



**Criminal Lawyers Association
of the Northern Territory (CLANT)**

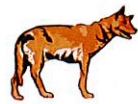
THIRTEENTH BIENNIAL CONFERENCE

EXTREMES IN JUSTICE

**THE TERRITORY INQUISITION(S)
INTO THE DEATH OF
AZARIA CHANTELE LOREN CHAMBERLAIN
(AND THE PRESUMPTION OF INNOCENCE)**

A play reading presented by the CLANT players

**SATURDAY 25 JUNE - FRIDAY 1 JULY 2011
BALI HYATT HOTEL
SANUR BEACH
BALI**



THE PLAYERS

Narrator:	Belinda Lonsdale
Denis Barritt SM:	Tom Percy
Ashley Macknay:	Mark Johnson
Peter Dean:	John Prior
Phil Rice QC:	John Lawrence
Lindy Chamberlain:	Beth Wild
Michael Chamberlain:	Matt Hubber
Winmatti:	Tony Hager
Dr Newsome:	Michelle Swift
Dr Milne:	Peggy Dwyer
Justice Gray:	Glen Dooley
Gerry Galvin CSM:	Alastair Wyvill
Des Sturgess:	Russell Goldflam
Andrew Kirkham:	Jonathon Hunyor
Joy Kuhl:	Fiona Hardy
Sally Lowe:	Rosemary Jacob
Constable Metcalfe:	Matthew White
Professor Cameron:	grant Algie
Justice Nader:	Glen Dooley
John Lowndes:	Glen Dooley
Ian Barker QC:	Tom Percy
Court Orderly:	Rex Wild

THE TERRITORY INQUISITION(S) INTO THE DEATH OF AZARIA CHANTELE LOREN CHAMBERLAIN (AND THE PRESUMPTION OF INNOCENCE)

INTRODUCTION

This play reading had its origins in the celebration of the centenary of the Supreme Court of the Northern Territory which took place in Darwin and Alice Springs in May 2011.

It was decided in late 2007 to include something on the *Chamberlain* case in the celebration of the Court's Centenary. Justice Dean Mildren, then Chairman of the Judges' Centenary committee, and I agreed that I would prepare a play reading for the Centenary based on the disappearance of Azaria Chamberlain at Ayers Rock[Uluru] on 17 August 1980. This arrangement was confirmed by Justice Stephen Southwood early last year. A presentation of the play reading in Alice Springs on Tuesday 24 May 2011 and in Darwin on 25 May 2011 was the result. I thank both Judges for their invitations and for the support given by Justice Southwood and his committee to the project. There are some other expressions of appreciation which I will leave to the end of this short introduction.

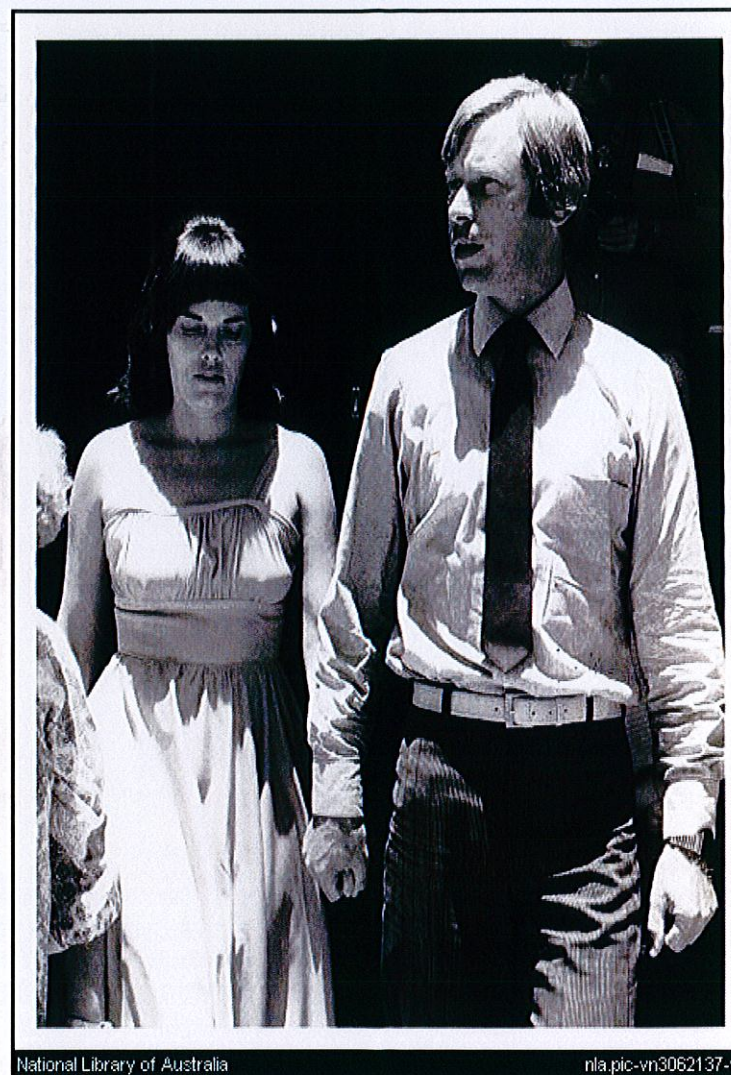


The presentation which you are about to see concentrates on the Inquests into the disappearance and presumed death of Azaria Chamberlain [there were three of them!] rather than the trial, appeals and Royal Commission and Reference. There are a number of unusual aspects of those inquests which will be addressed in , and apparent from, the play reading.

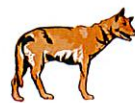
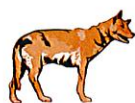
The first Inquest was conducted by Denis [Dinny] Barritt SM at Alice Springs which concluded on 20 February 1981. Dinny found the dingo guilty and announced his findings on National television. He roundly criticized the quality of the investigation.

Following a public uproar [there are still those in the NT who believe *the dingo was innocent*], and an ex parte order of Justice Toohey quashing the findings of the Barritt Inquest, a further inquest was held. This was conducted by then Chief Magistrate G.P. Galvin, again at Alice Springs commencing in December 1981 and concluding in early February 1982. He was *assisted* by Queensland barrister, Des Sturgess. This *inquest* had every appearance of a committal hearing save that the counsel assisting insisted on calling each of the Chamberlains to give evidence.

A fruitless attempt was made by the Chamberlains' representatives to rely on a Victorian case of **Alexander** [1982] V.R. 713 in which Gray J had held that privilege applied in inquests and that witnesses should not be forced to answer questions. Furthermore, he said, it was a longstanding practice (in Victoria, at least) not to call a witness in a Coroner's Court who was likely to be implicated in a serious crime. It became very clear during the course of the second inquest that the Chamberlains were viewed in this light.



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Finally, I congratulate and thank the players who, in most cases, have volunteered their services. Without their interest and participation there would be no presentation. They are listed later in this programme.

REX WILD QC
Myilly Point Chambers
Darwin
Northern Territory
May & June 2011

POSTSCRIPT

I was told shortly after the Darwin presentation of the play reading that the Coroner's Office is currently [as at the time of writing these notes] considering the possibility of a **FOURTH** inquest !!

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Galvin CM committed Alice Lynne Chamberlain to trial for murder and her husband Michael as an accessory. Reasons were not then published but were sent to the Crown Law authorities. Michael and Lindy Chamberlain were early witnesses at the Inquest and were called, without the usual regard to their standing as potential defendants and the safeguards generally expected in circumstances where a coroner could commit for trial. It should be said that the Coroners' legislation has since been amended and suspected matters are now referred by the Coroner without committal. [Since writing the above, it has been pointed out to me that with various amendments to the Northern Territory *Coroners Act* in the early nineties, it is still technically possible to conduct unfair and harassing proceedings against those charged with serious crimes involving death. Suffice to say, nothing like the Chamberlain process has occurred since, and the principle referred to in *Alexander's* case seems to prevail].

It will not be the aim of the presentation to solve the riddle of the circumstances in which Azaria met her death. Dr. Lowndes, who conducted the third inquest *on the papers* was unable to do so and announced an *open finding*. We lawyers know the Chamberlains were innocent because their convictions were quashed and verdicts and judgments of acquittal entered. That being so, the law of the land holds the Chamberlains to be innocent [per Nader J in *Re conviction of Chamberlains* (1988) 93 FLR 239; Nader J expressed his own *grave doubts* as to their guilt].

The Royal Commissioner, Justice Morling in delivering his report, following his Royal Commission into the Chamberlain convictions, after examining *the dingo evidence*, concluded:-

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It is impossible in the above summary to capture the whole effect of the voluminous evidence given on the matters which bear upon the dingo hypothesis but, taken in its entirety, it falls far short of proving that Azaria was not taken by a dingo. Indeed, the evidence provides considerable support for the view that a dingo may have taken her.

Acknowledgements

I wish to thank those listed below but note this is not an exclusive list of those who provided, in at least one case inadvertently, assistance. In this connection I should point out that I did have access to the transcript of the Galvin Inquest. As a result, the play reading follows quite closely the original exchanges between counsel, the bench and the witnesses. There is a need for some dramatic licence obviously as a number of weeks of evidence is pruned into a presentation of an hour or so.

I found John Bryson's book ***Evil Angels*** [later made into the Meryl Streep movie] very useful. It was originally published in 1985 but was re-released in 2000 with an "afterword". I relied on it for much of the transcript of the Barritt Inquest, which purports to be quoted accurately in the book.

Justice Dean Mildren was kind enough to provide me with an advance copy of Chapter 16 of his history of the Supreme Court, which dealt with the Chamberlain case as *The Trial of the Century*. You can read it for yourself in the book, ***Big Boss All Same Fella Judge***.

I was much assisted by Dr. John Lowndes who provided me with a full copy of the short transcript and his full reasons for decision after the third inquest and by the present Coroner Greg Cavanagh who made available to me from the Court's archives the transcript of the Galvin Inquest. Vicki Hall from his office provided the administrative support for this exercise.

I especially wish to thank my colleague and friend Jon Tippet QC for giving me his file which he developed when preparing a paper he presented to The Australian Coroners Conference in 2004.. This was based on the Barritt Inquest and was entitled ***The man who refused to burn a Witch***. It was a brilliant and thoughtful paper.

Murray McLaughlin from ABC Darwin obtained for me a copy of the tape of Mr. Barritt handing down his reasons, which includes the subsequent interview given by the Chamberlains outside the Alice Springs Courthouse.

Trish Smith of the Northern Territory Office of the Director of Public Prosecutions typed the manuscript for me. She has now done this at least five times and I continue to be in her debt for her cheerful and prompt assistance.

I would also like to thank Malika Okeil of the Supreme Court in Darwin for her assistance to me and her willing and enthusiastic contribution to this project. I enjoyed working with her.

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