

CANBERRA TIMES – Richard Refshaug
A standout judge and citizen:
Jeffrey Miles Obituary

JEFFREY ALLAN MILES - March 20, 1935 - February 11, 2019

A common stereotype of a judge is of a distant authoritarian who imposes severe prison sentences, often accompanied by a tongue-lashing.

While the Honourable Jeffrey Miles, the territory's second Chief Justice, who died on February 11, could and did impose long sentences when deserved, his love of nature, his commitment to social justice and his devotion to his family showed that this eminent citizen and jurist was more human - and humane - than the stereotype.

He made a really substantial contribution to his family, his friends and to the Australian community.

Miles presided over the third arm of the territory's government for 17 years and his leadership spanned the period of transition to self-government. His firm defence of the rule of law and the independence of the judiciary improved the new constitutional arrangements, despite a few hiccoughs along the way.

Former Chief Justice of the ACT
Supreme Court Jeffrey Miles
Photo: Rohan Thomson



Born in Newcastle, NSW, Miles attended Newcastle Boys High School, and commenced as a cadet journalist at the *Newcastle Herald*. But he eventually decided to study law at Sydney University, graduating in 1958.

After a stint working at a London law firm, he returned to Australia in 1963 and began working large commercial law firm of Stephen, Jaques and Stephen. He involved himself in social justice issues, with the Association for International Cooperation and Development and attended peace conferences and public meetings.

He was called to the bar in 1965; conscription had just been introduced in Australia and Miles acted for a number of conscientious objectors and for activists arrested at anti-war and anti-conscription demonstrations. He successfully defended his first client and went on to appear for many others, including high profile clients, such as Michael Matterson and the SDS leader, Mike Jones. He also joined the Council of Civil Liberties.

In 1978, Miles became a public defender in NSW, partly so that he could spend more time with his growing family. He left the Bar when, in 1980, he was appointed as a judge of the National Court of Papua New Guinea for a three-year term.

At the end of his term, he was appointed a judge of the Supreme Court of NSW, in the common law division.

On 31 March 1985, Sir Richard Blackburn retired as Chief Justice of the ACT Supreme Court. The Commonwealth embarked on a wide search for a replacement; it took some time. When initially approached, Miles rejected the offer, but finally agreed to take the appointment. He was sworn in as Chief Justice on June 17, 1985.

Here, Miles found a court where there were tensions between the resident judges, but his calm sincerity and collegiality managed to reduce, though not eliminate, the tensions.

One of the first cases he decided was a town planning case where a large pathology company wanted to build a multi-storey building in O'Connor, the residents of the single store bungalows in the suburb vigorously opposing it. Miles carefully and with skill navigated the arcane process under the City Area Leases Ordinance 1936, very different from NSW town planning law.

He presided over many interesting cases. He conducted the trial of a number of people who had invaded the Iranian Embassy in 1992; 10 of the 11 charged were convicted and four were sentenced to prison.

He also presided over the sentencing in *R v Hollingshead*, where an attempt was made to hold preventive detention invalid as contrary to International Human Rights Treaties. Miles carefully analysed recent High Court authority and held that such international law could help with the interpretation of Australian law and inform the exercise of judicial discretion, but could not justify overruling local law.

An interesting claim for damages that he heard was for personal injuries made by a woman who had slipped and fallen in a supermarket. Part of her claim was for future losses because, she said, she could not work as an escort in the future. She explained that she had provided her services for politicians, minister of religion and judges; Miles told her, "Not this judge, Madam". He disallowed that head of damages

On the court, he was always courteous and respectful of litigants, even accused persons whom were to be sentenced. This approach resulted in one of the Iranian Embassy invaders sentenced to prison, sending Miles seasons greetings each year after his release. The two finally met, and Miles and his wife attended the wedding of the man's daughter.

Two promises were made to Miles by the Commonwealth when he was appointed: that the Court would remain under Commonwealth control and that a new Courthouse would be built. Neither promise was kept during his time at the Court, though there is now a new Court and he was very interested in it when I showed him around on 15 October 2018.

The most significant change he faced was the establishment of self-government. This would place the Court under the legislative jurisdiction of the new ACT Legislative Assembly. Miles considered that it was essential that the legislation made certain that the independence of the judiciary was preserved and that there was an appropriate separation of powers. He worked hard at this and largely secured his aims. It is to Miles's credit that the arrangements were so successful and gave real and proper protection to the Court.

In 1995, he had to undergo serious heart surgery which, at that time, could only be done in Sydney. Initially he was hospitalised in Canberra, awaiting transfer, and, while there, delivered from his hospital bed a judgment that he had finished but had not time to deliver before he was admitted to hospital. The following surgery was successful.

Miles retired on September 30, 2002, with a Ceremonial Sitting to a packed Courtroom and overflow in an adjacent courtroom linked by CCTV.

This did not, however, end his judicial career. He was made an Acting Judge in the ACT to conduct an inquiry into whether David Eastman was fit to plead at his trial. He found that he was fit, but made the significant legal finding that a lawyer acting for an accused person had a duty to bring to the Court's attention any likelihood that the person was not fit to plead, even if the lawyer was no longer acting for the accused.

In 2006, he was appointed to Chair the Torres Strait Fisheries Assessment Advice Panel for two years.

Miles was a man of wide interests. In Sydney, he had been a member of the Australian Academy of Forensic Sciences. In moving to Canberra, he went about setting up an ACT Chapter, which was established in 1991, with the initial members all the ACT Judges, senior public servants and a distinguished criminologist. The Governor-General hosted a function to inaugurate the Chapter. It rapidly grew and Miles attended its meetings regularly even after his retirement.

Miles was always interested in social justice and, on retirement, renewed his involvement with Civil Liberties, writing for Civil Liberties Australia that section 59 of the Constitution should be repealed. He became the Chair of the ACT Chapter of the International Commission of Jurists. He recently signed, with 33 other retired judges, a letter calling for an effective National Integrity Commission.

He also had wide interests outside the law. He continued to ride his bike, and bushwalking. Indeed, he was a member of a walking group established in 2012 and which involved walking for 90 minutes every Saturday and then spending a convivial time over coffee, both elements being equally important!

He had a lifelong interest in gardening and followed that for many years. After retirement, he became a volunteer for 14 years at the Rose Gardens of Old Parliament House.

He was a standout as a judge and as a citizen and is worthy of emulation.

Jeffrey Miles is survived by his wife Patricia, his daughter Anna and son James, their partners and their children.