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South Australia*

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JUDGES OF THE SUPREME COURT

THE HONOURABLE JOHN JEFFERSON BRAY, CHIEF JUSTICE.

THE HONOURABLE REGINALD RODERICK ST. CLAIR CHAMBERLAIN.

*THE HONOURABLE JOHN LEO TRAVERS.

THE HONOURABLE DAVID STIRLING HOGARTH.

THE HONOURABLE CHARLES HART BRIGHT.

THE HONOURABLE ROMA FLINDERS MITCHELL.

THE HONOURABLE GEORGE HENRY WALTERS.

†THE HONOURABLE HOWARD EDGAR ZELLING.

ACTING JUDGE

‡THE HONOURABLE HOWARD EDGAR ZELLING.

ATTORNEY-GENERAL

THE HONOURABLE ROBIN RHODES MILLHOUSE, M.P.

*Retired, 19th October, 1969.

†Appointed, 23rd October, 1969.

‡From 27th March, 1969 to 22nd October, 1969.

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MEMORANDUM

A special sitting of the Full Court was held on Friday, 17th October, 1969, on the occasion of the retirement of the Honourable Mr. Justice Travers.

THE HONOURABLE THE CHIEF JUSTICE:— Mr. Attorney-General, Mr. President of the Law Society, Members of the Bench and the Bar.

We are met here today to record with becoming formality the impending retirement of my brother Travers from the high office of Judge of the Supreme Court of South Australia. His career is a distinguished one. He was admitted to the Bar in 1921. For many years thereafter he was a familiar and formidable advocate in the courts of this State, first as a junior, and since 1953 as Queen's Counsel, and his name has been lavishly scattered through the South Australian Law Reports over a period well in excess of forty years. The first reference I have found to it there is as junior counsel opposing—and successfully opposing—an application for a writ of prohibition against the Industrial Court in June 1923. Of course my researches have only been superficial, and it may well be that this is not his real debut in those pages. In certain fields of advocacy he was for many years the undoubted leader of the Bar.

In 1962 he was appointed to the office which, by the automatic operation of the *Supreme Court Act*, he must soon, to the regret of us all, relinquish. But his Honour has not confined his vigorous energies to the practice of the law. I say nothing of his excursions into the fields of commerce and official administration. I merely mention his membership of the Council of the University of Adelaide and his service as a Member of the Parliament of South Australia. He has had indeed a long and distinguished record and one which I am sure must be a source of satisfaction to him today as it is of fitting recognition from all of us here. If I may be pardoned a personal reference I would say that I remember vividly many of our past encounters at the Bar, sometimes in collaboration but more often than not in opposition, when I learned to appreciate and to dread as a participant, as I had formerly applauded as a spectator, his concentration, his power and his tenacity. Now that I have had for the past two years the opportunity of sitting as his colleague on this Bench it is right that I should acknowledge the courtesy, the sagacious common sense and the keenness of mind which has always characterised his Honour's judicial career. But there are others who will speak from other viewpoints on these things.

It remains for me on behalf of the Bench, and I think I may say of the whole of the Court staff and of all those associated with the Courts, to wish Mr. Justice Travers a long and happy retirement, and to express our best wishes to him and to Mrs. Travers. I notice that *Who's Who* lists as his Honour's recreations, no doubt under instructions, gardening, golf and bowls. I hope that he will not be so immersed in these delights that we will lose all touch with him hereafter.

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THE HONOURABLE R. R. MILLHOUSE (Attorney-General):— If the Court pleases, this is an occasion on which I think we must all have mixed feelings. First of all they are feelings of pleasure that his Honour Mr. Justice Travers has had such a long and full life both professionally and otherwise, and is now about to reach the age of seventy years. Your Honour has had a long and a full life and here I must echo, as I do respectfully, many of the things which have been said by your Honour the Chief Justice.

As we all know, his Honour was born just at the turn of the century, or just before it, in 1899. He had after his admission to the profession a busy and a growing practice. I think that his reputation is well known to all of us. Certainly well before I came into the profession I knew of Leo Travers and his exploits. His reputation was one of a tenacious opponent, as your Honour the Chief Justice has said, and it was a well-earned reputation.

His Honour was, for me, one of my colleagues when I entered Parliament in 1955. Mr. Justice Travers was a member of the State Parliament of the House of Assembly from 1953 to 1956, and there he showed me a great deal of kindness. He took silk in 1953, and was President of the Law Society between 1957 and 1959, and has occupied a seat in this Court since 1962. Those are the bare bones of his Honour's career in the law, but we must not forget the other aspects of his Honour's life. His Honour is a married man and has four daughters, and we are delighted to see Mrs. Travers here this morning on this occasion.

If I may say so, Sir, this is a life upon which you may look back with a great deal of satisfaction. It is these achievements and many others that we are gathered together this morning to acknowledge. We are friends and we are fellow-members with you of the profession.

This is an occasion for regret, because that powerful combination, nature and the law, bring you to the end of your occupancy of a seat upon this Bench. I wish you on behalf of the profession a long and happy retirement and good health to enjoy it. I offer you and Mrs. Travers our very best wishes on this occasion.

MR. B. A. MAGAREY (President of the Law Society of South Australia):— If the Court pleases, I speak on behalf of the members of the Law Society of South Australia, and in addressing these remarks to his Honour Mr. Justice Travers I do so with full remembrance of what your Honour has done for the Society. For twenty-two years your Honour has served your profession by your membership of the Council, first of all continuously from 1935 to 1953, holding the positions of Vice-President and Honorary Treasurer, and subsequently culminating in your election as President from 1957 to 1959 and Immediate Past President for the following two years.

Your Honour's retirement represents the severance of the last link between this Court and a colourful style of advocacy. From the time that your Honour achieved seniority at the Junior Bar and subsequently during

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your time as a leader, you were in demand (probably to a greater extent than anyone else who was practising alongside you) to be present in Court. Whilst your practice was principally in the Criminal Courts, you could be found before your appointment to the Bench in every jurisdiction.

The characteristic for which you will be best remembered at the Bar is the sheer courage which you displayed in a contest. You never sought to avoid issues which were unpalatable or situations which may have been personally distasteful if your duty as you saw it so required. The members of our profession no doubt achieve a very high standard in putting the interests of a client first. However, in your case the standards which you were able to achieve in this respect represented what must rank as the very highest, and, once you became involved in a case, you devoted yourself so completely to it that you quickly obtained the reputation of one who gave his client excellent value.

I have mentioned your Honour's style of advocacy. Undoubtedly your Honour was fortunate in having a physical structure which was certainly no disability to you, and your method of advocacy was in keeping with it. When your Honour was on his feet this fact itself was sufficient to cause a gathering in the courtroom behind you of people intent on learning something of your methods.

On your appointment to the Bench it was not unnatural that, steeped as you were in the traditions of the Criminal Bar, your Honour's Court should be a place where an accused could feel confident that he would have a fair trial; but, having had such a trial, upon conviction a guilty person could expect firm correction at your Honour's hands.

Others have however already spoken of your attributes as a Judge. I would only add this: that members of our profession recall with gratitude the warm friendliness with which you continued to treat us after your elevation.

All the members of the legal profession join with me in wishing your Honour and your charming wife, whom we all recall with affection at this time, a happy and long retirement.

THE HONOURABLE MR. JUSTICE TRAVERS:— Your Honours, Mr. Attorney-General, Mr. President of the Law Society, and ladies and gentlemen.

I shall limit my remarks to the one subject which seems to me to be relevant as coming from me on an occasion such as this, and that is to publicly express my thanks to those to whom I feel I am indebted. To you, Chief Justice, to you, Mr. Millhouse, and you, Mr. Magarey, I express my thanks for your very kind remarks and your good wishes. I am grateful also to all those who have attended here today because I accept their attendance as a kindly and generous gesture. To all my colleagues on the Bench I am particularly grateful for the many kindnesses I have received from them. We have been a very happy team, we have

worked well together, each having a full appreciation of the capacity of the other, and, if I may borrow a phrase, each being fully conscious of the shortcomings of the other. That set of circumstances seems to me to be a fitting background for and to be productive of much more individual thought and reason, and personally I favour the practice which is growing of giving separate judgments and separate reasons, even though the conclusion may follow that all judges may do the same.

My grateful thanks are due to my various Associates—there have been seven in all—to my Tipstaffs (two all told), and to all the Court Reporters, Typistes, and Officials.

The Chief Justice spoke of some of my earlier cases. Within my first year of practice I had the privilege of having as opponents in three separate cases the late A. W. Piper Q.C. (as he then was), Sir Mellis Napier and Sir Geoffrey Reed. I never have believed in keeping statistics, but I proudly remember that I won each of those three cases.

With no hindrance other than the rule of relevancy to prevent my wandering further afield, I was at one stage tempted to follow precedent and embark upon some reminiscences and to tender some advice to members of the profession; but you will be pleased to hear that second thoughts prevailed, and they suggested to me that reminiscences from one who is within two or three days of his seventieth birthday would be of no interest to anyone except himself; and, furthermore, that to a group consisting mainly of lawyers—almost exclusively of lawyers—any advice which carried with it no fee would really be an anathema, therefore no reminiscences and no advice but only my heartfelt thanks to all, and especially to the members of the legal profession, all of whom have been very helpful and so co-operative with me in the work I have been doing and have now completed.

There is only one other thing I wish to say and that is that I am both proud and pleased to have had the privilege for the past eight years or thereabouts of presiding in one or other jurisdiction of what we read of in the legal literature as *Curia Regis*—in other words, in the Queen's Courts.