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THE SUPREME COURT OF THE NORTHERN
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SUPREME COURT OF THE NORTHERN
TERRITORY OF AUSTRALIA

DURING THE CURRENCY OF THIS VOLUME

CHIEF JUSTICE

THE HONOURABLE JUSTICE BRIAN FRANK MARTIN AO MBE
(appointed 1 March 1993)

JUDGES

THE HONOURABLE JUSTICE SIR WILLIAM JOHN FRANCIS
KEARNEY CBE

THE HONOURABLE JUSTICE DAVID NORMAN ANGEL

THE HONOURABLE JUSTICE DEAN MILDREN

THE HONOURABLE JUSTICE SALLY GORDON THOMAS

THE HONOURABLE JUSTICE STEVEN RONALD BAILEY
(appointed 6 Jan 1997)

JUDGE RESIDENT OUTSIDE THE
NORTHERN TERRITORY

THE HONOURABLE JUSTICE JOHN FOSTER GALLOP

ADDITIONAL JUDGE

THE HONOURABLE JUSTICE LANCELOT JOHN PRIESTLEY

ACTING JUDGE

THE HONOURABLE IAN GRAY

(1 February 1995 - 31 July 1995)

THE HONOURABLE TREVOR REES MORLING

(25 August 1997 - 24 August 1998)

ATTORNEY GENERAL

THE HONOURABLE D W MANZIE MLA

(appointed February 1995 - May 1995 and onwards)

THE HONOURABLE S P HATTON MLA

(appointed 1 July 1995 - 20 June 1996)

THE HONOURABLE D G BURKE MLA

(appointed 21 June 1996 - 14 September 1997)

THE HONOURABLE S L STONE MLA

(appointed 15 September 1997)

SUPREME COURT OF THE
NORTHERN TERRITORY OF AUSTRALIA

MEMORIAL SITTING
ON THE OCCASION
OF
THE DEATH OF
THE HONOURABLE SIR WILLIAM EDWARD FORSTER

On the 21 February 1997, at a sitting of the Full Court, tributes were paid to the Honourable Sir William Forster, the first Chief Justice of the Court. Sir William died on 31 January 1997. He held office as Senior Judge of the Court, 1971-1977; as Chief Judge, 1977-1979; and as Chief Justice 1979-1985.

Addresses were delivered by the Chief Minister, the Hon Shane Stone M^{LA} QC; the Hon Justice John Toohey AC, a Judge of the Court 1977-1982, and now a Justice of the High Court of Australia; Mr Tom Pauling QC, Solicitor-General; Mr Trevor Riley QC, on behalf of the Bar Association; and Mr Max Horton, on behalf of the Law Society.

Some edited parts of the addresses by Justice Toohey, Mr Riley and Mr Horton are set out below.

Toohey J: [Sir William] ran the court with a light hand on the reins, leaving it to the judges to carry out their work... He always seemed particularly happy to be able to assign Family Law day to me, on Fridays. But he never pressed; he left it to me and we had a very happy relationship in that sense.

He was a person of considerable dignity but without an ounce of pomposity. He had a good sense of humour, as all of you know... He had, it seemed to me, the ideal qualities of a trial judge: a capacity to reach decisions, to reach them quickly, to find the facts, not dwell unduly on the law unless the case required it. He had an easy but elegant style, as befitted someone as widely read as he was.

I recall that although he was of a very literary bent, he disliked judges using quotations in the course of their judgments... he regarded it as rather pretentious, and I recall him giving me a lecture on one occasion about the need to avoid any sort of pretentiousness of this sort. Unhappily, I had just written a judgment in which I had quoted someone or other. If he bore from telling him that...

He professed to eschew great learning in the law and from time to time, when faced with a judgment from the Commonwealth Law Reports, he used to speak about 'those clever chaps in Canberra' ... But, indeed, Sir William did know his law. He was deeply read on the law and much more widely. And there were many, many occasions when we sat in his Chambers and discussed the books that we'd each be reading.

There's one quality of his that I would like to mention particularly, and that is his fairness in the disposition of cases both civil and criminal. In criminal cases, he showed particular concern that the rights of an accused should not be overborne, either in the investigative or prosecutorial process. The 'Anunga' Rules [*R v Anunga* (1976) 11 ALR 412], which bear the stamp of his name, relating to the interrogation of Aboriginal suspects, is but one example, and of course there are many others.

In latter years that I was on the court here, he was quite ill from time to time. I don't recall him ever allowing it to interfere with his work, even though there were many occasions when the other judges suggested that he should be home...

The Territory was, indeed, well served by its former Chief Justice. I regard it as a privilege to have known him and to have worked with him and, again, I express my thanks to the Chief Justice and the members of the court for inviting me to be present this morning.

Mr Riley: May it please the court, I arise on behalf of the members of the Northern Territory Bar Association, including the members of the Chambers named for Sir William, William Forster Chambers. Sir William had a significant impact on many aspects of life in the Northern Territory but, from the point of view of the practice of the law, none greater than the stability and the quality of the legal profession here.

He was an unashamed champion of the local profession. He encouraged members of the local profession to achieve. He supported all who appeared before him, perhaps sometimes despairing whether it was really worth it. He took great personal pleasure in the achievements of those he nurtured. He was particularly pleased to have had the opportunity of sitting on the Supreme Court Bench with two outstanding local achievers, Dick Ward and Michael Maurice JJ, and I'm sure he had similar pleasure with the later appointment of Mildren J, after Sir William had left the Bench.

His support for the local profession was never more in evidence than in admission ceremonies... he would, with genuine warmth and enthusiasm, welcome [new local practitioners] to the practice of the law, wishing them every success whilst pointing out the many advantages of practising here.

On his retirement in 1985, Sir William was able to record that when he arrived in the Territory the profession was unstable, in the sense – as he put it – that ‘many practitioners came for a short period, flashed across the northern skies and disappeared without trace’. By the time he retired he was pleased to be able to record the existence of a greater degree of stability. He said that he then looked forward to the time when young practitioners would be able to do their articles here and stay on in the Territory for their practising lives.

He also expressed the wish that the vacancies on the Bench from time to time would normally be filled by local practitioners. I am pleased to observe that those wishes of his Honour were fulfilled in his lifetime; indeed, with the establishment of a respected Law School now at the Northern Territory University, the young of the Territory can enter the profession without having to leave the Territory.

On the bench Sir William was even-tempered, balanced and always polite. He would let counsel know their position in the gentlest of ways... Sir William was a vigorous supporter of the independent Bar and he said, on his retirement, that it was the most significant change in the profession in his time on the court and that it had the wholehearted support of this court...

He led the profession from the front. He guided us through the difficult times following Cyclone Tracy, when some thought that the private practice of the law in the Territory would thereafter not survive in any worthwhile way. His standing nationally was a source of pride and support for those of us who appeared before him. He conducted his court with restraint, dignity, fairness and independence. He was deserving of, and he received, the respect of the profession.

Mr Horton: ...Sir William was a unique and significant person, a man of stature and innate dignity. He discharged duties of high office with strong yet considerate efficiency and authority and with an aplomb born of singular ability and strength of character. His commonsense, sound judgment and straightforwardness were impressive and refreshing. He had an incisive mind with a laconic, impish sense of fun. He was always willing to advise those who sought his wisdom. He was a quiet mentor and an inspiration to many.