from 10 years at the coalface in criminal trials and civil disputes.

It only remains for me to thank your Honour for your conspicuous service to the Court and to the community during your term as a Judge of this Court. On behalf of the Court, I would like to wish you and wife Sally-Anne good health and a long and enjoyable retirement.
Mr Mitchell.

MITCHELL, MR: May it please the Court. I have the great privilege on behalf of the Attorney-General and Government for Western Australia of acknowledging the distinguished service of Justice Hasluck on your Honour's retirement from this Court. May I firstly convey the apologies of the Attorney-General, the honourable Christian Porter, for his inability to personally attend this sitting of the Court due to his official commitments outside the State. May I also convey the Attorney-General's personal gratitude for the dedication and skill with which your Honour has discharged your duties as a Judge of this Court over the past decade.

Your Honour may recall that when you were welcomed to the Court on 1 May 2000 you expressed some surprise at the high praise and kind words which you then graciously received. Given your Honour's achievements at that time, which have been referred to by the Chief Justice, I am a little surprised that your Honour was surprised. I hope though that, having been through the experience once, your Honour is prepared today and will not be surprised again by the barrage of high praise and kind words which you are to receive at this sitting.

Before joining that barrage, however, I feel obliged to sound a note of criticism in reflecting upon your Honour's judicial career. Your Honour has, I am

afraid, failed to meet three key performance indicators which are identified by the Solicitor-General at your welcome to this Court in May of 2000. Your Honour might recall that at that time the Solicitor referred to a comment of Lord Asquith that the ideal Judge of first instance is one who is short, simple and wrong.

As to the criterion of being short, your Honour's written judgments were never any longer than they needed to be. Nevertheless, they could not always be described as short. I am told that in one five-month period your Honour delivered 25 judgments, comprising some 525 pages, and that over the past four years your Honour has written more than 2500 pages of reasons for decision in your own name. In more than one occasion in the course of a longer judgment your Honour has found the need to, as you put it, "remind myself of something which was set out earlier in the decision".

To put that effort in some context, your Honour has, over the past 10 years, delivered more than 400 civil judgments. That is in addition to presiding over many criminal trials across the State and sitting from time to time on the Court of Appeal. Your Honour can only be described as a prolific Judge.

As to the second criterion, I cannot think of anyone who would describe your Honour as simple. Your Honour enjoys a reputation for producing decisions which are thorough, which carefully analyse the relevant evidence and law and which are, of course, elegantly composed. The sophistication of thought and legal analysis displayed in your Honour's decisions deny any entitlement of those decisions to be classified as simple.

Of course, another result of that intellectual rigour is that your Honour has seldom been wrong, thus failing to meet Lord Asquith's third criterion for the ideal Judge of first instance. It is perhaps fortunate for your Honour that those characteristics are not now universally applauded by contemporary Appellate Courts.

Your Honours, a hallmark of Justice Hasluck's judicial career has been the civility and tolerance with which he has treated the wide range of people who have come into his Court. Your Honour has the ability to conduct the Court with the utmost courtesy to and respect for all who appear before you. Those in your Honour's Court have observed daily the polite, courteous, patient and fair manner in which you deal with everyone who comes before you. Those standards of decency of course extend to your other professional and personal dealings.

Your Honour's character is well summed up by an observation of one of your former associates. She noted, and I quote:

He is a gentleman in the true meaning of the word. He treats everyone with respect regardless of their social position. When in a social setting, he is a great conversationalist. He has wit, warmth and humour and truly listens to what each person has to say. He is generous with his time, even though it is a precious commodity.

That capacity to truly listen to what others have to say has served you well in your time as a Judge of this Court.

The Chief Justice has already noted that your Honour has managed to excel in the law while successfully pursuing a career as an accomplished and prize-winning author. Indeed, it was noted at your welcoming ceremony that you were listed in Australia's Who's Who as a novelist first and a barrister second. More recent editions identify you as a Judge first, although it must be said that a listing in Who's Who may not today be the pre-eminent badge of success that it once was.

Your Honour will therefore be gratified to know that there is an extensive article about you in Wikipedia. However, the Wikipedia entry describes your Honour, in this order, as an Australian novelist, a poet and short story writer, and Judge.

The task of producing judgments, directions and sentencing remarks has no doubt been a distraction from your literary pursuits. However, your Honour has still managed to find the time, energy and inclination for the publication of a number of literary works since your appointment to this Court. These include the insightful non-fictional work *The Legal Labyrinth*, published in 2003. I understand that you are an avid reader and collector of books with an extensive personal library begun by your father, a former Commonwealth Minister and Governor-General, Sir Paul Hasluck.

The literary community can only hope that some of the additional time your Honour gains from retirement will still be spent with a pen in your hand, perhaps in world travel, which has helped to inspire your Honour's writing in the past. Your Honour will also have more time for the bushwalking you enjoy, and of course for collecting and reading books as you embark on your next phase in life with your wife Sally-Anne.

You do so with the respect of your fellow Judges and the admiration and gratitude of the Government for the contributions you have made to the law throughout your career, and in particular your contributions to the Court over the past 10 years. On behalf of the Government and people of Western Australia, I thank you most sincerely for your diligent service to the community as a Judge of this Court. May I extend my best wishes to your Honour for your retirement. If it please the Court.

MARTIN CJ: Thank you, Mr Mitchell. Mr Quail?

QUAIL, MR: May it please the court. It is a privilege for me on behalf of the Law Society of Western Australia to farewell your Honour from the Bench today. You have had a distinguished career, as we have heard, in the law over the last four decades. Over the 10 years since your appointment to this Court you have earned the reputation, as Mr Mitchell has said, of being a gentleman among Judges.

In civil, you were admired particularly for the breadth of your knowledge and the crisp and incisive expression of your judgments. Although you did not come from a background of practice in crime, you quickly became a very popular Judge with both sides of the criminal bar. Witnesses, jurors, accused and counsel were always treated with the utmost courtesy in your court. Not surprisingly, your jury charges were beautifully crafted and even difficult concepts like the old law of self-defence were explained to juries in a way that was easily understood.

Counsel in your court could always be confident that they would not be undermined by an interventionist Judge. I also never heard an accused complain that in sentencing, your Honour failed to consider their personal circumstances.

Trials before your Honour ran smoothly, which is not to say that they were without incident. I recall in a murder trial I did before your Honour in Fremantle, passions in both families involved were, as is always the case, running very high when the verdict of the jury came to be delivered. Unfortunately, one family was extremely upset by the result and a small riot ensued, resulting in counsel and your Honour being locked by security in the Court for some time before we could safely leave.

As we have heard, though, your Honour is more than a distinguished lawyer and a Judge. You come from a writing family. You have been published locally and internationally, twice short-listed for the Miles Franklin Literary Award. You are the joint winner of the WA Premier's Book Award in 1991 for *The Country Without Music*. I wondered who won alongside you. You, of course, know; *Cloudstreet* by Tim Winton. I suspect your Honour wishes that critical parity translated to similar book sales and perhaps a movie deal.

Your Honour writes prose, poetry, essays and non-fiction as well as editing the words of your parents. Your novels are often concerned with deflecting the light of history through the prism of fiction and the tension between social order and individual experience. Your accomplishment in law and literature has allowed you to bring a fresh perspective to both. In a Commonwealth lecture you delivered in 2008 you said:

The gravest threat to human rights, a crime against humanity perhaps, is to subvert the power of independent thought by depriving a person of the capacity to convey what he or she feels deeply. The language of human rights will be deficient if it speaks only in abstractions and fails to acknowledge this reality.

Your Honour's accomplishments, your service to the community over many years, your abiding interest in law, literature and the arts, history, politics, philosophy and human rights and experience means that you should properly be called Renaissance Man in the true humanist sense of the phrase. Your departure from the Court will be a substantial loss but, given the arrival of Justice Hall, we can perhaps be confident that there will be no return to the Dark Ages.

Your Honour, we hope that having put judgment writing behind you, you will have the energy for more novels. Our *Man K*, your last, was published in 1999, the year before your appointment. Perhaps in all you have heard over the last 10 years there were the seeds of future fiction. On behalf of the Society I thank you and I wish you a long and productive retirement. May it please the Court.

MARTIN CJ: Thank you, Mr Quail. Mr Donaldson?

DONALDSON, MR: If it please the Court, it is my sad duty to appear on behalf of the Bar to farewell your Honour this morning. This duty is tinged, however, with apprehension because I remember some years ago your Honour telling me that you were considering editing a volume collecting the

finest of judicial welcome and farewell addresses delivered in this Court. I never thought that anyone paid that much attention but obviously your Honour at least at one time did, so I feel that the pressure is on. Happily for me, Mr Quail is an easy act to follow.

I recall that when your Honour mentioned this editing task and after my observation that it would likely be a pretty slender volume, we spent some time speculating as to what might be even more slender volumes. I think that your Honour will write one with, "A Collection of Actually Funny Judicial Jokes," though your Honour's other suggestion of true anecdotes told by male barristers about trials that they have lost came a fairly close second.

Of course to seek to capture or adequately condense any aspect of your Honour's many careers into several minutes in an address such as this would be impossible because your Honour's careers to date have been of great variety.

Judicial service is only one such career, though of course it has been one of great distinction. When one reflects upon your Honour's career in the law it occurs to me that there is in at least one respect something of a common theme. In all of it your Honour has kept good company.

At the Law School of the University of Western Australia, your Honour was a member of a class that has in this State attracted renown: Justices Murray and Miller of this Court, the Solicitor-General Robert Meadows QC and the former attorney and leader of the Bar Daryl Williams QC, to name but a few. Justice Miller recently reminded us, with characteristic humility, that yours was the greatest class to have ever graduated from the Law School. Whether accurate or not, the class represented distinguished company on any measure.

When your Honour's successes as a student had you emigrate for a time to Oxford, you were there a contemporary of an illustrious bunch indeed. It was a time of great strength in the Oxford Law School and one in which Australian student lawyers were of unparalleled prominence. Again, Daryl Williams, Justice Heydon, Justice Giles of the New South Wales Court of Appeal and, within a year or two, Chief Justice John Doyle and Justice Hayne; again, reasonable enough company.

Of course, your Honour was taught by, amongst others, Prof Daube, Prof Hanbury, Rupert Cross, Dr Morris, Guenther Treitel, Herbert Hart, Tony Honore, that arch terrorist, Peter Carter, and a young Leonard Hoffmann, to mention only a few; again, fair company. By attending Wadham College your Honour again gained the advantage of company of distinction. The link between Wadham and Western Australia was for a long time a strong one and it is unlikely that a single Oxford College has ever at the one time supplied to us a superior Court bench four Justices, as Wadham did with Chief Justice Malcolm, Justice Kennedy, Justice McLure and, of course, your Honour.

As we have heard, as a solicitor your Honour again chose good company at the firm of what was Keall Brinsden, and that firm was in your Honour's time something of a powerhouse and has provided to the bench, along with your Honour Justice Brinsden, Judge Keall, the Chief Justice, Justice McLure, Justice Barker and Judge McCann.

Your Honour's practice at Keall Brinsden at the bar was large and involved not only commercial matters but town planning matters and public law matters of great variety. In those times, however, perhaps your Honour's greatest contribution to the community as a legal practitioner was as the President of the Equal Opportunity Tribunal. That tribunal, over the years of its existence, attracted a membership of many who were appointed from the tribunal to positions of great prominence, including, in addition to your Honour, Justices Wallwork, Roberts-Smith, Johnson, Mazza and Crisford and Judge O'Brien; again, illustrious company.

If I may say so with respect to all of them, your Honour's work on that tribunal was of singular importance and your Honour's decisions in that jurisdiction have been widely read throughout Australia and no doubt in all jurisdictions in which matters of discrimination law are considered. Your Honour's decisions were characterised by respect and compassion for the victims of discrimination but, in equal measure, an understanding of the complexity of many of the issues involved.

Your Honour's service on this Court has been of great distinction and your Honour has provided over trials across the full range of this Court's jurisdiction. In recent years your Honour has also sat as a judicial mediator, and with great success. We are hopeful indeed that your Honour will continue to be available to the profession in this way in the future.

Your Honour, of course, dealt with many heavy commercial matters and your Honour's reputation as a Judge in the most complex of matters involving trusts and estates

was high indeed. In one respect this is unsurprising, as many of these matters involve family disputes or disputes among beneficiaries related in ways not wholly commercial. In such matters your Honour brought not only an understanding of the relevant law of the highest order but an insight into the resolution of what appear to most of us to be intractable disputes.

Although I have not made a study of it, I have some confidence in asserting that your Honour has an extraordinary record of presiding over matters that settle during the course of trial and it has occurred to me that many of these matters are of the type mentioned, complex matters involving trusts and estate, often involving family disputes or disputes among related beneficiaries.

I think that I know why it is that many of those matters settle. The reason occurred to me in a recent matter in which I appeared before your Honour against my good friend and colleague, Paul Mendelow. This was a matter of the type mentioned, a very large estate fought over by siblings. It settled because of your Honour, and I breach no privilege to explain why. At every break I regaled Mendelow with stories such as the following: "Mate, you're gone; his Honour's just given you the, 'Yes, I think I see that, Mr Mendelow'"; or "Mate, you're as dead as a doornail. Didn't you hear what his Honour said to you, 'Yes, Mr Mendelow'?"; or, "Mate, give up now. Did you hear what his Honour has just said to you, 'Mr Mendelow, I think that you will have to try and persuade me of that one later'?"

I must confess, though, that Mendelow had me worried at one stage when he said to me, "Grant," which I think was a reference to my Christian name, "did you hear his Honour say, 'Yes, I do follow that, Mr Mendelow'?" I'm hoping that this address doesn't find its way into that volume, "True Anecdotes by Male Barristers about Trials that they have Lost," but anyway.

The point of all of this can be stated thus: as a trial Judge your Honour accorded all who appeared before you with respect and courtesy. Your Honour gave confidence to parties and practitioners who came before you that they would be listened to and treated fairly. Because of this, the parties and counsel trusted your Honour and had great confidence in your Honour's judgment. Every person who came to your Honour's Court received a fair, polite and impartial hearing and your Honour dealt with all with dignity, decency and respect.

Although it might be thought by some that this achievement pales beside other of your Honour's great achievements outside the law, for those of us who appeared before your Honour and who acted for real people whose disputes were resolved by your Honour, what your Honour has done as a Judge of this Court was a great deal and for it all, your Honour, the Bar and the community is most grateful.

As one of our former members, the Bar farewells your Honour from his Court with pride at what your Honour has done and with our admiration and best wishes. We look forward to readings from your Honour's next or resumed career. May it please the court.

MARTIN CJ: Thank you, Mr Donaldson. Justice Hasluck?

HASLUCK J: Chief Justice, Mr Mitchell, ladies and gentlemen, it isn't usual, after the eulogies have been spoken, for the corpse to exercise a right of reply. Nonetheless, in the exercise of that right with my last judicial gasp I wish to thank you all for attending and to thank all those who have helped me along the way, including those who have brought me finally to wherever it is that I am. I wish also to thank each of the speakers for their very generous remarks.

Mention has been made of my literary pursuits. A sense of caution suggests that I should steer clear of this topic. Many years ago I represented the first of three defendants in the well-known case of Bahr v Nicolay that went all the way to the High Court and is now a landmark decision in the field of property law. The case turned on the wording of a contract for sale of a small business at Cervantes.

During one of the adjournments at trial, Ron Birmingham, as counsel for the real estate agent I will call Smith, apparently told his client that he was about to be cross-examined by Hasluck, a published writer. This was of interest to Smith, for he himself had just burst into print with a manual of practical tips for real estate agents complete with Ready Reckoner tables for the fixing of percentage-based commissions.

We are all familiar with the witness who seeks to disarm the cross-examiner with a winning smile and a display of charm. Thus, when the moment came for the compiler of the Ready Reckoner tables to face the cross-examiner, a scribe who had spent most of his adult life wrestling with the mysteries of narrative and style, Smith, with the complete aplomb of a poetaster at a literary soiree, prefaced his reply to the first question as follows:

Well, Mr Hasluck, as one author to another, I would say this.

As it happens, the case of Bahr v Nicolay can serve to introduce the two themes I wish to pursue this morning: thanks to those who have been of assistance to me over the years, and a homage to the ways of the legal profession. The evidence in Bahr v Nicolay showed that on a certain Christmas Eve one of the parties prevailed upon his solicitor to rough out a protective clause.

For years afterwards the words in question were critiqued by counsel and Judges at every level of the hierarchy, being subjected to forms of sophistry that have probably never crossed the busy solicitor's mind, but his words survived. The plaintiffs, who had failed at trial and again before the Full Court, were ultimately granted relief by the High Court, thanks to the tenacity of their counsel, Messrs McCusker, Clyne and Hawkins.

I recall also that shortly before the High Court hearing in Perth, David Malcolm QC, as he then was, came to the rescue of one of the parties at short notice, burnt the midnight oil and argued his side of the case with finesse. These are the ways of the legal profession, from the handiwork of a solicitor on Christmas Eve, to the skill and perseverance of counsel and, finally, to the capacity of the system to correct its errors and produce a just result.

Similar examples of integrity seep into the consciousness of every lawyer worthy of the name. One learns not only by studying but also by observing the law in action. I have had the good fortune to be part of this process since I first set foot in the UWA Law School almost exactly 50 years ago. I have learned much from my contemporaries, and it pleases me greatly to see a number of my former classmates in Court today, one of whom sits with me on the Bench. I will not name him as he may not appreciate being dated, or perhaps I should say carbon-dated in present company.

I served articles under David Anderson at what was then Lohrmann, Tindal and Guthrie. He trained me well and it pleases me also to see him here today accompanied by two friends and colleagues from that practice, Bill Hassel and Gavin Fielding.

I moved then to the fledgling law firm of M.R.H. Holmes a Court and Co. I did so in search of adventure and was soon rewarded. When it came to conveyancing, Michael Robert Hamilton Holmes a Court, later of corporate-raiding fame, was never inclined to bother counter clerks or assessors with his queries. He always went straight to the top. What I perceived initially as brashness I recognised eventually as a talent for lateral thinking, an enterprising approach that later served him well in business. It was a valuable lesson. As every advocate knows, there is a time for caution and a time for swift and decisive action. It is pleasing to see here today some friends and former colleagues from that firm; John Byrne, Tom Bannerman and Simon Watson.

I am pleased to see also friends and former colleagues from the firm I moved to next, at that time Keall Brinsden, now Corrs Chambers Westgarth. The group in question includes not only Max Vinnicombe, Robert Keall, Kevin Bonomelli, Phillip McCann, Penny Keeley, Ian Clairs and Susan Pass but also, as has been mentioned, certain of my colleagues on the Bench today, namely, the Chief Justice and the President of the Court of Appeal, Justice Carmel McLure.

Towards the end of my time at Keall Brinsden, with David Malcolm as my leader, I appeared before the Judicial Committee of the Privy Council in London on behalf of Griffin Coal. In doing so, I learned much from the interaction of two remarkable jurists; Lord Scarman, espousing a broad jurisprudential view of the matter in hand, and Lord Diplock, whose approach was always rigorously analytical.

I must have been of some use to my leader because at the completion of the hearing beneath an overcast London sky, indeed a light drizzle, we walked from Downing Street to the premises of Ede and Ravenscroft in Chancery Lane. Here, David Malcolm bought me a red bag in which to stow my wig and gown pursuant to a tradition providing for a junior barrister to be rewarded by his leader in that way.

The law firms I worked for have ceased to exist, appeals to the Privy Council have been abolished, Griffin Coal has gone into administration, and the wigs and gowns of recent memory have been swept away, but I still have the red bag with my initials on it and the memory of a long walk in the company of an older advocate who at that time was a much-admired leader of the Bar.

When I became a member of the Bar Association soon after the Griffin Coal case, the red bag in a quiet, very private way always served as a reminder that any work I undertook, be it arguing a case or roughing out a clause on Christmas Eve, had to meet the high standards of those who preceded me.

This brings me to another interesting connection between law and literature, albeit less amusing than my duel with the author of the real estate Ready Reckoner. It was the famous law-maker and prolific novelist, Benjamin Disraeli, who said that in a progressive country change is constant. The question is not whether you should resist change, which is inevitable, but whether change should be carried out in deference to the customs and traditions of a people rather than in deference to arbitrary and general doctrines. The legal system depends on continuity and thus we would do well to heed this advice.

It was that same persuasive writer who was asked, upon his return from Egypt as a young man, to describe exactly what he had seen. He responded wryly that, like all great travellers, he had seen more than he remembered and remembered more than he had seen.

As I come to the end of this, my last judicial gasp, it strikes me that his cryptic reply contains a form of wisdom. In the course of a journey that began 50 years ago I have practised in nearly every corner of the law and at all levels of the legal profession. I have been to most parts of the state in the course of my career, dealing with criminal charges or disputed mining claims or during my 10-year term as a member of the Equal Opportunity Tribunal or as a Judge on circuit. The details of my own cases may have faded but in the end, by tapping into the folklore of the profession, I feel indeed like a traveller who has remembered more than he has seen.

Unlike some departing Judges, I can't bring myself to say that I have enjoyed every minute of my years on the Bench. I haven't. There have been moments of doubt, indecision, stress, anxiety, especially in regard to sentencing matters, but happily such moments have been rare. Moreover, they have always paled into insignificance beside the daily recognition that as a Judge I have had the privilege and immense good fortune to be part of a noble enterprise.

My respect for continuity can possibly be traced back to having had parents who were both historians, or perhaps it goes even further back. Visitors to the Supreme Court will find at page 6 of the Law Society's pamphlet concerning the old courthouse, now the Law Museum, that towards the end of the 19th century a Judge newly arrived

in the colony was perturbed to find that no coat of arms hung above the Judge's chair in the court building. He ordered one to be made. This coat of arms, carved in jarrah by a local craftsman, Louis Hasluck, is now preserved in the old 1837 courthouse.

For me this small but tangible contribution to the legal system by my great-grandfather is yet another reminder of the partnership that exists between those who are at work today and those who have gone before. Be it a coat of arms or a red bag, the symbols and traditions that may seem meaningless to some can be a source of inner strength to others.

This brings me to my final point, the importance of one's family circle. A degree of judicial restraint is required here, for a true sense of justice would oblige me to speak at length and with considerable feeling about this matter. My wife, Sally-Anne, has been an unfailing source of inspiration and support. In addition to much else, she has listened patiently to diatribes and fulminations for many years and, fortunately for me and for others no doubt, has kept me in good humour, reminding me from time to time that some of my utterances about the vagaries of the system, utterances that I like to think of simply as helpful insights into the workings of the law, might well be regarded by others as the first symptoms of total paranoia. I thank her profoundly, and other friends and family members who have been supportive also, including two of my grandsons who are here today, Sebastian and Samuel.

On that same note, let me close by thanking most sincerely those members of my personal staff who have helped me during my years on the Bench, especially those who have been with me for many years: my orderly, Geoff Davidson; my secretary, June Paige, and my associate, Cathryn Parker. The time has come to gather up my jewels, and they are among them. In the conduct of proceedings and the preparation of judgments, often under pressure, their efforts have been exemplary and underpinned by a much appreciated cheerfulness. Their work is but a further illustration of that sense of integrity I spoke of earlier; a way of doing things which has been, for me, a memorable quality of the legal system in my time.

Let me end by thanking you all again for your attendance.

MARTIN CJ: Thank you, Justice Hasluck. The Court will now adjourn.

AT 10.15 AM THE MATTER WAS ADJOURNED ACCORDINGLY