

The Australian Law Journal
90th Anniversary Celebrations in Banco Court, Sydney

Speech by the General Editor: The Hon François Kunc

In such distinguished company the only way I could be assured of not committing a serious error of omission would be to acknowledge each of you individually. I hope you will forgive me for not doing that. Each of you does the Journal a great honour by joining us to celebrate this milestone in Australian legal publishing. On my own behalf, on behalf of the Assistant Editors and on behalf of Thomson Reuters may I say that you are all very welcome here tonight. The audience this evening represents the full range of the Australian judiciary, legal profession, academy and students that the Journal exists to serve.

There were, however, some people who could not be here. We have had a number of local and interstate apologies. Four should be especially noted.

The Hon Malcolm Turnbull MP, Prime Minister of Australia, was unable to accept my invitation that would have brought him back to the bar table of this court. He is represented this evening by the Attorney-General, Senator the Hon George Brandis QC.

The Hon Tom Bathurst AC, Chief Justice of NSW. In mentioning the Chief Justice I must offer three particular thanks. First, the Chief Justice has kindly permitted us to hold this event in the Banco Court. Second, I would like publicly to record my personal gratitude to the Chief. I very much appreciate the encouragement and support he extended to me when I raised with him nearly two years ago the prospect that I would be taking over from the Hon Peter Young AO QC as General Editor. Third, his Honour's staff and the Court's facilities management team, along with my own Associate and Tipstaff, have been integral to putting this evening together.

Next, the Hon Margaret Beazley AO, President of the NSW Court of Appeal.

And last, but by no means least, the Hon Sir Anthony Mason AC KBE QC, former Chief Justice of the High Court of Australia.

I do not want to repeat what you can all read at leisure in your complimentary copies of the May 2017 issue about the background to this evening's celebration. However, before I introduce the Attorney-General to launch it, I would like to say something about the Journal and why we are

marking this anniversary with this special issue and, in August, a national conference on the future of legal education.

Last week the legal section of the Australian Financial Review described the Australian Law Journal as “venerable”. Because, notwithstanding my day job, I am basically an optimist, I chose to read that epithet as a compliment, something kindly meant.

Nevertheless, because I am an optimist with experience, I did also have a look at the Macquarie and Shorter Oxford English Dictionaries just to make sure. My fear was that “venerable” might connote dotage or decline. I was pleased to find it did not. Setting aside theological usages, it was definitions like “highly respected on account of ... character, achievements”, “commanding veneration due to a combination of age, personal qualities” or “commanding respect by reason of age” that offered some reassurance that “venerable” was an epithet to be embraced. On an occasion such as this, it seems appropriate to reflect briefly on those qualities of age and respect.

Ninety is certainly a birthday worth celebrating. By the standard of law journals in the Anglosphere, the ALJ is in the senior division but far from the oldest. The Irish Jurist began in 1848; the Law Quarterly Review in 1885, and the Harvard Law Review in 1887. The Journal was pipped by the Cambridge Law Journal (1921), but does stand ahead of such newcomers as the Modern Law Review (1937), or the Oxford Journal of Legal Studies (1981).

Perhaps a more useful perspective comes from recalling that the ALJ cannot be expected to have predated the country whose legal system it is dedicated to serving and surveying. With the benefit of hindsight, it is remarkable that it took only one generation after Federation for a distinctively Australian legal profession to have developed. That young profession saw the need for a national legal journal to function, uniquely, as both a journal of record and the forum for topical legal discourse. The story of the first editor, then just Mr Bernard Sugerman, proves the point. He was born three years after Federation and was only twenty-three years old, and one year at the Bar, when the first issue rolled off the press in May 1927.

Of course, the quality of age is necessary but not sufficient to be “venerable”. Respect is the other critical integer. Insofar as this celebration is a tribute to the respect enjoyed by the Journal, that is the fruit of the excellence of past editors and contributors and their willingness to offer their scarce time and substantial intellectual treasure to the wider national legal community. In that regard I particularly wish to pay tribute to the work of the longest

serving General Editor, the Hon P W Young AO QC, who we are all delighted to see present among us this evening.

Aging requires no particular effort. Respect, on the other hand, is hard won and easily lost. The Editorial Committee is resolved to ensure that the Journal continues to deserve your respect over the next decade to its centenary and beyond. Our four guiding principles are those which I hope are aspirations common to all lawyers:

1. First, an appreciation of legal history, how we got to where we are today;
2. Second, a commitment to both the clear exposition of the law as it is today and to its principled development for the future;
3. Third, a firm sense of moral purpose, including to maintain a civil society which enables all its people to flourish; and
4. Fourth, an openness to the application of human imagination and creativity.

It is with those principles in mind that the Journal has sought to mark its anniversary by highlighting two matters which the editors suggest are, in different ways, of national importance and will be topical in the years ahead as the Journal approaches its centenary.

The 90th anniversary issue's focus on the interaction of the First Australians and the law is intended as a reminder that, quite apart from constitutional issues, indigenous Australians are daily subject to laws that touch their ordinary activities in life and in death. Many of those laws, in their particular application, produce, at the least difficulties, and, at worst, serious injustices which must be addressed. The anniversary issue is intended to open up discussion about possible legal solutions.

That being said, the issue does not neglect the constitutional questions which in the last couple of weeks have again been prominent in the public square. Since the issue went to press events have moved on with the making of the Uluru Statement. They will move again when the Referendum Council delivers its report.

The law both constrains and gives effect to political decisions. Constitutional questions, above all others, invoke the symbiotic relationship between law and politics. The Uluru Statement concludes with an invitation to all Australians to walk in a movement for a better future. The Journal gladly accepts that invitation by continuing to provide a national forum where the best legal minds can contribute to the discussion. Perhaps of all legal issues

facing us today, that discussion will most require the sense of moral purpose and application of imagination to which I earlier referred. The Journal looks forward to playing its part.

With your copy of the May issue you will also find information about our conference in August on the Future of Australian Legal Education. The conference is being co-presented with the Australian Academy of Law, which celebrates its 10th anniversary this year. I want to thank publicly the President of the Academy, the Hon Kevin Lindgren AM QC, and its board for so readily agreeing to co-present the conference, as well as Thomson Reuters for making significant financial and non-financial contributions to the event.

Whatever else may be said about the legal profession, society benefits from well-educated and trained lawyers whether as practitioners or as citizens bringing those skills to other activities such as commerce, politics or education to name but three. Australian legal education was last subject to systematic national review thirty years ago in the Pearce Report. Since then the various interest groups have continued to talk with and, it must be said, sometimes past each other at state and national levels about what kind of legal education (or educations) should be offered in Australia.

Any number of developments, not least those created by technology, have substantially altered the landscape of legal teaching and practice. Quite apart from any substantive outcomes, the intention of the conference is to provide an all too rare opportunity for the various participants to meet face to face and talk about these issues together. I hope many of you who are here tonight will join us in August for what promises to be a fascinating weekend.

In concluding these remarks I would like to quote former Chief Justice of the High Court, the Hon Robert French AC, who recently wrote that “The challenges for the profession in Australia are many and are shifting rapidly in a variety of directions. It might be said there has never been a more exciting time to be a lawyer”. The ALJ will continue both to chronicle those challenges and promote informed discussion about how they can be met so that the law’s fundamental purpose of serving all Australians can best be fulfilled. Thank you again to all of you for your presence this evening. I can say with complete sincerity that there has never been a more exciting time to be producing our venerable, national law journal.

Speech by Senator the Honourable George Brandis QC

Thank you very much indeed, François, for that introduction and for those very, very memorable remarks. It's a great pleasure to be here, representing the Prime Minister this evening, to celebrate the 90th anniversary of the Australian Law Journal and to launch the 90th anniversary special issue of the journal.

May I begin by acknowledging the traditional custodians of the land on which we meet, the Gadigal of the Eora Nation, and pay my respects to their elders past and present. In that regard, I note that this evening, as well as celebrating the long and distinguished history of the Australian Law Journal, we also launch an anniversary issue devoted entirely to the subject of Indigenous Australians and the Law. I would like to acknowledge the guest editor of this issue, who is our guest speaker this evening, Professor Megan Davis.

Might I also acknowledge the distinguished persons present among us. We have a former Chief Justice of Australia Sir Gerard Brennan; a former Justice of the High Court the Honourable Michael Kirby; many other distinguished members of the legal profession; judiciary including the only living former editor and longest serving editor of the Australian Law Journal, the Honourable Peter Young; Mr Carl Olson the Australia and New Zealand Product Management Director of Thomson Reuters; I've already acknowledged François but may I also acknowledge the assistant editors of the Australian Law Journal.

I well recall when I made my first acquaintance with the ALJ. It was in 1975. I was an enthusiastic – perhaps overly enthusiastic – first-year law student. Now as you know, or may remember, there are few people who take themselves more seriously than first year law students, and so, because of my sense of high seriousness, I decided that I must become a subscriber to the ALJ. In those days, as most here will remember, the cover of the ALJ was a dull battleship grey, the table of contents printed thereon, displaying all the flamboyance of a government gazette. This apparently wilful disregard for any kind of decoration conveyed, to my severe law student mind, a fitting sense of high seriousness: no aesthetic concessions would be made to the hard and uncompromising business of the law. Being a terrible young fogey, I found that vaguely pleasing.

The history of the ALJ reminds us of how far the Australian legal profession, and indeed Australia itself, has come in 90 years. As François has said, the first issue of the ALJ was published on 5 May 1927. It contained notes,

among other things, upon “Speedometers as evidence of speed”, “Service of process on Oneself”, and “Legal Aid for Poor Suitors in New South Wales”. The first number contained largely notes, case notes, a book review, Personalia and obituaries. The first substantive article to be published in the ALJ appeared in the second number. It was entitled “The Commonwealth in Relation to Section 92 of the Constitution”, and the author was Robert G Menzies. The annual subscription price was two pounds, two shillings, which when you think about it, in 1927, must have been a lot of money.

The Foreword, as we’ve heard, was written by the then Commonwealth Attorney-General, J G Latham KC. He observed that “[t]he object of this new undertaking is in the first place to provide information which will be useful and interesting to the legal profession ... It is difficult for the practitioner, as for the legislator, to keep himself informed upon the course of legislation and judicial decision in the various States. Notes on statutes, short preliminary reports of High Court and Supreme Court cases, with notes on practice and conveyancing will be of considerable value. There is, however, a further field of activity,” wrote Latham, “in which such a Journal ... may help to attain some other very useful objects. The achievement and maintenance of a high standard in legislative and judicial work is greatly assisted by independent competent criticism of such work by members of the legal profession. Critical notes *upon* cases and *upon* statutes are in my opinion likely to be of greater value in Australia at the present time, than mere additions to existing reports ... Critical and expository articles upon branches of the law, treated with particular reference to Australian law, may be of the greatest value not only to the legal profession, but to the public as a whole.”

I am not sure how valuable to the “public as a whole” recourse to the ALJ may have been or indeed how frequent, but I think we would all agree that, for the profession, the expectations which Latham set for the journal have been more than fulfilled.

Only four days after the publication of the ALJ’s inaugural issue, on 9 May 1927, His Royal Highness the Duke of York opened what is now Old Parliament House in Canberra. How appropriate is it that our most important law journal had its beginning in the very week that the vision of the founders, for a modern Parliamentary democracy settled on a new capital city, was realised?

The ALJ has been both a part of, and borne witness to, the history of that Parliamentary democracy. Over 90 years now, it has dutifully recorded, analysed, and disseminated information about changes to and the evolution of Australian law.

One thing the ALJ has charted in particular, is the declining influence of the United Kingdom upon our legal system. Since its first publication in 1927, Australia's status as a Dominion of the British Empire has given way to an understanding that Australia is a sovereign, independent, and federal nation. And, therefore as one would expect, over that time, the ALJ has made fewer and fewer references to English case law in its scholarly articles, just as it has charted the increasing relevance of international law. It has provided a voice of reason and a dutiful record through these, and other tumultuous changes. It has witnessed the advent of administrative law, the arrival of the Federal Courts, it has mapped the increased globalisation and export of Australian legal services and through it all, it has appeared faithfully every month, in peace and in war, first in our letterboxes and now in the inboxes of its subscribers.

Just as the Australian legal system has changed, so too has the profession. In the first edition of the Journal, the editors recorded that 16 individuals had recently been admitted to practice as barristers and solicitors of the Supreme Court of New South Wales, one of whom, it noted, was a woman. Through its 90 years, the ALJ has had only eight editors, whose names it is appropriate to summon into remembrance tonight: Sir Bernard Sugerman of whom we've heard; Sir Nigel Bowen; Rae Else-Mitchell; Russell Fox; Phil Jeffrey; JG Starke; the Honourable Peter Young who is with us tonight; and François. All of them have been distinguished Australian lawyers, most of whom went on to occupy senior judicial office. The inaugural editor, Sir Bernard Sugerman, would go on to become the second President of the New South Wales Court of Appeal. He is described by his biographer in the Australian Dictionary of Biography as "having a retiring nature and lacking the gifts of advocacy, but with a reputation for erudition." As a judge, he was "objective, courteous and attentive ... his judgments reflected his scholarship and a wisdom broadened by his wide jurisprudential approach to the law and society."

Sugerman, appointed at a precociously young age, edited the journal for its first two decades, when the editorship passed to a promising young junior, Nigel Bowen, in whose hands it remained for the next 15, until 1961. Bowen would ultimately become the Chief Judge in Equity in New South Wales and the first Chief Justice of the Federal Court. Under Bowen, the editorship was shared with Rae Else-Mitchell, also later a Judge of the Supreme Court of New South Wales, and Russell Fox, later Chief Justice of the ACT. Fox took over as sole editor in 1961 and continued until 1967, when he was succeeded by Phillip Jeffrey, also later a Judge of the Supreme Court of New South Wales. Thereafter, for another two decades, the ALJ was edited by the

distinguished international lawyer J G Starke QC – the only editor not to succeed to judicial office. Then, a quarter of a century, it was in the sure hands of the Honourable Peter Young, making his Honour the longest serving editor of the journal. As I said, Justice Young joins us tonight. Upon his retirement in 2016, he was succeeded by François Kunc.

Apart from subsequent occupancy of high judicial office, the editors had other things in common. Several served in other important public roles: Sir Nigel Bowen was twice the Commonwealth Attorney-General, as well as Foreign Minister; Justice Else-Mitchell was a long-serving Chairman of the Commonwealth Grants Commission; while J G Starke had, as well as his academic appointments, an illustrious career as an international civil servant, in particular, in his early years, as counsellor to the League of Nations. As a member of the Queensland Bar, I cannot help but notice that, with the exception of Starke, a Western Australian, the Sydney Bar and Bench has enjoyed a monopoly on the editorship.

When Sir Bernard Sugerman, or Bernard Sugerman as he then was, published the first issue of the ALJ, he indicated that his hope for the publication was that it would be “somewhere between the learned reviews and the practical magazines of the English legal profession”. To this day, it combines the prosaic with the practical. It contains searching, intellectually deep explorations of legal topics of the day, but it also serves as something of a “handy guide”, with short articles about recent cases, judicial appointments, and developing and emerging legal issues.

The Hon Michael Kirby, at a speech last year marking the retirement of Peter Young as the editor of the ALJ said this, that it “has remained the flagship and journal of record of the Australian legal profession”. “In the law”, said Justice Kirby, “the final word is never written in stone, which is probably just as well for a journal like the ALJ”. That is because the ALJ is a journal which thrives in the face of change. It listens to new argument. It responds to changes in legal thinking. It adopts with characteristic elegance and pragmatism, to changes in the Australian legal system, and records them faithfully, month after month.

The Australian legal profession is privileged to have been able, for these 90 years, to rely upon the ALJ as both a source of legal news and information, as well as a source of well-reasoned argument and comment in an age where such qualities are increasingly difficult to find. In an uncertain world, nobody can predict what changes the ALJ will see over its next 90 years or indeed in the 10 years until it reaches centenary. But whatever the shape of the world may be on 5 May 2107, we have good reason to hope that the ALJ will still be

with us, that it will continue to fulfil the role which J G Latham presaged for it, and will continue to serve future generations of Australian lawyers with distinction.

Speech by Professor Megan Davis

I pay my respects to country to the elders past and present, Attorney-General, former Justices of the High Court, distinguished members of the judiciary, François, ladies and gentlemen:

It is most appropriate, I think, for me to begin with a sincere apology to François, who was extremely patient with me in relation to the production of this special issue for the 90th anniversary of the Australian Law Journal. When he asked me to be the Guest Editor I was involved with the Queensland Youth Detention Review, as well as running the fortnightly weekend dialogues with the Referendum Council. So I'm very grateful you were so patient with my absence and non-response to your multiple emails, but we got there in the end and it's a marvellous edition. Thank you, François, and thank you to the contributors to the edition, many of whom are present here tonight.

When François asked me to be the Guest Editor we spoke about the significance of the 90th anniversary and how appropriate it would be for it to be a thematic edition on Aboriginal and Torres Strait Islander peoples and the Australian legal system. Each of the articles was intended to represent the complex ways that Indigenous law traverses the Australian legal system: constitutional law, succession law, heritage protection law, property law, equality before the law and intellectual property.

As I say in my introduction the edition 2017 is an important year:

It's the 50th anniversary of the 1967 referendum
It's the 25th anniversary of the High Court's decision in *Mabo*
It's the 20th anniversary of the Bringing Them Home Report
And it's 10 years since the suite of legislation known as the Northern Territory Emergency Response.

Each of these anniversaries bring with them a sentiment Aboriginal peoples know only too well: that the law has played a role in the oppression of our people from the frontier massacres to Australia's very lengthy period of compulsory racial segregation benignly known as "the Protection era".

It is well known, at least in Aboriginal communities, that as the Constitution and federation and Australia's nationhood came into being, our people were being forced from country and herded onto reserves and missions.

A very different kind of nationhood.

The law can oppress, yes, but the law can also redeem.

On 26 May this year in my role as a member of the Prime Minister's Referendum Council, I was involved in a National Indigenous Constitutional Convention held at Uluru, with the permission of the Mutitjulu elders. The Uluru Convention saw the delegates adopt a consensus position on constitutional reform and then issue a statement known as the Uluru Statement from the Heart.

Our people have issued many statements over the past few decades. We, in the dialogues at Uluru, spoke of the Bark Petitions of 1963, the Barunga Statement of 1988, the Eva Valley Statement of 1993, the Kalkaringi Statement of 1998, the report on the Social Justice Package by the Aboriginal and Torres Strait Islander Commission (ATSIC) in 1995 which was the third arm of the Native Title reforms post-Mabo still unimplemented, and the Kirribilli Statement of 2015.

The Uluru Statement was a roadmap for peace. The reforms were for a voice to the Parliament, a Makarrata Commission – an agreement making commission – and truth-telling. Before I explain briefly about each of those I want to say something about how we got to Uluru.

"Recognition" is a complex legal and political concept: it can mean something like "symbolic acknowledgment" but it can also mean "substantive reform to power relations".

For many years in mainstream Australia – to the dissatisfaction of the first nations – the meaning and public debate of “recognition” rarely rose above the dictionary meaning, acknowledgment.

Indifferent to this rising backlash in our Aboriginal and Torres Strait Islander communities there was a campaign known as the “Recognise” campaign, which in the absence of a model for reform, promoted a message that was perceived critically by the to-be-recognised as thinly veiled advocacy for a minimal, mostly symbolic form of “recognition”.

So feeling the temperature of our communities, we appealed to the Government to undertake proper consultation with communities on the reform model. Prime Minister Malcolm Turnbull formed a Referendum Council.

The Aboriginal and Torres Strait Islander members of the Council took the opportunity to seek advice from Aboriginal and Torres Strait Islander communities via a structured deliberative dialogue process where we would walk a sample of representatives of our communities, chosen by local Indigenous community organisations, through a tightly structured intensive civics program and an assessment of legal options for reform from the Expert Panel's Report in 2012 and a Joint Select Parliamentary Committee into the recognition of indigenous Australians.

That sample of representatives was structured in this way. It was a 60:20:20 rule. 60% came from our land base: they were our traditional owners who represent the land that's who we are as a people. The next 20% were how we organise: they were Aboriginal and Torres Strait Islander organisations, community organisations; and the last 20% of the spots were individuals like those from our stolen generations.

The five options that went out to the dialogues were the deletion of s 25 of the Constitution, amendment or replacement of s 51(xxvi), the insertion of a racial non-discrimination clause known as s 116A and a statement of acknowledgement, a statement of recognition in the Constitution.

All credit should be given to the government who permitted us to do this and resourced us to run a six-month deliberative constitutional dialogue process in 12 regions of the country: the first of its kind in Australian history, and a truly innovative process.

Equally, all credit should be given to the mums and dads, young people, grannies, elders and traditional owners who gave up the 3 days of their week including their weekends to come and speak with us about the Constitution.

So the reforms – Voice, Makarrata Commission, Truth – how did the reforms emerge?

The dialogues considered the Expert Panel Parliamentary Committee options and in addition we sought to take out two additional options to the communities, agreement-making and a Voice to the Parliament.

Every region endorsed the “Voice to Parliament”, a constitutionally enshrined body, as a reform priority. The groups discussed how the Voice would operate as a “front end” political limit on the Parliament's powers to pass laws that affect Aboriginal and Torres Strait Islander peoples (both under s 51(xxvi) and s 122).

They appreciated that this model would be no guarantee that these powers would not be used against them in the future in a negatively discriminatory way, but that it would create a limit through political empowerment, which would hopefully achieve better designed policies and laws in the future.

The special issue of the ALJ contains an article by my colleague Guugu Yimithirr lawyer Noel Pearson where he explains this further. The idea for better participation in the democratic life of the state, especially the Federal Parliament, is not a new one in Aboriginal advocacy. It is as equally prominent in Aboriginal political advocacy as a racial non-discrimination clause.

In the 1930s, King Barraga called for a “corroboree of all the natives of New South Wales to send a petition to the King in an endeavour to improve our condition” arguing that “[a]ll the black man wants is representation in the Federal Parliament”.

Also in the 1930s, William Cooper led a campaign petitioning the King of England for rights such as representation in the Federal Parliament.

In 1949, Doug Nicholls called for representation in the Federal Parliament.

During the land rights battle of the 1970s when the Commonwealth removed 300 square kilometres of land from traditional excised Aboriginal land in Arnhem Land in order to mine bauxite, the Yolgnu famously petitioned Parliament objecting to the lack of consultation with them and the secrecy. They are the Bark Petitions.

The post-Mabo settlement, as yet unimplemented by the Commonwealth, calls for better political participation in the Federal Parliament. So out of Uluru, the consensus for a simple, singular alteration to the Constitution emerged: recognition that Aboriginal and Torres Strait Islander people should have a direct say in the decisions that are made about their lives. The logic for this came from the regions; from the dialogues they spoke of voicelessness and powerlessness. We were faced with profoundly dissatisfied polities in every region.

The 90th anniversary edition in fact highlights some of the concerns raised in these regions. Lauren Butterly’s piece on cultural heritage shows the lack of regard for the input of traditional owners on decisions made about sacred sites; it also highlights an unsophisticated and unforgiving concept of Aboriginal culture as if it is static and does not evolve.

Similarly Laura Beacroft's piece is significant because it explains, in part, the shifting sands on Aboriginal thinking around entrenched racial non-discrimination clauses – s 116A. In particular, Laura's discussion of the High Court's decision in *Maloney* raised serious concerns about the threshold of Indigenous participation in special measures and decisions on social programs. This was discussed in the dialogues and it was deeply worrying to participants in the regions.

The Makarrata Commission was no surprise. Agreement-making is a common activity across the federation in native title and land rights, in addition to treaty processes already under way in Victoria and South Australia and soon to be in the Northern Territory and Tasmania.

All of the dialogues spoke of the trauma that the native title framework has inflicted upon our people, the fighting over what many people said were crumbs. Many dialogues expressed the view that native title was a hollow set of rights that are subservient to others and very fragile; a system designed to ensure minimum impost on the crown. As one dialogue said, to have native title recognised, you have to show land law, custom and connection to a bar set by white people and it can only properly exist on lands not wanted by white people. Everywhere else in highly settled areas, native title simply doesn't exist. Not to mention compensation for extinguishment: the dialogues labelled it a massive stitch up.

What they want is for these matters to be fast-tracked and resolved. They want resources to do that and they want dispute resolution services in the communities. They want peace.

The single thing that was surprising or unexpected in all the dialogues was the concept of “Truth” or truth-telling. This trend started early in the dialogues and continued to the very end of the dialogues. It was thought “Truth” could be a function of this Makarrata Commission, for local areas to be able to map the history of their area, not only the massacres and frontier wars but also stories of coexistence.

As the Uluru Statement begins, “Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs. This our ancestors did, according to the reckoning of our culture, from the Creation, according to the common law from ‘time immemorial’, and according to science more than 60,000 years ago”.

The quiet contemplation of the regions was “do our fellow Australians want to know more about our experience in our own country?” By way of example, the Ross River meeting said the following:

“Participants expressed disgust about a statue of John McDouall Stuart being erected in Alice Springs following the 150th anniversary of his successful attempt to reach the Top End. This expedition led to the opening up of the ‘South Australian frontier’ which led to massacres as the telegraph line was established and white settlers moved into the region. People feel sad when they see that statue; its presence and the fact that Stuart is holding a gun is disrespectful to the Aboriginal community who are descendants of the families slaughtered during the massacres throughout central Australia.”

So it was the Uluru Convention adopted Voice, Treaty and Truth as the consensus of what they regard as “meaningful recognition”.

The Mutitjulu Anangu elders, the children of Uluru, did not lightly give us permission to use the name “Uluru” in the Statement from the Heart.

The Yolngu elders did not lightly give us permission to use Makarrata; they say this takes us into a process of dispute resolution where we can now get serious and look to a proper settlement.

As my colleague and Referendum Council member Dr Galarrwuy Yunupingu said of the Uluru Statement:

“Makarrata is for the future but it is based on a truthfulness about the past. We have legitimate grievances and these grievances need to be carefully worked out and then resolved. So the process of Makarrata has only just started. The aggrieved party has just called the party that it alleges has done it wrong to come forward and meet with it.”

The Uluru Statement is in fact a sign of friendship. Many of our old people are dying and they want some peace in their country.

I thought I'd take this opportunity of speaking before this distinguished audience of the elders of our profession and the senior leaders of our profession to ask the legal profession to read the Uluru Statement, read the justification for the statement in the Referendum Council's report and support Aboriginal and Torres Strait Islander communities for whom that statement was written.

Speech by Mr Carl Olson, Thomson Reuters AU/NZ

Firstly, on behalf of Thomson Reuters I'd like to thank the Attorney-General for launching the 90th Anniversary issue of The Australian Law Journal, and for joining us to celebrate the ALJ's role as a leading journal of legal debate in Australia. We're immensely proud of the ALJ and its ongoing status as the national legal journal of record. We're therefore very appreciative that the Attorney-General of the Commonwealth could join us in the Banco Court on this very special occasion. So thank you, Senator Brandis.

While The Australian Journal Law has a national function, it also plays an essential international role. You may not know that, remarkably, 1 in 5 of the ALJ's subscribers resides outside Australia. One in five. That's an incredible global audience and perhaps unique in the common law world. It further adds to the importance of each issue, and particularly this 90th Anniversary special issue on Indigenous Australians and the Law.

I would like to thank Justice Kunc and the ALJ Editorial Committee for suggesting this timely topic and for making it the theme of our 90th anniversary issue. As you've heard, it was published in the very month that we marked a series of other historic anniversaries of national importance – including the 1967 constitutional referendum and the *Mabo* decision, among others. It also coincides with the recent release of the Uluru Statement – a significant development in the debate over the forms of legal and constitutional recognition for Indigenous Australians.

The ALJ is very fortunate to have had Professor Megan Davis as the guest editor for this special issue. Professor Davis, we all know how busy you are and we greatly appreciate the time you've taken, given your work on the Referendum Council and your recent involvement with the Uluru Convention and Statement, among your many other commitments. We're sincerely grateful for your time and insightful contribution to this special edition. Thank you.

The Australian Law Journal's success and standing in the legal profession has been, and always will be, due to the tireless dedication of the Editorial board, its Section Editors and law reporters, and the Thomson Reuters Editor, Cheryle King. Indeed, we farewell one of our great Section Editors, Peter Butt, in the current edition.

At this point, I would like to recognise the work that Justice Kunc has done since taking on the General Editorship last year. Justice Kunc stepped into the formidable shoes of former General Editor and judge, the Hon Peter

Young, who is here tonight and served in that role for 24 years. Thank you both for your dedication and commitment to the Journal.

We hope you all enjoy the celebrations and join us now for some hospitality – a toast or two to the ALJ, and to its next 90 years.

– End –