

**IN THE SUPREME COURT
OF NEW SOUTH WALES
BANCO COURT**

**SPIGELMAN CJ
AND JUDGES OF THE
SUPREME COURT**

Monday 25 May 2009

**SWEARING IN CEREMONY OF
THE HONOURABLE MICHAEL SLATTERY QC
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

1 **SLATTERY J:** Chief Justice, I have the honour to announce that I have been appointed a Judge of this Court. I present to you my Commission.

2 **SPIGELMAN CJ:** Thank you, Justice Slattery. Please be seated while your Commission is read. Principal Registrar, please read the Commission.

(Commission read)

(Oaths of office taken)

3 **SPIGELMAN CJ:** Justice Slattery, I personally congratulate you on your appointment. On behalf of all of the Judges of the Court I welcome you to this bench. You arrive here with a broad and deep background in the law. You have a range of experience at the Bar, particularly as a leader of the Bar, that will enhance this Court for many years to come. I look forward to serving with you on this Court.

4 **THE HONOURABLE JOHN HATZISTERGOS MLC ATTORNEY GENERAL OF NEW SOUTH WALES:** Your Honour, on behalf of the State of New South Wales and also the Bar, it's my pleasure to congratulate you on your appointment to the Bench of the Supreme Court. I also extend my congratulations to your wife Melissa and to your three

children. You have a proud family heritage coming from dairy farming stock in the Upper Hunter and you follow in the footsteps of your father, the Honourable John Slattery whose age serves as a very good argument for lifting the retirement age of the Supreme Court Judges at least amongst some of your colleagues. I have no doubt that your parents John and Margaret are proud to be present on this occasion.

- 5 Your proficiency as a Barrister is well known and you bring a great breadth of experience to your new post. As is demonstrated in your many achievements over a long career you also bring to the position an appreciation of justice in its broad sense as a humble service to the public.
- 6 You began your vocation in the law when you were appointed as a Barrister on 9 May 1978 and your career is proof that patience, judgment and perseverance are vital for successful professional practice. During your years at the Bar you practised in personal injuries crime, equity and commercial law. You also developed a media practice before the Australian Broadcasting Tribunal with associated administrative law work in the Federal Court.
- 7 During the next eight years of practise as a junior you expanded your commercial and equity practice principally in the fields of banking, insurance, corporations, trade practices and property law. You continued to represent plaintiffs and defendants in personal injury cases but tended to specialise more in civil jury work. You also undertook broadcasting and television and general media work both in the Australian Broadcasting Tribunal and in the Federal Court of Australia.
- 8 Your practice as a junior included professional discipline work for solicitors and barristers, some Land and Environment Court work and general appellate appearances. Whilst each person's methods of rationalisation can be different and unique I am told that you do your best thinking while showering; or at least whilst presiding over the family barbecue.

- 9 You were appointed Queen's Counsel in 1992 and you were amongst the last group to be appointed in New South Wales. You appeared in some longer running commercial cases of the 1990s including Tourang v John Fairfax litigation in 1994. Between 1998 and 2001 you were involved in several cases arising from increased competition in the telecommunications sector. In 2002 you undertook the public examinations of the directors of One.Tel Limited on behalf of the company's liquidators.
- 10 You've been described in a recent survey as the "bet the company" barrister, in other words you are very reliable. I am told this is a quality that you also bring to the ski slopes as an enthusiastic snowboarder. Some have said that as a snowboarder you make a great barrister. Why? Your many years in court have given you an upright demeanour which fails to leave you on the slopes.
- 11 The contribution that you have made to the corporate world is matched by your contribution to the Board of Public Interest. You are one of the trustees responsible for the Mum Shirl Fund of which Sir Gerard Brennan is the patron. Created in 2002 the special trust was established to create a pool of funds to provide financial assistance to indigenous barristers, especially in their first few years of practice, and to indigenous law students. Members of the association continue to make generous donations to the trust so it can meet its obligations to indigenous law students, graduates and barristers.
- 12 You also appeared for the Medical Research and Compensation Fund, the fund established for asbestos sufferers. You were a strong advocate before the 2004 commission of inquiry conducted by David Jackson QC into the conduct of James Hardie Industries in relation to asbestos liabilities.
- 13 In yet another dimension to your career you managed to continue your role in the naval reserve which you joined in 1990. Between 2002 and 2006

you served as the head of the Navy Legal Panel. For the uninitiated the panel is a group of legally qualified barristers and solicitors who serve as reservists, provide legal support for navy operations, administration and training. This support includes advising commanders, appearing in court martial and serving at sea in legal roles. Your XO during that time describes you as a witty, affable and diplomatic person, that always wore the correct uniform - not an easy feat from what I understand.

- 14 In 2003 you had the first-hand experience of life on board the Kanimbla whilst conducting an inquiry into complaints associated with vaccination against anthrax of navy personnel scheduled for deployment in the Middle East. During 2005 and 2006 you were principal counsel assisting a Navy Board of Inquiry into the crash of a Sea King helicopter on Nias Island, Indonesia in April 2005, a crash that caused nine fatalities and two serious casualties. Your concern for the families of the deceased and your desire to ensure that the departed servicemen were given a voice was a paramount consideration in performing this role and it meant the inquiry marked the start of a healing process for many of the aggrieved.
- 15 You received Admiral's commendations for exceptional service to Navy in 1994 and again in 2007. Unfortunately, despite all this seafaring experience, you have never learnt to take a craft to sea yourself and I understand you still struggle with a surf ski. Nonetheless on the controversial question of what should be done about pirates you will supplement the wealth and knowledge of the Court with your naval experience in what will be a rare convergence of legal and naval viewpoints.
- 16 You held office as a councillor of the Bar Council of New South Wales on a number of occasions and went on to serve as President of the Association for two years from November 2005. I understand that you're an eternal optimist for whom the glass is always half full and likely to be replenished, a characteristic argued to be a prerequisite for Bar President.

- 17 It is with this fortitude that you took on the leadership of the Bar armed with a two year plan. Your leadership was inspirational. A number of conferences were established under your stewardship including the Indigenous Law Students Conference and the Criminal Law and Legal Aid Conferences. You took the time to work with regional Bars and to bring the Women Barristers Forum into the Bar Association. The innovative Continuing Professional Development Rhetoric Seminar series, which was aimed at a broader study of persuasion for barristers and placed special emphasis on the classical origins of this art, was extremely popular.
- 18 As is traditional regarding matters touching on law and public policy you were, in your capacity as President, a thorn in the side of the government of the day regarding issues such as the abolition of the double jeopardy principle, majority verdicts and various arrangements for the courts. We, of course, hold no grudges here, but being on the losing side of an argument never blunted your advocacy on the part of your members nor the importance you placed on maintaining cordial relationships with those who had opposing views.
- 19 Your wealth of experience culminated in your appointment as a Director of the Law Council of Australia, which office you held between 2005 and 2007, while also holding the position of Treasurer and then Vice President of the Australian Bar Association.
- 20 You have had great success in your 31 years as a barrister. The values that your family are renowned for are recognised to include the rewards arising from public service, and those rewards are now ones that you have embraced, recognising that those rewards are in truth greater than those that might be derived from business or commerce. These are wonderful values to bring to the Bench and I am confident that with this dedication and the technical skill that you have displayed throughout your professional life, you'll make a profound contribution to the administration of justice and to the people of New South Wales in your new role.

21 Your Honour, congratulations on this appointment. May it please the Court.

22 **MR J CATANZARITI PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. It is an absolute delight for me to appear here today on behalf of the Solicitors of New South Wales to welcome and congratulate your Honour on your appointment to the Supreme Court.

23 I must start by that in preparing for this speech, I spoke with many members of the legal profession, far and wide, who have had the privilege and pleasure of working with your Honour at some point in their career. Not one was surprised by your appointment to this bench, and not one expressed the view that your appointment was anything less than a due recognition of a person who has been a beacon to the profession; whose temperament, character, comportment and extraordinary skill-set have come to epitomise the very essence of what it means, not only to practise as a barrister in this country, but what it means to be a member of the legal profession in this country.

24 As solicitors, we do try our best to dig up some gossip about barristers, but we could not uncover one single blemish or quirky detail about your Honour that would solicit disapproval from the ranks. The only negative we received about your appointment was not from barristers but rather from baristas along Phillip Street fearful that your time on the bench will no longer require the copious cups of coffee drunk by your Honour during a demanding case. Justice Rachel Pepper also wishes to note that since being removed from your Honour's influences she has successfully completed her caffeine detox program and so far has been relatively clean since her appointment to the Land and Environment Court.

25 One colleague and close friend for many years, Mr John West QC, remarked that your entry into the legal profession and journey to the bench was almost a given, stating that you have always demonstrated a natural

ability for the law. We have already heard that your Honour's own passion for the law was heavily influenced and supported by your father, the Honourable John Patrick Slattery AO QC, who was appointed a judge to this Court in 1970. Although there is some indication that we came within an inch of losing you to the medical profession.

- 26 No doubt your father is to be heavily credited for fostering your commitment and focus to developing your sharp skills and advocacy as a barrister - particularly the art of rhetoric and persuasion. Although your mother Margaret provides some evidence that your talents and passion for the art of persuasion were being developed long before a career in the law was considered. She notes an early episode where your Honour tried to get out of boarding school at St Ignatius' College, Riverview:

“As Michael had no brother we booked him as boarder for years 11 and 12 thinking he would enjoy more male company and more opportunity to study. At the end of year 10 we told him of the booking which was available to him for the last two years. He did not seem very enthusiastic about it. A few days later he asked for a discussion on the matter. His father and I were both presented with a well researched and well argued response to this proposal proving very convincingly that children studied better living at home and in general grew to maturity and responsibility better if they learnt to cope with travel and a few household chores.”

- 27 Your mother indicates that upon hearing your Honour's argument the proposal to send you to boarding was immediately scrapped! First case won.
- 28 But if we wish to find the genesis for your extraordinary success as a legal practitioner and the reason why you are held in such high esteem across the entire profession of law - by both barristers and solicitors - we must look to the way your Honour has adopted and adhered to the basic principles that underline our legal profession.
- 29 It is not surprising to learn that your Honour has a great love for the philosophies of the great Roman and Greek thinkers. And indeed

your Honour's love for the Aristotle's Art of Rhetoric provided the very impetus for the most popular seminar program ever held in the Bar common room about the need for the profession to go back to the classics and rediscover the importance of rhetoric. But I am keen to draw another parallel out of this love for Greek and Roman theory and practice. Your Honour, like your respected philosophers, is not just committed to the skill of advocacy per se, but to the service of justice and the rule of law. Like Plato, Aristotle's famous teacher, justice for your Honour "is like a manuscript that exists in two copies. It exists in both the individual and the society where each individual functions not for itself but for the health of the whole." If your Honour requires any evidence of this your Honour only need look to the way you have, through both your individual and collective actions, enhanced the standing and calibre of the entire profession, both that of solicitors and barristers through your own work as an advocate.

30 Your Honour's dedication to this mantra is evidenced first and foremost by your Honour's commitment and respect for those who have worked with you, opposite you and as juniors beneath you. Your courteous manner of advocacy has not only gained your Honour the respect of the entire legal profession, but it has impressed upon the profession the importance of conducting oneself with integrity. Your sometimes opponent, Mr West QC, said, as did many others who have appeared with your Honour in court, that you were a pleasure to deal with because you never disrespected or tried to take advantage of your opponent, even when emotions were running high. You remained calm, approachable, fair, but also noted that "you would make a mistake if you believed his easy manner indicated a weakness to do deals," that you operated with an iron fist and a velvet glove. Justice Rachel Pepper similarly has credited you as her mentor and one of the reasons she has been able to accomplish what she has in her career to date. Your Honour's own conduct as a barrister has helped raise the standing and calibre of the profession.

31 But the way in which you have most dedicated yourself to the improvement to both the profession to which you belong and the

community's access to justice has been through your tireless dedication as a councillor and in turn President of the Bar Association of New South Wales. The gravity of your Honour's dedication is signalled by the very fact that your relationship with the Bar spans nearly 30 years.

- 32 The true strength of the legal profession stems from its depth and diversity, but what is equally important in the quest for diverse representation is the need to make sure that the diversity of individuals practising law, and in particular their ethnicity and gender is also recognised and respected. Throughout your years with the Bar Association, your Honour has committed yourself to enhancing the breadth and diversity of the profession in this State, so that the profession itself reflects the community it purports to represent.
- 33 Your Honour has, through Chairmanship of the Bar's Equal Opportunity Committee, ensured that the door to the Bar is left open to all members of the community. Your Honour has been instrumental in putting in place a number of programs and policies to help women establish successful practices at the Bar that hopefully will continue to go a long way in changing the attitudes of lawyers and do away with gender inequality in briefing practices.
- 34 Similarly, throughout your time with the Association, your Honour has also demonstrated a strong commitment to assisting indigenous lawyers to practise at the Bar by helping to develop a scheme which has been in place since the first Reader's Course in 2001. Your involvement with the indigenous community did not start whilst you were at the Bar, but in your final years at Riverview when your Honour was given the opportunity to stay at the Catholic Mission in Moree and assist the Mission with sport and recreation. Not only did you assist at the Mission, but your mother again provides the detail that your Honour, after obtaining the necessary permissions, duly arrived home with some indigenous friends for the Christmas holidays. This is a tradition your Honour continued at the Bar when you so readily sponsored a 'surf day' for 20 indigenous children that

saw your Honour swap his quill for a pair of barbecue tongs to assist with the festivities. Your Honour was also successful in managing to convince Chris Ronalds SC to assume the title of maitre'd and boogie board demonstration team leader for the day.

- 35 The above examples denote not just a commitment to maintaining the integrity of the profession but also fearlessness to preserve the integrity of the justice system and the rights of citizens within it. During your time as President of the Bar, your Honour pursued with might and gusto issues that go to the very heart of the justice system employing campaigning techniques that demonstrated your ability to go above and beyond the call of duty to ensure that justice is served and the most vulnerable in the community continue to be protected. I refer here to your efforts to lead and unite with the Law Society of New South Wales, the Law Council of Australia and the Australian Lawyers Alliance in the battle to overturn tort law reforms implemented by the State government between 1999 and 2001.
- 36 I also refer here to your tireless work in urging the government not to introduce majority verdicts for juries by employing the unorthodox tactic of supplying all Members of Parliament with the 1957 movie classic, 12 Angry Men. And I also refer here to your Honour's efforts to set up a pro bono scheme during the 2000 Olympic Games so that the most vulnerable of Olympic athletes could receive quality legal representation if they were asked to appear before the Court of Arbitration for Sport.
- 37 It is clear from your Honour's activism in the community that you will go to great lengths to see that justice is carried out and the most disadvantaged are served - illustrated most poignantly by your Honour's service to the Navy, particularly as head of the New South Wales Navy Reserve Legal Panel that saw you in 2003 trade your office at Seven Wentworth for the narrow bunks and crowded mess rooms at the HMAS Kanimbla in Iraq's territorial sea. The purpose of your trip was to conduct an inquiry into

complaints associated with the vaccination against anthrax of Navy personnel scheduled for deployment to the Middle East.

38 Your Honour's account of his journey to the Middle East proves telling because it demonstrates your Honour's ability and commitment to move between all walks of life and all areas of the globe to ensure that people have adequate access to legal representation. Although by your Honour's own account this proved quite challenging on a number of occasions, namely two. The first being your Honour's slight oversight in arriving at a sand-bagged US manned command post in the Middle East dressed as you would go shopping at Chatswood on a Saturday morning. The second being in your quest to make conversation with one of the most senior officers on the HMAS Kanimbla by asking him the speed at which the vessel was travelling, only to be told that the vessel was still at anchor.

39 Your Honour, your contribution to the profession is not limited to the profession of Barristers in this State, but extends also to the profession of solicitors in this State. Your work to uphold the integrity of the justice system and the legal profession has helped to raise the calibre of both professions. The profession's loss is the bench's gain and I am sure all your peers will look forward to appearing before you where justice in your hands will continue to be served. Your entire family is proud of your achievements, but most proud I am sure is your father who I am sure will be passing onto you his daily commitment while in office: "Do right by all manner of people without fear or favour, affection or ill-will."

40 As the Court pleases.

41 **SLATTERY J:** Chief Justice, Mr Attorney, Mr Catanzariti, Heads of Jurisdiction and other distinguished guests. One of the wise retired judicial officers who is an alumnus of Seven Wentworth recently said to me how important it is for a judge to have a healthy scepticism about what is said from the bar table. Mr Attorney and Mr Catanzariti, listening to what you

have said today, I can already start to see how difficult that is going to be. I thank you though for your very generous words.

- 42 The structure of this ceremony affirms a courtesy that is remarkable in the modern day; a courtesy of which I am very mindful. Rarely in the executive, rarely in the legislature and rarely in the business world do public institutions pause, as this Court does today, to welcome not their most senior member but their most junior member. The gesture of welcome and of equality before the law which is inherent in the performance of this ceremony is profound. I have already been warmly welcomed by the Judges of this Court and I thank them and I thank each one of you for the honour you do to the Court by your attendance here today.
- 43 I hope that the story of my progress at the Bar after admission in 1978 contains some immediate comfort for the very junior Bar right now. Shortly after my admission to practice Australia went into a severe economic recession. Perhaps it is the contrarian in me but I took silk in 1992, also in the middle of a recession. And now I come to this Court in a - well we all know what it is, don't we? The past two recessions were survivable at the Bar. I am sure the present one will be too.
- 44 I recall that in 1980 I took my anxieties about recession affected work levels to my father hoping he had a solution. Instead he rather thoughtfully said to me, "Let me tell you about the late 1940s." And so I learnt from him that the whole of the law lists in the late 1940s occupied only three column inches of space in the Herald and that young barristers would spend days in a café near the site of this Court called Mokbels, waiting for a brief, any brief to arrive. I realised that in 1980 things could have been a lot worse and I suspect that the same is probably true of 2009.
- 45 It is difficult to pinpoint the event that made me decide to come to the Bar but as a schoolboy I came to see Jack Smythe cross-examine and I had been on circuit with my father. The theatre of the law fascinated me from

the first. My first lengthy exposure to commercial courts though was as a third year Arts/Law student during a period of five months as the Associate to Mr Justice Bruce Macfarlan, father of the present Justice Macfarlan on this Court now, between January and May 1974. Seeing him so elegantly debating law and fact with the leading commercial counsel of the day who were Murray Gleeson, Ken Handley, Malcolm McLelland and David Bennett, inclined me further to the Bar.

46 It was undoubtedly my father's example that had the most profound influence on my decision to go to the Bar. He is known affectionately to so many here. His vigour at the age of 90 is legendary. I am told Chief Justice that when you announced to the Equity Judges' lunch last Wednesday who was to be the new judge, wishing to eliminate any possible misunderstanding, you explained to them all, "The government has just appointed Slattery to the division," and then you paused and said, "Michael, not Jack."

47 As a 15-year-old I attended his swearing in ceremony in the old Banco Court on 10 February 1970 and today I took an oath on the same Bible that he used in that ceremony which occurred before Chief Justice Herron. One can glean just a little of the somewhat different relationship between the media and the judiciary 39 years ago from the simple fact that a family photograph of the swearing in including myself and my three sisters appeared on the front page of the early editions of the Sydney Morning Herald the following day.

48 When I came to the Bar I wished to practise as broadly as possible in both poles of the law, in Common Law and in Equity. This truly was a time when Equity practitioners whispered and Common lawyers thundered. I was privileged to read at Common Law with Peter Capelin QC and in Equity with Justice Peter Young. Peter Capelin taught me jury advocacy and how to cross-examine with passion. One incidental benefit of reading with Peter was that I also learned a great deal about the rules of racing.

- 49 Justice Young taught me the subtleties of a full Equity practice and how to survive the competence tests being administered by the then Chief Judge in Equity, Justice Helsham. An incidental benefit of reading with him was that I also learned a great deal about trams and buses. He generously gave his time to correcting my opinion work; a generosity that I expect he will still now afford me from the Court of Appeal. Although I have been appointed to sit in Equity, Justice Young probably has the last word as to which of these two, Common Law or Equity, became the dominant in my early legal life. At a recent social function, as I approached him in the presence of other judges, he warmly met me with a greeting, “Now, how’s the Common lawyer?”
- 50 Although I knew just what I wanted to do in the law, starting at the Bar at twenty-four brought special challenges. There was the dear client in my very first case who leaned over in more than a stage whisper to my instructing solicitor and asked about me, “Now, how old is this boy?” It’s a pity I don’t have the same problem now.
- 51 The 1980s was an extraordinarily varied time for junior practice. I am pleased to see the Chief Judge of the District Court and Chief Magistrate here today because it was in the Local Court that I really honed my cross-examination skills. In my spare time, and there was quite a bit of it at first, I watched Tom Hughes QC perform wherever he was, and he was everywhere. In the District Court I learned to appear before civil and criminal juries and thus to take part in the Common Law’s unique arrangements for sharing judicial power with the community. At the same time Andrew Rogers was initiating a procedural revolution in the commercial list that preceded the English Woolf reforms by many years. He disciplined the outlook of all counsel who appeared before him, many of whom I now sit with here on this bench. To perform to his high standards became the key to being briefed.
- 52 Practice at the Bar has been very enriching and has presented opportunities barely possible in any other occupation. It is the friendship

within the Bar that I will most carry with me. I will always try to remember how hard it is at the Bar. There is much heroism and self-sacrifice by our fellow professionals in legal practice generally and in my particular observed experience at the Bar. The Bar now practises to a standard even higher than when I first entered practice. My leaders at the Bar gave me their instruction, my juniors in recent years have made me realise how I could have been a better junior, and my opponents by sheer relentless competition made me a better barrister.

- 53 Leaving the Bar is quite difficult for me but some parts of practice I can readily leave behind. Achieving any sort of balanced life at the Bar has always been difficult for me. The Bar Association does all it can to redress this kind of issue but the task is a large one. This was neatly illustrated for me last year when one afternoon a little after 5pm I approached the lifts in our chambers to see a young member of chambers standing there and looking a little agitated. I said to him, "You look a little stressed." He said to me, "Yes, it is because I'm late for my work/life balance seminar."
- 54 I have been briefed by excellent solicitors over the years. I wish to mention three. In my early circuit work at East Maitland I was briefed by Pat Wills at W J Enright & Son who showed me how valuable as a personal adviser and confidant to clients that a local solicitor can be. In a broadcasting case in Western Australia in the mid-1980s I was briefed by Justice Neville Owen, who was then a solicitor, who taught me how to manage the largest litigation. He's still doing just that as a Judge. Finally, in the 2004 Jackson inquiry I was briefed for the Medical Research and Compensation Foundation by Nancy Milne of Clayton Utz who showed me how integrity and persistence in a just cause will ultimately be rewarded.
- 55 The outlook and practice of every barrister is in part the product of his or her chambers. I have been privileged to have practised from Seven Wentworth for over 25 years since 1983 and Ground Floor Wentworth Chambers before that. I have been inspired by the Seven Wentworth alumni, many of whom are former Judges of this Court, and some of whom

virtually have full-time jobs as Royal Commissioners. I had the great pleasure of doing my last case at the Bar with my brother-in-law Mark Walsh, a fellow member of Seven Wentworth. I thank my practice manager, Andrew Laughlin, who is overseas and not able to be here today who has so ably supported me in every way in recent years, and I thank David Jackson for his excellent leadership of the floor in recent years. My practice in recent years simply would not have functioned without the help of my personal assistant Jill Oates. She is the one who, with great sacrifices made, made sure that documents that needed to be got out were always delivered and made sure that the rest of my professional life ran like clockwork.

56 About my term as President I wish briefly to say how all of us, and I in particular, were supported during that period by Phillip Selth and the Bar Association's loyal staff. I sought a strong public profile for the Bar because of a realisation that the community really does want to hear what the Bar has to say about the administration of justice in this State and so we should say it. One of my continuing interests in the affairs of the Association is the Indigenous Barristers Trust which with the assistance of Chris Ronalds SC and Tony McEvoy continues to ensure that indigenous law students have the necessary financial support to complete their studies and to come to the Bar.

57 My service in the Australian Defence Force as a legal reservist has become one of the most enriching parts of my life in the law and I am greatly honoured that Commodore V M McConachie is here today representing the Australian Defence Force Legal Service.

58 I am grateful to Justice Murray Tobias for inviting me in 1989 to join the Navy Legal Reserve when he was Head of the Sydney Navy Reserve Legal Panel. I remember the occasion of the invitation well. He was leading me for the plaintiff in a commercial action before Justice Terry Cole. We were both undergoing a not uncommon experience in the Sydney commercial Bar at the time. The Late Peter Hely who appeared

for the defendant was systematically shredding the credibility of our principal witness of fact. Perhaps we both needed to escape that day but as our case collapsed around us, he asked me to join another profession, the profession of arms. It was an invitation that ultimately led me to remotest Indonesia and the Persian Gulf. Most importantly though, it led me to the Australian Defence Force whose members profess, as we do as lawyers, an honourable calling. It has been a privilege to work with the other permanent and reserve lawyers in the Australian Defence Force.

59 Their practice of the law is not well understood by the Australian public but it is of immense value. One example illustrates this, in a story that is yet to be fully told. Australian, British and United States service lawyers mitigated the effects of the Iraq War in 2003 on Iraq's civilian population by ensuring that targeting decisions by coalition commanders complied with Additional Protocol 1 to the Geneva Conventions. Many Iraqi civilians survived that conflict and are alive today as the direct result of their work.

60 Chief Justice, I am greatly looking forward to serving as a Judge on this Court. Under your leadership it holds a special place in Australian jurisprudence. The Equity Division of the Court with all its varied work has for me the perfect combination of efficiency and eccentricity. Its efficiency is on obvious display daily. As to its eccentricity I ask you, where else in the Common Law world do the chancery Judges gather for an annual picnic and do so underneath a sign that reads, "Dried Fruits Conference." This is the division for me.

61 We rarely have an opportunity to publicly say how much we admire our parents. For me this is such an occasion. It is of profound importance to me that they are both able to be here today. They have inspired me with their values and their commitment to public service. They brought me up in a loving, supportive household. My father will be my foremost model as a Judge. I would be fortunate indeed to leave this profession with anything like his reputation. Among the many gifts she gave me, my mother gave

me an enduring sense of the importance of the careers and financial independence of women.

62 My parents sent me to St Ignatius' College, Riverview which gave me the benefit of a classical and Jesuit education for which I will always be grateful. I am honoured that my former headmaster from those times, Father Greg Jordan, is able to be here today. I was taught Latin by the great Father Charles Fraser who actually taught classics to six of the Judges of this Court, something of a record in the Common Law world I expect. In one of those curious life intersections, in fact it was Justice Hoeben of this Court who, as a relief teacher, actually taught me Caesar's Gallic War. I was also taught there a great love of English by my teacher Joseph Castley, who is also here today. It is just as well I developed that love of English because 30 years of disciplined legal writing has led to the serial assassination of all the adjectives and adverbs in my vocabulary.

63 It is difficult to render into words the profound debt of gratitude that I owe my wife Melissa for her support throughout my career. Our three children, Sarah, William and Edward have become the thoughtful and loving young people they are today because Melissa has always been there for them when I have not. In this she was constantly assisted by her late father Jim and now regularly by her mother Shirley Walsh, who is also here today. To be the wife, husband or life partner of a barrister is an impossibly difficult and unpredictable vocation. To be the wife of the President of the New South Wales Bar Association approaches a species of insanity.

64 These days we do not readily associate politics with the beautiful but that was not always so. The words that most capture what I want to say in thanks to Melissa are private words that were written by Prime Minister Joe Lyons on 6 January 1932 to his wife Enid immediately after he was sworn in as Prime Minister. Famous later in her own right she published them after his death. He said to her on that day, "My first act ... is to write to you because whatever honours or distinctions come are ours, not mine. ... we have seen some changes and we have lived full lives in our years of

married life and it is grand to know that our love for each other is still our most cherished and valued possession.”

65 Finally, it is difficult to predict what my judicial approach will be like but may I tell you the approach that I admire. When Chief Justice Roberts, Chief Justice of the United States faced confirmation hearings before the Senate Judiciary Committee in September 2005 he explained his conception of the role of a Judge by analogy with the baseball umpire who makes sure that everybody plays by the rules. He explained that he would “remember that it’s my job to call the ball and strikes and not to pitch or bat”. He was confirmed as Chief Justice after three days of baseball metaphors. But importantly in the same theme of the Judge’s role he very acutely said, “Nobody ever went to a ball game to see the umpire.”

66 I thank you again and may I say that I will do everything I can to be worthy of the high trust that has been placed in me.
