
Federal Court of Australia, 40th anniversary celebration

7 February 2017

Speech by William Alstergren QC

President, Australian Bar Association

1. May it please the Court

2. I join with my good friend Mr Dodson, and I too, acknowledge the traditional owners of the land upon which we meet, and pay my respects to their elders past and present.

3. I have the honour and privilege, to appear on behalf of each of the Independent Bars of Australia and each of the Independent Barristers of our referral Bars to offer my congratulations to this Court on (attaining) its 40th Anniversary.

4. Today represents an opportunity to reflect on the achievements of the Court and to acknowledge the significant contribution the Court has made to upholding the rule of law and access to justice in Australia.

5. The Court is a great reflection of the importance of Federalism and is a leader in the National Profession.

6. Much has been written about the Courts history including the 2007 *Melbourne University Law Review* essay by the Honourable Michael Black, then Chief Justice of the Federal Court. Also further papers by Chief Justice James Allsop, in 2007, and by Justice Susan Kenny in 2011. All of which are thorough and authoritative. I shall not repeat those pieces of research.

7. It is worth noting however that when the Court was being formed in 1977 there were no fax machines, the email was 18 years away and litigation was very much being conducted in hard copy according to State rules and customs. Jimmy Carter was President of the United States, Malcolm Fraser was Prime Minister and Robert Ellicott QC was Attorney General (and would become a judge of this Court 5 years later). It was also the year that Elvis died.

8. For the most part because of the tyranny of distance there were no real national practitioners.

9. 40 years later we find a truly national, modern court of world recognition which is the most technologically sophisticated in the region.

10. The Court's jurisdiction has grown dramatically during this time and justifiably so.

11. With this growth in jurisdiction so to has the numbers of judges grown. It was on this day in 1977, when 18 judges were sworn in at the first sitting of the Court here in Sydney. They joined the Chief Justice Bowen who had been

sworn in several weeks earlier in December 1976, to become the founding judges of the Federal Court. Those numbers have been sustained until today.

12. On the eve of 1991, when Chief Justice Black was sworn in the Court had grown to 32 judges. By 2007 when Justice Keane became Chief Justice there were 47 judges. This number for the most part has been maintained.

13. The Court has been innovative, practical, flexible and user friendly. Practitioners feel that they are treated with respect and fairness. The Court during hearings has indicated an understanding of the needs of the litigant. Much of this has been achieved by the docket system (as mentioned by my learned friend Mr Dodson) whereby litigants have all of their issues both interlocutory and final resolved by the same judge in a timely and efficient manner.

14. For instance in tax matters parties ordinarily have only one interlocutory hearing before the Court, namely the Case Management hearing at which all matters pertaining to the case are determined including the trial date.

15. This change led to a dramatic shortening of the court process much to the benefit of the parties.

16. I congratulate the past Chief Justice's as great leaders of this court and acknowledge, particularly under the current leadership, the nationalisation of the profession and the importance of federation. In particular under the *National Court Framework*, the operation and workload of the Court has been

reorganised into eight National Practice Areas in place of a geographically based approach.

17. Another component of the reform is the introduction of the national allocation system for judicial matters and the implementation of the *National Duty System*, as well as the introduction of new Practice Notes.

18. The Court, has rules and procedures enabling practitioners to appear in which ever registry that is required with little impediment. It is often been said by leaders of various Bars that it does not matter which registry or state one appears in. The past colloquial nature of the practise of each State has been met by a seamless transition into a truly national court.

19. The Courts leadership has not only led to an enhancement of the national profession by the Bars, but also it has led the way for many State Courts to follow suit, particularly in their civil procedure rules.

20. Electronic Court Files have been implemented nationally, and work continues on the Digital Hearings project (formerly eTrials).

21. These practices and adoption of new technologies have lead to an acceptance of interstate counsel, for example via video links, and will no doubt continue to see the Federal Court's accessibility and relative ease of operation further develop in coming years.

22. There has always been a great relationship between Barristers, the Bars and the Federal Court of Australia. It is a relationship of deep respect and professional cooperation. This has included the work done in professional working committees with the Court, user groups and the wider consultation the Court engages with.

23. It is hardly surprising the Court has been so successful in its endeavours. The Court boasts highly experienced former practitioners from all parts of the profession.

24. All four Chief Justices of this Court have been eminent members of our independent Bars. Indeed, many of the jurists on this Court have either not only been barristers but also in leadership positions of those Bars, showing a real commitment to the profession and in deed to the community at large. An example of this is number of former Bar Council Presidents and Chairman, Vice Chairman and members of State Bar Councils currently sitting on the Court, not the least being Justice O'Callaghan to be welcomed next Friday.

25. Your Honour, the Chief Justice has also particularly been insistent that the Court and the profession look at the issue of cost effective litigation for all parties. This includes, the importance of seeking to have some reasonable control of legal costs, and ensuring that Barristers are briefed early in litigation.

26. A large number of achievements have been made in this Court in the last forty years. The most significant of which is that the Court has maintained its independence, integrity and stands as high as ever in public respect.

27. On behalf of all of the barristers in Australia and the Australian Bar Association, I extend our sincere congratulations on the 40th anniversary of this distinguished court.

28. May it please the Court.