

# Be careful what you wish for

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In 2004, newly installed Chief Justice BR Martin suggested to Attorney-General Toyne “a very large bulldozer” as the solution to the dilapidated and cramped conditions of the Alice Springs courthouse. At his 2010 farewell, Martin CJ (BR) expressed the hope that a solution would be in place before the next Chief Justice retired. Had incoming Chief Justice Riley hung on for just a few more months, and had the building come in on schedule, that wish might have been granted: the spanking new and now nearly completed “Supreme Court and Commercial Centre” (as the site’s first hoarding blithely proclaimed) now looms over the Alice Springs CBD, as if a gigantic sleek alien submarine had suddenly surfaced, disturbing the familiar flat calm, towering over the neighbouring tin-roofed 1920s heritage-listed bungalows and the sacred river red gum—the “foundation tree”, as Arrernte elder MK Turner calls it—that has presided since time immemorial in the middle of what is now Parsons Street.

Much as we need a new courthouse in Alice Springs, and much as we needed a new prison in Darwin, the question arises—in both instances—whether it is fit for purpose. These days there are plenty of Australian court facilities funded, built and operated by way of a Public-Private Partnership, a model pioneered by the consortium that built California’s Long Beach Courthouse under the stewardship of Governor Arnold Schwarzenegger. However, the Alice Springs project seems to be breaking new ground, in that half of its floor-space will be leased to private enterprise. Call me a fuddy-duddy, but there is something

constitutionally discomfiting about locating a Supreme Court in a building which also functions as a private profitmaking concern.

The new courthouse will have the capacity to accommodate two jury trials running simultaneously. The prospect of reduced waiting times for accused persons on remand is of course attractive. However, unless additional resources are provided to the agencies that supply the legal services required to conduct jury trials, it is difficult to see how those agencies (particularly the ODP and CAALAS) will have the capacity to meet the increased demand from the court.

Courthouses, as the seat and symbol of the state’s judicial arm, which has a monopoly on the lawful infliction of punishment, are necessarily imposing. There is no doubt that the new Alice Springs courthouse ticks that box, and overwhelmingly so. It remains to be seen how well it will also articulate the other core values of our justice system: independence, impartiality, transparency, accessibility and fairness.

Courtrooms are places of punishment, pain and shame. Occasionally, however, they can also be places of catharsis and reconciliation. In mid-2016 I appeared with a colleague in a murder trial that stretched out over three weeks, during which my accused client and members of the victim’s family present in court glared and occasionally hurled abuse at each other. Eventually, the jury was sent

out to consider their verdict, and quite quickly came back with it: guilty. It was about 3 o'clock in the afternoon. Coincidentally, former Chief Justice BR Martin was presiding. He doesn't muck around, and told us all to go away and come back in an hour for the sentencing hearing, which we knew, having regard to s 53A of the *Sentencing Act 1995* (NT), would be neither complex nor protracted.

Court resumed at 4 o'clock, and the sentencing hearing started with the reading of a victim impact statement that had been signed by about thirty members of the victim's home community, a remote place where traditional law still holds sway. As this potent, portentous statement was being recited, a peculiar, percussive rumbling started. It turned out to be the freak hailstorm which lashed Alice Springs that day. A little later, as the judge proceeded to sentence, the hail, which had by now penetrated the roof of the courthouse, set off the fire alarm. Martin AJ (BR), raising his voice to be heard above the sirens, neither flinched nor

budged until he had pronounced sentence. No-one else budged either. The moment he finished, everyone in the court was ushered outside in a rush, where we all found ourselves huddling together on the courthouse portico, sheltering from the storm, which had started again.

And that is how my colleague and I were brought face-to-face with the family of the woman our client had been convicted of murdering, the very people we had been careful to studiously avoid over the last few weeks. There was only one thing to do, and we did it: the customary offer of a hand. To our immense relief, each member of the family came forward and accepted our formal gesture of condolence.

I don't suppose the roof will leak in the new Alice Springs courthouse. But I hope that, like its predecessor, it will serve on occasion as a site of reconciliation and restoration.



Photo: P. McManus