

# Speech by the Honourable Justice Sally Thomas

## on the occasion of her Farewell Ceremonial Sitting

Chief Justice, Madam Attorney-General, Mr Peter Barr, President of the Bar Association, Mr Matthew Storey, Vice-President of the Law Society of the Northern Territory, thank you for those words.

I am very honoured today that the ceremony has been organised to farewell myself as a retiring Judge.

A farewell ceremony such as this is part of a longstanding tradition of the Supreme Court. We have many such traditions. Early in 2008, I was the presiding judge in Alice Springs. During the course of my sittings, we had another traditional ceremony participated in by Supreme Courts all around Australia that is called the Opening of the Legal Year. Nowadays it is probably a little odd to call it an opening because, in fact, we never close. We just keep rolling along all year through.

We still, however, maintain the ceremony that has existed for centuries of having an opening of the legal year. We don all the regalia that we are wearing today. We invite members of the legal profession and others in the community to join us. In the Northern Territory we form a procession and process from a point outside the courthouse into Court.

The actual ceremony is held in a courtroom, presided over by the officiating clergy of all denominations. Under their guidance we reflect on our role as Judges and as members

of the legal profession as to how we should best serve the community in the administration of justice.

In Alice Springs it means those in the procession will don their robes of office and walk from the back entrance to the Court a short distance along a main street in Alice Springs, rounding the corner of the building, mounting the front steps and through the front entrance into a courtroom. It does mean on this short journey that we have to pass through a bus stop. Now, this can result in some members of the local community making comments as we swoop past that could not always be described as complimentary.

At the time of this ceremony early last year, I asked a young woman lawyer if she was intending to participate in the opening of the legal year. 'Oh, no' she said. 'I don't believe in tradition'. She was, of course, fortified in her stand by the comments of the famous American car maker, Henry Ford, whose interview was published in the Chicago Tribune on 25 May 1916. Henry Ford said:

*History is more or less bunk. It's tradition. We don't want tradition. We want to live in the present and the only history that is worth a tinker's damn is the history we make today.*

Perhaps it is only with the passage

of time and participating in various traditions we have in our society that we start to value them. I believe traditions can bind our society together and provide opportunity to acknowledge significant events and to celebrate. There are, of course, traditions that can be offensive or divisive. We just need the wit to distinguish between what we should keep and what we should abandon.

The Russian composer, Igor Stravinsky, said in his work, Poetry of Music:

*Tradition is entirely different from habit, even from an excellent habit, since habit is by definition an unconscious acquisition and tends to become mechanical, whereas tradition results from a conscious and deliberate acceptance. Tradition presupposes the reality of what endures.*

We, in Australia, are all bound by the one law. I would not think it appropriate to do otherwise. Whilst we are all under the same laws, underpinning this is a wide-ranging tapestry of traditions of many cultures, ranging from celebrating Chinese New Year to the festival of Diwali celebrated in the Indian community, a celebration for American Independence Day, the Storming of the Bastille, the Blessing of the Fishing Fleet and

*"It is after all, a tradition"*



*The Hon. Justice Sally Thomas shortly before her Farewell Ceremonial Sitting*

many others.

As a Magistrate and then a Judge I have been exposed, as have many of us in the legal system, to the many traditions held dear in Aboriginal communities. I have always felt very privileged as a Judge to have presided over so many cases that involve people who come with traditions of a culture different to mine. A number of those involve Aboriginal culture. Communication in Aboriginal societies and the passing down of traditions has been essentially oral through the telling of stories, through painting and through dance.

Recently I concluded a mediation involving elders at the Aboriginal

community in Ngukurr and the Northern Territory Police Force. It was initiated by a civil claim brought by one of the elders against the Northern Territory Police Force. It was scheduled for many weeks of court hearing time. The parties and the presiding Judge asked if I would conduct a mediation prior to the trial commencing in endeavour to find an agreed solution. The mediation involved three day trips to Ngukurr and much discussion with the elders and with senior members of the Northern Territory Police Force.

Eventually an agreed resolution was achieved after a lot of hard work by the lawyers for both sides and thanks to the great spirit of co-operation on the part of the Aboriginal elders and

senior members of the Northern Territory Police Force. A protocol was established for police and community relations, agreed to by all parties and duly signed by the 14 elders at Ngukurr community and the Deputy Commissioner of Police.

On the day of the signing of the agreement, the community at Ngukurr had organised a celebration. Hundreds attended including a group of about 40 Aboriginal men, women and children, painted on body and face who performed a number of dances. I asked David Daniels, the Aboriginal elder who had been at the centre of the dispute if he could tell me what a particular dance meant. He did and then he said it was a dance that talked about the significance of the event for the whole community. He said, 'It's a tradition, you know'.

I thought afterwards that whilst we are all governed by the same laws, it is an understanding and respect for each other's traditions that binds us together. It behoves us all to understand the traditions of others. As David Daniels himself said when he addressed the community at Ngukurr on the day of these celebrations 'We must respect each other. It is the only way to move forward'.

I intend to conclude my response this afternoon with a few thank yous. In fact, I have so many people to thank through my career that I cannot possibly mention them all this afternoon.



I have been a judge for almost exactly 17 years. During that time there have been three Chief Justices, the Hon. Austin Asche, the Hon. Brian Martin or 'B4' as the staff refer to him, and the present Hon. Brian Martin. To them and all the Judges of this Court both past and present, I give my thanks for how much they have taught me, their willingness to share their knowledge, the assistance and guidance they have so readily given, but most of all for their friendship over many years.

My thanks also go to members of the legal profession in the Northern Territory. I have on previous occasions made mention of the importance to the role of a Judge is the integrity, diligence and expertise of the members of the legal profession. We in the Northern Territory are well-served by them. I extend my congratulations to Ms Judith Kelly SC of the Northern Territory Bar who is to succeed me on the Bench. Her appointment has

been met with great delight.

To the staff of the Supreme Court, including our court reporters, I give my thanks. You have always been ready and willing to provide every assistance, and you have been a lot of fun to work with. You are the face of the Court to the general public and it is you who ensure the Court performs its primary function as a service to the community.

I must make special mention of my personal assistant, Ann Kempster, who has been with me the whole of the 17 years I have been a Judge and, in fact, a few years before that time when I was Chief Magistrate. Ann has given me enormous support and assistance in every area in which I have been involved over this time. I am not quite sure how I am going to function without her doing everything for me.

I thank members of my own family. To my late husband, Ted Rowe, for his love and support at all times

and as father of our two wonderful children, Christopher and Nicholas Rowe.

Today I have heard kind words spoken about my career. I know however that my greatest achievement has been to be the mother of two sons, Christopher and Nicholas, and now two beautiful daughters-in-law, Miko and May-Soon and four wonderful grandchildren, Justin, Jeremy, Sama and Yaffa, the last of whom is obviously destined for the law. Like all lawyers, she cannot stop talking in Court.

They have all provided me with so many happy times. To them and to my partner, Duncan McNeil, I give my thanks.

Finally, I do thank each and every one of you for being here today and participating in this farewell ceremony. It is, after all, a tradition. }



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