

Farewell to Justice Nader

Mr Justice Nader retired from the Supreme Court bench in March and has returned to the NSW Bar.

An emotional ceremonial sitting was held at the Supreme Court in Darwin on 27 March.

Addressing the Court on behalf of the Law Society, the President, John Stirk, said with Justice Nader's departure, the Northern Territory would probably lose the jurist with the sharpest tongue in the jurisdiction.

"I can recall an example of that many years ago when a young solicitor undertaking his first criminal matter was furiously scribbling notes while the key witness was being cross-examined," Mr Stirk said.

"The young turk missed what Your Honour considered a leading question.

"There was a sharp interjection.

"Your Honour roared to one: 'That's a leading question and will not be allowed,' and to the other: 'YOU should have objected!'

Several of those who addressed the court referred to His Honour's opinion of and experiences with the local media.

"Your Honour's parrying with the media is yet another issue, and who could forget the comments made in the case of *Ron Mann v the NT News* when it was suggested there might be perceived bias by Your Honour," Mr Stirk said.

"In the course of the interchange, Your Honour said: 'I am an outspoken judge, a quality that has merit but also carries for me the risks of plain speaking. A person who speaks plainly becomes better known than a person who does not, and his views in respect of matters become better known. I have been highly critical of the press. I described the *NT News* reporting as gutter journalism from a very low-grade journal. I suggested that the criminal work of the court could be handed over to the *NT News*'.

"And later in that same case: 'The poor conduct of the *NT News* in connection with the Pederson case speaks for itself. No amount of cant about the

fundamental right to know can justify the attack on a jury. No-one would deny the right, perhaps the duty, of the *NT News* or anyone else, to express concern about the law, the conduct of a judge or any matter affecting the administration of justice, but when the content is in highly emotive terms and may possibly affect the course of a trial, it is reprehensible.'

"Plain speaking, indeed, Your Honour.

"Further, Your Honour is regarded as the person on the Bench with the most expertise in crime -- in a theoretical rather than practical sense.

"Your Honour has voiced constructive criticism of the NT Criminal Code and, indeed, made a significant contribution as Chairman of the NT Criminal Code Review Committee.

"I speak on behalf of all practitioners when I say that we're very pleased Your Honour has accepted the Attorney-General's invitation to remain as Chairman of that Committee," Mr Stirk said.

"There is a great deal to be said for Your Honour's ability to deal with a variety of areas of law and to produce balanced judgments.

"One of the most controversial matters in that regard was the matter of *Howard v Ah Toy* which took many weeks of sitting and in respect of which Your Honour eventually produced a voluminous judgment."

Addressing the Court in reply, Justice Nader said: "You will be pleased to know that I intend, with a degree of self-discipline to which I am not accustomed, rigorously to confine myself.

"Those who have spoken this morning have been generous to a fault.

"I know, however, that even allowing for the considerable hyperbole customary on these occasions, by and large you have spoken sincerely, and I thank each one of you very warmly.

"...the opportunity for legitimate and constructive criticism to which judges may be properly subjected and to which they should be responsive and not resentful are too often missed.

"Too often criticisms of courts smack of malice or seem motivated by little more than the need to titillate the senses of bored readers.

"In November last year a local Sunday paper -- and I won't name it -- published just some uninformed, mischievous sensationalism under a by-line -- I won't mention the by-line, here, out of consideration for a reporter of very ordinary talent.

"But in this context, I would be unfair not to express my personal appreciation to Bob Watt who took over the court rounds for the *NT News* some time ago.

"He has, in my opinion, lifted the standard of court reporting immeasurably.

"He captures concisely and reliably the substance of cases, a very difficult thing to do. I believe the last court roundsman of whom that could be said was Ken White who left the Territory in about 1983."

Justice Nader thanked a variety of people for their help and support for both he and Mrs Nader during their time in the Territory.

Of practitioners he said: "The legal profession of the NT have suffered me with patience, often beyond the call of duty. Let them understand that I am well aware of that; I have not been unaware of their great tolerance. "I have never ceased to respect and, really, wonder to some extent at the high level of professionalism of Darwin legal practitioners.

"In my opinion the NT legal profession can, indeed, hold their heads high amongst practitioners anywhere in Australia.

"I am not the only one to express that opinion. I recall Morling J saying that very same thing to me, and so I have much greater authority than my own for expressing that opinion.

"And I have often wondered why it is so that often counsel from other parts of Australia have been brought into the Territory when as often as not they have performed with no greater skill than members of the Darwin Bar would have done," Justice Nader said.