

CHIEF MAGISTRATE LISTENS TO ELDERS AT MANDORAH

Chief Magistrate Hugh Bradley joined traditional elders, Aboriginal representatives, legal and community service providers to discuss juvenile justice at the Where the Waters Meet conference at Mandorah on 1 - 3 June. He told Darwin ABC Radio's John Loizou he spent most of the weekend listening to people from all over the Territory. The following is a transcript of their interview aired on Tuesday 5 June 2001.

What was the message that you were listening to?

I think that there was a very strong message that the people in the communities want their own law to be applied — that is the application of traditional Aboriginal law — but that has with it many complications and of course some people want it to apply and some people don't. I don't enter into that debate other than to acknowledge that it is something they want.

I should imagine there would be some Aboriginal people who wouldn't be too keen to swap white mans law for traditional law?

That might be but there might also be moral pressure on them. If they want to remain in their communities they may want to accept their own elders decisions. I don't really know exactly how that would apply and I couldn't really help a great deal.

When we talk about traditional law is there much that our legislators, the parliament, can do to accommodate this push for traditional law?

Yes. I don't know how the legislators could do it but we can take into account the wishes of the community without necessarily enacting a law that says their wishes should apply. We can indicate we will take conditions on bonds or adjournments which will enable the local people to solve their own problems. In juvenile court, and I guess in adult matters, we can have a conditional bond which entitles or obliges the person to

carry out certain functions which the community might set. A court could only set such conditions though when it is proper and appropriate within Australian law, but that doesn't mean we don't have options available to us.

Is language a problem at a forum like this when we have a whole lot of traditional elders trying to explain what it is that they want. Do other people get in the way? Does the conference lose its Aboriginality at some stage?

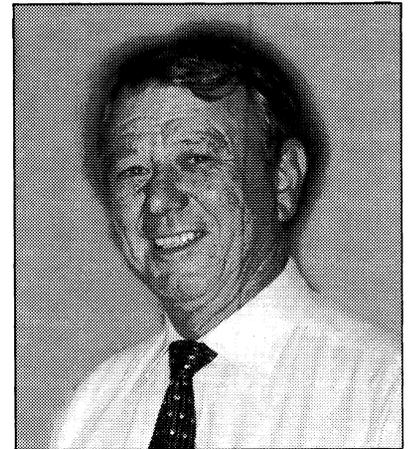
The conference I thought was terrific on the Friday when Aboriginal people spoke. All day on Friday there were Aboriginal people conducting the main sessions and conducting the minor sessions out in the paddocks and underneath the trees. They don't speak as you or I but their message still comes across.

What about the diversionary regime that has been put in place in an effort to save Aboriginal juveniles from gaol. Is that being taken advantage of? Or do people in the communities understand it as they might?

I don't know the extent of its application on communities. Inspector Waite was at the conference and he spent a great deal of time trying to explain its application. I think the police were criticised for the fact that they have been too slow in implementing it in communities. They say there are difficulties associated with that. I can't enter that debate other than to say that since diversions commenced I have noticed that in the juvenile court, where I sit quite regularly, there is probably half the number of new matters coming through and that includes both Darwin and the communities.

The reports that I watched yesterday on television said they were still opposed to mandatory sentencing. Is that the message you got?

It is a very clear message being put out by all people associated with the Aboriginal community and the legal fraternity. I make no comment on the desirability of it, it is inappropriate for me to comment,



other than to apply the law as it is set out.

So we've had the dialogue on both sides, when are we going to get some concrete results do you think?

I think a number of things have come out of this conference. The first is that there is a better understanding of the way in which the communities can communicate with the court. I have made it clear to the communities that they can communicate with magistrates on a community basis. If they want to meet with their magistrate, the one that regularly goes to their communities, then I will arrange for a special day for the magistrate to be free to do that so the two can meet. Independently of that I have encouraged the communities that I visit from time to time to ask the elders to form a group or have a member of their community to make submissions to the court on appropriate penalties. All of those things are available now and they just need the assistance or help to organise themselves so that the appropriate steps can be taken. Sometimes they say that it is proper for magistrates to talk to the communities when they go and visit. That is not really easy as the magistrate can not go and talk to all the people not knowing who is going to come before him on the day. It is better that he remains separate on the day in which he is conducting court; but to understand community needs there is no reason why he can't go out separately and meet with all levels of community — elders, young people and the people who want to give the court a sense of direction for their community.