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## Transcript

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### NT Chief Magistrate under pressure

KERRY O'BRIEN: It's been a public holiday, May Day, in the Northern Territory today.

The courts weren't sitting so the Territory's Chief Magistrate was at least spared the scrutiny of journalists and having to award himself only cases which would not render him liable to legal challenge.

For the past couple of weeks, Mr Bradley has been avoiding cases involving the northern Australian Aboriginal Legal Aid Service.

That follows a Supreme Court preliminary finding that one of the service's clients might have grounds for perceiving that Mr Bradley was biased.

The bias perception grew out of revelations that he was appointed on a secret contract, making him the highest-paid chief magistrate in the land.

The challenge to his job is far from over -- it's back in the Supreme Court in Darwin later this week.

Murray McLaughlin reports.

DENIS BURKE, NT CHIEF MINISTER, ON ABC RADIO: The justice system per se is totally corrupt as far as I'm concerned.

MURRAY McLAUGHLIN: 10 weeks ago, Northern Territory Chief Minister Denis Burke unleashed more than the anger of lawyers and judges around the country when he labelled the justice system 'corrupt'.

RADIO ANNOUNCER: What do you mean by the justice system is 'totally corrupt'?

DENIS BURKE: Well, because the system is one of the fulcrum moving totally in favour of the criminal.

Look at my lips and understand what I'm saying.

This is a simple man speaking to you and what I'm saying is simply that the word 'corrupt' in the context I used it was in the context of how we deliver justice to the ordinary person.

MURRAY McLAUGHLIN: Burke's use of the word 'corrupt' stirred old suspicions about the appointment and remuneration of the Northern Territory's Chief Magistrate, Hugh Bradley.

Gossip that Bradley enjoyed a special pay deal had long drifted through the corridors of justice around the country.

Lawyers affronted by Burke's ascribing corruption to the very system he presided over decided it was time for the deal to be exposed.

The Judicial Conference of Australia was quick to condemn.

JUSTICE BRUCE McPHERSON, JUDICIAL CONFERENCE OF AUSTRALIA: People suspect that a judicial officer who gets the benefit of advantages like that which others do not may show a great deal of goodwill towards the government.

MURRAY McLAUGHLIN: Hugh Bradley's special deal was at the heart of an application to the Supreme Court 10 days ago, when Justice Howard Olney said it could give rise to a perception that Bradley's judicial independence had been compromised.

Attorney-General Denis Burke was unimpressed by the import of that.

DENIS BURKE: The issue was one of simply a perception of bias, not even to show the man's bias.

I don't believe the average Territorian would like to see a person's reputation destroyed simply on a perception.

MURRAY McLAUGHLIN: The action against Bradley was brought by solicitor Michael Jones for the North Australian Aboriginal Legal Aid Service.

He's been cited by Bradley for possible contempt for having written to the Chief Magistrate, urging him to reveal the background to his appointment and pay deal.

MICHAEL JONES, NTH AUSTRALIAN ABORIGINAL LEGAL AID: Perceptions of bias get stimulated when there's secrecy.

Perceptions of bias get massaged when there appear to be deliberate attempts to conceal things.

DENIS BURKE: Trying to show that, they will destroy a man's reputation, and, frankly, I think it's irresponsible.

It should be left alone.

The magistrate should be allowed to get on with his business.

MURRAY McLAUGHLIN: But the Aboriginal Legal Aid Service, having won a Supreme Court order 10 days ago which prohibited the Chief Magistrate from sitting on one case, is determined not to leave Bradley alone.

The way Bradley was first appointed and paid is still the essence of a new application to the Supreme Court.

Bradley got a pay packet bigger than any other chief magistrate in Australia and it wasn't negotiated at arms' length from government.

RICHARD ACKLAND, LEGAL JOURNALIST: Well, it gets back to the old question of, you know, the independence of judicial office holders or office holders exercising judicial functions.

Theoretically, their pay and terms of condition are set by independent tribunals, not in direct negotiations with government officials at the time.

So, in all sorts of ways, it confronts that.

MURRAY McLAUGHLIN: Shane Stone, now Federal President of the Liberal Party, was Chief Minister when Hugh Bradley was recruited in early '98.

Though he wouldn't talk about the Bradley deal with the 7:30 Report, Stone said in a local newspaper that the chairman of the Judicial Conference of Australia, Justice Bruce McPherson, knew of the Bradley contract three years ago.

That brought a swift rebuttal from this man, NT Supreme Court judge David Angel.

Judge Angel accompanied Justice McPherson to a meeting with Stone in September '98.

He took notes of the meeting and wrote to the Northern Territory News to contest Stone's version of events: "The existence of the contract concerning the remuneration arrangement with the Chief Magistrate was and remained a secret until the 7:30 Report on March 16.

Justice McPherson did not discuss the (Bradley) contract with Mr Stone three years ago or at all."

In fact, the judges met Shane Stone at Parliament House over another matter.

They wanted to protest against a proposal by Stone to put magistrates on fixed 10-year contracts.

A bill to that effect was introduced to Parliament only a day before the Bradley appointment was formalised.

In the letter which has incurred allegations of contempt, Michael Jones wrote to Hugh Bradley last month: "that the executive government was seeking to make magistrates accountable to it in an unprecedented way is something of which you might fairly be supposed to have had knowledge at the time (of your appointment)."

In the end, that bill was not enacted, but Shane Stone did push through another contentious law change on the eve of Bradley's appointment.

It gives unprecedented power to the Chief Magistrate to dismiss a magistrate who doesn't follow instructions, although the power can't be used for the purpose of influencing a magistrate's courtroom discretion.

GORDON HUGHES, LAW COUNCIL OF AUSTRALIA: That sounds good, but in fact it's not good enough because it's quite possible for a chief magistrate to issue a direction not for the purpose of influencing a magistrate's discretion, but could have the effect of influencing the magistrate's discretion.

MURRAY McLAUGHLIN: In his letter to Hugh Bradley Michael Jones saw a sinister purpose to the changes by Shane Stone to the Magistrate's Act: "The ordinary person could be pardoned for suspecting your appointment was part of an executive government agenda to make all magistrates accountable: first by making you accountable and second, by making all the other magistrates accountable to you."

The Aboriginal Legal Service's latest application to the Supreme Court is set for preliminary argument later this week.

It wants Bradley's appointment to be declared invalid because it says his initial contract was only for two years.

A fixed short-term appointment would have been against the law which says magistrates are appointed until age 65.

Legal or not, the contract until recently was secret and lucrative, but that doesn't surprise Richard Ackland, who runs a legal publishing business in Sydney.

RICHARD ACKLAND: After all, Mr Shane Stone himself was found guilty by the Law Society authorities of unprofessional conduct some time ago in relation to the handling of a case he was

conducting, but that didn't stop him subsequently appointing himself a QC.

So I think people that have that view of the way the system works, it's hardly surprising that they would be directly negotiating pay deals with the Chief Magistrate.

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