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JUDGES OF THE SUPREME COURT

The Honourable John Jefferson Bray, Chief Justice.

The Honourable David Stirling Hogarth.

The Honourable Charles Hart Bright.

The Honourable Roma Flinders Mitchell, C.B.E.

The Honourable George Henry Walters.

The Honourable Howard Edgar Zelling, C.B.E.

The Honourable William Andrew Noye Wells.

The Honourable Alexander Keith Sangster.

The Honourable Samuel Joshua Jacobs.

The Honourable Leonard James King.

ATTORNEY-GENERAL

The Honourable Peter Duncan, M.P.

MEMORANDUM

A special sitting of the Full Court was held on Tuesday, 23rd March, 1976, following the death of the Honourable Sir John Mellis Napier K.C.M.G., formerly Chief Justice of the Court. The sitting was attended by all the Judges of the Supreme Court and by the Honourable Sir D. B. Ross and the Honourable J. L. Travers, former Judges of the Court.

THE HONOURABLE THE CHIEF JUSTICE: This sitting of the Full Court has been summoned in order that appropriate reference should be made to the recent death in his ninety-fourth year of Sir Mellis Napier, for so long a Judge, and subsequently Chief Justice, of this Court.

In many respects his long and distinguished career was unexampled and without precedent in the history of this State and, indeed, I should think elsewhere.

He was born in Scotland in October 1882. He came to South Australia as a boy with his parents. He obtained the degree of Bachelor of Laws in the University of Adelaide in 1902 when he was still a few months short of the then age of majority, so that he was unable to be admitted to the bar until the following year, 1903. In 1922 he took silk. In 1924 at the age of forty-two he was appointed a puisne Judge of this Court and in 1942 Chief Justice, an office he held until he retired in 1967. Thus he was a Judge of this Court for forty-three years and Chief Justice for twenty-five out of those forty-three. My researches are of necessity incomplete, but I know of no similar length of judicial tenure in the history of Australia.

At the bar Sir Mellis was concerned in many cases of great legal significance and some of wide public interest. His judgments from the bench of this Court stud the pages of the South Australian law reports for nearly half a century, and he has left decisive and enduring marks on the development and the history of the law of this State, the influence of which will continue to be felt long after his death.

His intelligence was great, his grasp of legal issues secure, his learning deep and wide, and his industry indefatigable, and he possessed also the enviable and, indeed, the priceless gift of succinct and sometimes epigrammatic exposition and resolution of problems of great complexity. He was reported as saying after his retirement—and I paraphrase from memory because I have had no opportunity of consulting his actual words—that in deciding a case he would ask himself first what was the just solution and next if there was any reason in law why the just solution should not also be the legally correct solution. When I was at the bar I thought that such an attitude inverted the proper order of approach. Since I have been a Judge I have realised with humility that it was not only right but inevitable. Sir Mellis had a deep feeling for justice as he saw it, and his strong and masterful intellect ensured that as far as possible, within legal limits generously drawn, justice as he saw it would prevail. Not only that, he

had deep feelings of humanity and compassion and a sympathy with changing social and moral attitudes which his conception of the judicial role sometimes only too successfully obscured.

Of necessity he will be principally remembered by his services to the law, but I should not omit to mention the other public offices which he has held. He was Chancellor of the University of Adelaide from 1946 to 1961 and Lieutenant-Governor of the State from 1942 to 1973. In the latter capacity he administered the government of the State on no less than 179 occasions.

This is not the occasion, nor is it the time, to attempt a summary or a balanced assessment of his great and remarkable career, prolonged so far beyond the psalmist's span. That must be left to the biographer who will without doubt be forthcoming in due time. I should not omit, however, to express in a public way my personal gratitude to him for assistance, courtesy and consideration rendered to me on many occasions and notably in the period immediately after my appointment as his successor.

It only remains for me to record our appreciation of that career, known to all of us on the bench and to many of you at the bar in a more intimate way than would be possible for the younger members of the profession or for future generations, and to express our sorrow at his death and our sympathy for his family.

THE HONOURABLE THE ATTORNEY-GENERAL: May it please the Court: We gather today in respect at the time of the passing of Sir Mellis Napier, a former Chief Justice and Lieutenant-Governor of South Australia.

The death yesterday of Sir Mellis Napier concludes an outstanding chapter in the history of judicial and public service in this State. Sir Mellis was a Judge of this Court for forty-three years, the last twenty-five of which he served as Chief Justice. This record of judicial service is unparalleled in the English-speaking world. He served his State as Lieutenant-Governor for thirty-one years. Although I never appeared before Sir Mellis, the testimony of those practitioners who did and the records available to me reveal in the clearest terms the respect and admiration in which he was held not only by the legal profession in this State but by lawyers throughout Australia and overseas.

His life was not only the law. Sir Mellis had interests which were wide and varied. He was an outstanding Chancellor of the University of Adelaide. Throughout his life his deep scholarship and grasp of the law as an instrument of service to all people has been an example to us all. More than any other man, Sir Mellis has contributed to the development and administration of the law in South Australia. The Government recognises with deep appreciation the services that Sir Mellis rendered so unstintingly to the people of this State and does not want the occasion of his passing to go without marking the 22nd March, 1976 as a sad day in the history of the State.