

'No doubt this saga has some way to go'

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Bradley best man for the job: Stone

By former chief minister
SHANE STONE

MOST Territorians probably don't care about the current controversy surrounding Chief Magistrate Hugh Bradley, let alone understand what the hullabaloo is all about.

After all, "lawyer speak" with the usual bunged-on "Oxford accent" is all fairly remote from the usual cares and worries of the average Territorian.

It all makes good copy, but the real problem with all that has been read and said about Hugh Bradley is the denial that a competent and dedicated legal practitioner agreed to leave his lucrative law practice to take on the challenge of chief magistrate.

He has been wrongly vilified, ridiculed and diminished by some in the legal profession who have a wider agenda of defeating mandatory sentencing.

Having waited patiently for others who have a clear and compelling responsibility to defend the Chief Magistrate, I have finally decided to put pen to paper after listening to a replay on ABC 8DDD of what I can only describe as the most disgraceful and slanderous commentary on Hugh Bradley by Michael Jones of the Aboriginal Legal Aid Service.

To describe this man as "damaged" and without "integrity" is reprehensible and unforgivable.

To learn that there are those in high office, who should know better, supporting this attack, is incomprehensible.

The facts are that Hugh Bradley didn't have a term appointment, he was never asked or prevailed upon to decide cases in a particular way or to champion any legislation.

He agreed to serve because he conscientiously wanted to give something back to the community he lived in.

He certainly didn't do it for the money.

This very same Hugh Bradley had previously been recommended to me for appointment to the Supreme Court by members of the judiciary and his peers.

He presented as a man of considerable legal and administrative capacity.

He was neither a close friend nor political ally, indeed he had at times been among my harshest critics.

What views he had on mandatory sentencing I never inquired, indeed I didn't much care, as I was more interested in his professional legal and administrative capacity than his opinion on my legislative program.

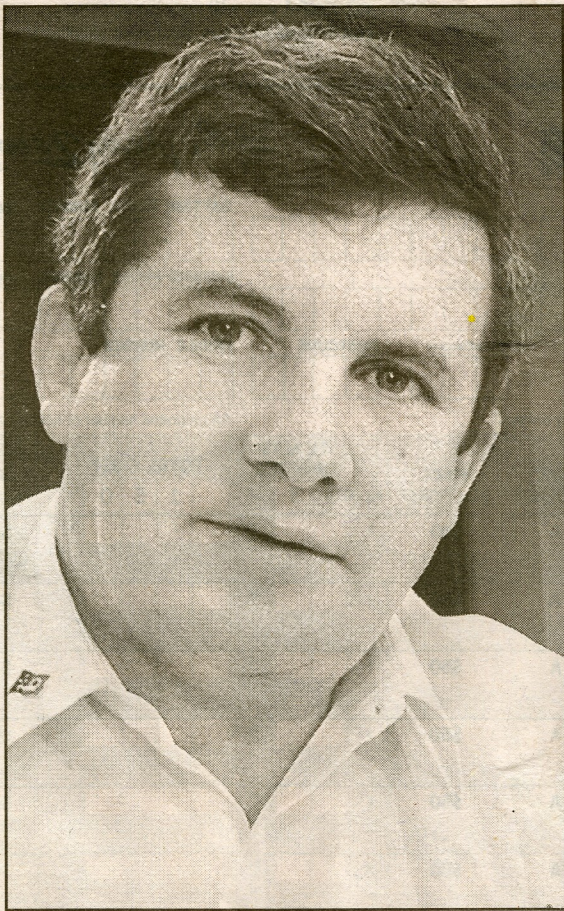
When I approached Hugh Bradley (he was one of two potential candidates) to take on the role of chief magistrate I had no illusion as to what he would find.

After all, the legal profession was expressing its own concerns and ordinary citizens coming into contact with the court were, at times, highly dissatisfied.

The Magistrates Court had become, in part, dysfunctional.

One particular "spat" between two magistrates resulted in a case being aborted and the taxpayer picking up the costs that ran to tens of thousands of dollars.

Some magistrates believed they were beyond the direction of



Mr Stone ... slanderous

the Chief Magistrate and spent as much time manoeuvring for the top position as they did in writing their judgments.

The former chief magistrate was a good man but he wanted to move on.

He was not able to resolve the problems that were confronting him and the Director of Courts Administration.

All of this was common knowledge in the legal fraternity as was the reason and circumstances of the Bradley appointment.

‘To describe this man as ‘damaged’ and without ‘integrity’ is reprehensible and unforgivable ,

Justice Angel sought to put his own spin on the meeting he and Justice McPherson had with me when they discussed term appointments of magistrates (the NT Government was examining a proposal for 10-year appointments as a way of getting some degree of accountability and responsibility back into the system).

Perhaps his notes which he so enthusiastically referred to in your letters column will confirm that both he and Justice McPherson acknowledged that the very issues we were struggling with, and which I have referred to above, were not unique to the Territory.

Those are the facts.

The Bradley appointment was about getting the best person for the position.

Instead, we are left with absurd and unsustainable allegations.

Are we to seriously believe that because the Chief Magistrate wore a Territory tie he gave rise to a "perception of bias"?

How can a magistrate be "biased" if he has no discretion?

Is he biased because he tells a defendant that based on the facts he deserves to go to jail?

I have listened to this poppycock ad nauseum for weeks.

Aboriginal Legal Aid claims it is broke, refers clients to NT Legal Aid (yes, you the taxpayer pay again) while at the same time they pursue this frolic, flying a senior barrister in from Sydney, employing another local barrister, all to pursue a man who only ever sought to serve the Territory to the best of his ability — without fear or favour.

If there is a perception of bias in the Chief Magistrate then surely the argument must apply equally to Supreme Court justices, some of whom enjoy different "conditions" from each other. If one has a housekeeper and others don't, does that amount to favouritism?

Why do some have different secretarial arrangements?

Is it improper for one judge to keep his own luxury car and have it maintained and fuelled at taxpayer expense rather than accept a government car?

Are home improvements at taxpayers' expense or "unique" residential arrangements likely to lead to a perception of bias?

As a former attorney-general I came to know and was advised of numerous examples including where a chief justice's "package" was tailor-made through legislation to ensure that jurisdiction got the best person for the job.

Are these performance-based contracts or are they the usual finetuning of terms and conditions of appointment that you would expect when you recruit the very best to these high offices?



Mr Bradley ... commitment

As the majority of the Supreme Court justices and magistrates were appointed during my time in office, I can assure readers that successive Territory Governments always sought out the best for appointment on merit and there are always matters for negotiation, all of which was carried out at arm's length from the politicians through the Office of Courts Administration.

I was both surprised and disappointed to learn that a number of the justices of the Supreme Court had taken it upon themselves to meet and comment in

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writing on Hugh Bradley's appointment in response to a letter from the Law Council of Australia.

A case of "do as I say rather than do what I do".

Quite apart from the fact that it was not a particularly clever move given that all NT justices must now disqualify themselves from hearing the Bradley matter, he deserved better than that.

Australia, including the Territory, is fortunate in that the vast majority of our judges and magistrates are dedicated professionals above reproach.

But from time to time, issues arise that demand that the Government act.

Judges and magistrates are human, subject to the same foibles and idiosyncrasies as other folk.

Their very circumstances, particularly in a small community such as the Territory, lead to their isolation from the rest of the community and from time to time there is a need for a reality test.

Sadly, not all judges and magistrates take kindly to what they see as interference or unfair criticism.

They are generally joined in this view by the legal fraternity.

Consequently, when a government, and mine was no exception, responds to community concerns or seeks to make the system work better as is the clear prerogative of the Parliament, there are howls of protest.

As in the case of Hugh Bradley there will be those who seek to draw a long bow, argue "perception" (don't worry about the facts) until the cows come home because it conveniently fits the argument in the broader context of the campaign against mandatory sentencing.

And let's not forget the usual judicial panacea to all criticism — the ever-reliable doctrine of the separation of powers.

It can be relied upon to deflect all criticism — such as outstanding judgments or "challenging" behaviour.

Can we depend on the courts to heal themselves where things go wrong?

Hardly, if the former Justice Bruce matter in NSW is any real indicator.

Can we expect that judges and magistrates won't go off the rails at times? Sadly, no.

Rather, governments are left to pick up the pieces, find willing workhorses to implement reforms and instil greater accountability.

A clear responsibility entrusted to governments and the Parliament by the people.

"Populism" the critics scream. Excuse me!

Who gave the elites of the legal profession the right to ignore the will of the people.

Since when did lawyers have all the answers?

Hugh Bradley's appointment was about the efficient administration of justice — nothing more and nothing less.

Bradley's appointment wasn't fixed term.

Even a cursory examination of the *Government Gazette* proves that.

It was hardly a secret, his appointment went through the entire Cabinet process (which means it was subject to comment and advice from departments including Solicitor for the Northern Territory) and to Executive Council for appointment by the Administrator.

Were all his terms and conditions of appointment disclosed?

No, neither are those of the chief justice or indeed any justices in any jurisdiction that I am aware of.

Commentators who confuse a salary level with conditions demonstrate their patent ignorance of appointments.

No doubt this saga has some way to go.

What kind of community have we become that we would allow a man of Hugh Bradley's calibre and commitment to be sacrificed to political expediency or the whim of the pharisees.