

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

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

Wednesday 27 February 2019

**FAREWELL CEREMONY FOR
THE HONOURABLE JUSTICE MARGARET BEAZLEY AO
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

- 1 **BATHURST CJ:** Before beginning this ceremony, I would like to acknowledge the traditional custodians of the land on which we meet, the Gadigal people of the Eora nation, and pay my respects to their Elders, past, present and emerging. We should not forget their long stewardship of this country and especially the land upon which we walk today.

- 2 We are here this morning to mark the occasion of the Honourable Justice Margaret Beazley's retirement as President of the Court of Appeal of the Supreme Court of New South Wales. This ceremony gives the members of this Court and the legal profession, as well as the wider community, the opportunity to show our appreciation for your outstanding contribution to our legal system and the administration of justice in this State.

- 3 Although it is with sadness and regret that we today bid you farewell from the Court upon which you have sat for over two decades, we do so secure in the knowledge that your commitment to tireless public service has not yet come to an end. We have no doubt that you will continue to serve in the position of Governor of New South Wales with the same empathic leadership and strong sense of fairness for which you have been known throughout your time on the bench.

- 4 Your judicial career began early; although I regret to say that it did not begin at this Court. You were first appointed as a judge of the Federal Court of Australia in 1993, after having already served as an acting judge in the District Court since 1991. Many expressed surprise at your appointment as a full-time judicial officer at such an early age since your extraordinarily diverse practice at the bar was thriving and you were able to attract a variety of commercial work from solicitors, at a time when many of them were still convinced that family law was the only appropriate place for a female practitioner. However, if anybody assumed that your move to the bench signified a desire to leave the inevitably busy and often frantic life of a barrister for a more sedate and relaxed life as a judge, I think that we can safely say that they have been proven wrong.

- 5 Your time on the Federal Court was short, but it did not take you long to establish a reputation as a hard-working, fair and courteous judge who had an impressive command of a range of different areas of law. In fact, I think that it could fairly be described as a “coup” when one of my predecessors as Chief Justice, Murray Gleeson, managed to entice you away from the Federal Court to join the New South Wales Supreme Court as a member of the Court of Appeal in 1996.

- 6 Over the past twenty-three years, you have proven yourself to be an invaluable member of this Court and you have made an immeasurable contribution to the development of the common law in this State. While acknowledging the dangers of quantitative measures of judicial performance, I think that it is telling that Caselaw shows that you have participated in just under 2,000 published judgments during your time at the Court, and no doubt countless other decisions and rulings in directions and leave hearings.

- 7 Your judgments span almost the full range of topics which are covered in a legal encyclopaedia. You have covered areas as diverse as administrative law, in considering jurisdictional error under the *ICAC Act* in *D’Amore v*

Independent Commission Against Corruption,¹ property law, in considering the nature of ouster between co-owners in *Biviano v Natoli*,² crime, in considering many appeals against conviction during your time on the court, and recently, the law of contempt, in considering the interaction between religious law and the administration of justice in *Ulman v Live Group Pty Ltd*.³

- 8 However, perhaps your most significant contribution to the law lies in an area of increasing importance to everyday practice: statutory construction. Over your time on the court, the number of cases calling for the consideration of complex statutory schemes has grown considerably, and in cases such as *Warkworth Mining Ltd*⁴ and *Woollahra Municipal Council*,⁵ both of which concerned the construction of the *Environmental Planning and Assessment Act 1979* (NSW), and in *AD v Commissioner of the Australian Federal Police*,⁶ which concerned the construction of the *Proceeds of Crime Act 2002* (NSW), you have incisively analysed and explained the essential components of the scheme. You have sat on many such cases, and immeasurably contributed to the knowledge and understanding of statute law in this State and throughout Australia.
- 9 While many of these cases involve significant attention to the detail of legislation as well as the particular facts of the case, your appointment as President of the Court of Appeal in 2013 did not lead to any reduction in your caseload. Despite the additional administrative responsibilities which come with that position, you have continued to produce judgments of the highest quality, combining your detailed knowledge of the law with a keen awareness of the practical implications of a decision for the parties to the litigation, which is something to which all judges strive, but not all achieve.

¹ [2013] NSWCA 187.

² (1998) 43 NSWLR 695.

³ [2018] NSWCA 338.

⁴ *Warkworth Mining Ltd v Bulga Milbrodale Progress Association Inc* (2014) 86 NSWLR 527.

⁵ *Woollahra Municipal Council v Minister for Local Government* (2016) 95 NSWLR 620.

⁶ [2018] NSWCA 89.

These judgments stand as a testament to both your skill as a jurist and concern for the circumstances of each litigant.

- 10 These qualities are evident not only in your written judgments, but also in how you conduct yourself in court. You are unfailingly courteous and polite to those who appear before you, particularly those who are representing themselves, and you are always concerned to ensure that they have received and are seen to have received a fair hearing. This means that you are invariably patient and attentive when submissions are being made, even on those occasions when it might be said that counsel have overstayed their welcome. You also have the equally valuable ability to calm other members of the bench from time to time when they do not display the same patience which you always exhibit.
- 11 However, those who know you know that this is not only a judicial persona which disappears when you exit the courtroom. Your positive attitude and tremendous energy extends to your behind-the-scenes management of the Court of Appeal, your chambers, and of course, being the face, as well as the heart and soul, of judicial yoga on Friday afternoons. Your dedication to the art of yoga has been so strong that you have been known to attend in normal work cloths despite forgetting to bring your active wear.
- 12 You are also committed to maintaining strong connections between the judiciary, the profession, and the wider community. When school children or other groups arrived in court, you would always make a point of giving them a brief outline of the facts and the legal issues at stake. You will rarely turn down an invitation to speak outside the courtroom, or to deliver a paper on an interesting point of law, and you have thus attended a diverse range of events over your time as a judge, from the usual addresses to bodies such as Bar Association and the Law Society to more unique occasions, such as the annual Australian Women in Wine Awards.
- 13 To accommodate all these activities, alongside your judicial work, your pace of life must be fast and no time can be wasted. Generations of your

tipstaves have had to learn to race you to the door out of the court room as soon as you adjourn and to keep up with you when walking around Sydney, lest you get too far ahead and vanish into a sea of people. On one occasion, your staff was too slow and lost sight of you while going to catch a ferry. When they finally caught up with you, seconds before the ferry was due to depart, they found you sitting down comfortably, chatting with some complete strangers whom you had met only moments prior. I think that it was in that moment that your staff should have seen the signs and realised that you would make an excellent Governor.

- 14 It is perhaps this quality more than anything else on which everyone I have spoken to in preparing this speech was unanimous. You combine an outstanding intellect with a genuine, personable and caring nature. You are approachable, whether it be a fellow judge, a member of your staff, or even a member of the registry coming to collect the folders from a completed case. You know and appreciate the value which comes from something as simple as taking the time to learn someone else's name, or acknowledging court staff with a wink or a smile and a nod when coming into court.
- 15 On a personal note, your Honour and I go back a long time. We were neighbours in chambers when I came to the Bar, and we were also neighbours, albeit in a different set of chambers, when you were appointed to the Federal Court. I cannot say how delighted I was when you were appointed as the President of the Court of Appeal in 2013. Since that time, you have not only provided leadership, both intellectually and generally, you have constantly provided me with assistance, advice and encouragement in carrying out my role. I cannot thank you enough.
- 16 Finally, I could not let this occasion pass without speaking about what you have done for female practitioners through your career. It has been a career of firsts. You were the first female full-time judge solely appointed to the Federal Court of Australia, although Deirdre O'Connor had already been appointed in her capacity as President of the Administrative Appeals

Tribunal. You were the first female member of the Court of Appeal in New South Wales. You were also its first female President, and a member of the first all-female bench on the Court of Criminal Appeal.

- 17 You have become a role model for future generations of women who will seek to follow you in your path, not because of your achievements, but because of who you are as a person. You have overcome the barriers which women face in practising law without losing your kindness and generosity of spirit, and while maintaining your intellectual rigor and fortitude. At the same time, you have not been afraid to call out and fight against both institutional and casual sexism in the legal profession, and you have taken an active role in mentoring and encouraging women in the profession. It is these aspects of your character which have earned you the reputation you so rightly deserve.
- 18 This Court and the profession will be much the poorer for your absence. However, we know that you will excel in your new role as Governor of New South Wales, and we wish you all the best.
- 19 **THE HONOURABLE MARK SPEAKMAN SC MP, ATTORNEY GENERAL OF NEW SOUTH WALES:** May it please the Court. Could I begin by acknowledging the traditional custodians of the land on which we are gathered today, the Gadigal people of the Eora Nation, and pay my respects to their Elders, past, present and emerging.
- 20 Your Honour Justice Beazley, on behalf our State and the bar, and as the member of the government which seeks your expertise to serve the people of New South Wales in a different role as our next Governor, it is my privilege today to honour your career in the law and your service as a Judge of the Supreme Court of New South Wales, as a Judge of the Court of Appeal and as President of the Court of Appeal.

- 21 In this packed courtroom today we are honoured to be joined by many members of your family, including your husband, Dennis Wilson, your three children, Erin, Lauren and Anthony Sullivan, and your siblings Christine McDonald, Brian Beazley and Trish Beazley, as well as brother Kevin Beazley.
- 22 In a career of more than four decades your Honour has taken silk, collected pioneering firsts for women in the New South Wales judiciary, been designated as an Officer of the Order of Australia, received an honorary doctorate in law from the University of Sydney, received the Women's Lawyers of New South Wales Lifetime Achievement Award, earned the place in the Top 100 Women of influence, and many, many more accolades beside.
- 23 Your Honour's character resembles the values instilled by your parents, Gordon and Lorna, part of a generation defined by the Depression and war, and the sacrifices that came with that. They worked hard to ensure that their children were given every possible opportunity.
- 24 From your father you have inherited an incredibly strong work ethic and respect for the family unit, learned on the early morning milk run when you joined your dad on the job as a milkman.
- 25 And from your mother, the importance of education and equality, particularly for women, and meritocracy. And overall, the courage to stand for your convictions.
- 26 Your parents were immensely proud of your achievements. Lorna may have been less than five feet in height, but she sat as the tallest person in the room on that day in 2006 when your Honour received an Order of Australia at Government House for service to the judiciary and the law.
- 27 From your early school days you were particularly inspired by the extraordinary vision of the Brown Josephite Sisters and how they

encouraged girls to follow their desired career path. After graduating with a Bachelor of Laws with Honours from the University of Sydney in 1973, you completed your articles with Winter & Sharpe, before being admitted as a solicitor in February 1975. A mere month later, in March 1975, your Honour heeded the call to the bar with Murray Tobias as your pupil master and years later you would sit by your master once again on the bench of the Court of Appeal.

- 28 At a time when most women at the bar were guided towards family law and your Honour also felt this force guiding your practice, you stood fast to pursue the practice that you wanted, not that which was thrust your way. And of your courage and determination forged a leading practice in equity, commercial and administrative law.
- 29 Your Honour was appointed Queens Counsel in 1989. Your former “master” – who himself celebrates a significant milestone birthday today – has described your practice as blossoming. At the bar you had already had a hint of what judicial life might be like having served on the Equal Opportunity Tribunal as an Acting Judge of the District Court and as an Assistant Commissioner of the ICAC.
- 30 In 1993 you became a Judge of the Federal Court of Australia and the first female to sit solely as Judge of that court. You sat on the Finance Alternative Dispute Resolution Court Liaison and Gender Awareness Committees. You were commissioned as an additional Judge of the ACT Supreme Court and Industrial Relations Court of Australia, and became a consultant to the Australian Law Reform Commission. But in New South Wales we realised what we were missing, and we wanted you back! So, in 1996, your Honour was appointed a Judge of the Supreme Court of New South Wales and the first woman appointed as a Judge of Appeal in New South Wales and in 2013 you were appointed as the first female President of the Court of Appeal.

- 31 In the midst of all these achievements and responsibilities your Honour managed to first and foremost be a caring loving mother who always had time for her children. Your Honour was a champion at balancing the needs of your family with an exceedingly difficult and demanding job. It was not uncommon for a day to involve being in court, hearing counsel, drafting judgments and fielding calls from three different schools about forgotten assignments, sick children and broken bones. But your Honour was always present with a smile and quickly discovered the waiting room at Royal North Shore Emergency Department was an excellent time to catch up on reading submissions.
- 32 And as a judge with three young children your Honour had to be flexible and improvise. On one occasion, a three year old Anthony was visiting mum in chambers but, inevitably, the Court ran late and as the staff in chambers had to file on home you hastily scribbled a note to your tipstaff to bring Anthony back into the back of the Judge's area with some colouring books and an instruction to keep colouring in like a good little boy while Mummy finished talking to some people. The next thing that the Court saw was Anthony being a good little boy quietly colouring in, while his Mum was talking to some people – as he sat up right there front and centre next to Mum on the bench adorned, from head to toe, in his Batman suit. Anthony is here today, although not in his Batman suit.
- 33 In fact, in the eyes of your children you have always been Wonder Woman. In the courtroom, you've been a clear and fearless leader, admired for your unbreakable calm demeanour. You are not one to lose your temper or even raise your voice. On the bench you communicated clearly, concisely and politely, so much so that counsel was often unaware that they were being skewered until it had already happened.
- 34 No speech could ever do justice to your impact on the development of the law. But to give a few examples, in addition to those that his Honour the Chief Justice has given, your Honour's judgment in 1996 in *Teacher's Health Investments v Wynne* was one of the first occasions on which it

was found to be unconscionable for a lender to lend to an individual without the ability to repay a loan, but where the lender was protected by the value of the asset.

- 35 In 1999 *R v Young*, your Honour, in dissent, held that public interest immunity should extend to at least some kinds of confidential counselling communications of sexual assault victims in view of the potential of the risk of disclosure to deter reporting of sexual assaults. Your Honour's view did not prevail in that case, but it prevailed in the end in the law because it is now embodied in the sexual assault communications privilege protected in the *Criminal Procedure Act 1986*. In 1999 in *Gett v Tabet* your Honour had an important role in the judgment of the Court on principles governing the award of damages for loss of a chance, the High Court unanimously dismissing an appeal.
- 36 In 2013 in *Norrie v New South Wales Registrar of Births, Deaths and Marriages*, applying principles of statutory interpretation, the Court recognised for the first time an entitlement for a person to register their sex in the Births Deaths and Marriages Register as non-specific finding that the registration of sex is not merely a binary recording of whether a person is male or female. Again, the High Court upheld your decision.
- 37 In 2014 in *JP Morgan Chase Bank National Association v Fletcher* your Honour gave a dissenting judgment which determined the limitation period for liquidators to make applications for orders in respect of voidable transactions, in opposition to the view of two other judges who, out of respect, will remain nameless – mainly because Justices Macfarlan and Gleeson are sitting here today. Your Honour was vindicated on appeal to the High Court.
- 38 I am reliably informed that your 2016 decision in *Crowe-Maxwell v Frost*, on whether certain payments were unreasonable director related transactions and thus voidable transactions, was such a good decision that it was copied verbatim by a judge in another jurisdiction without attribution.

- 39 Your Honour was only the 37th woman barrister in New South Wales. No wonder you report an experience of peer deprivation throughout the years. But your Honour has been a pioneer for women and adversity in the law. Your individual journey made steps towards changing attitudes and clearing the path for more women to be meaningfully engaged in a career in the law.
- 40 While your personal story and career trajectory is an inspiration in its own right your Honour has also worked tirelessly to improve the status of women in the law. You reputedly never turned down an invitation to speak at events, where your words – as well reasoned and relevantly succinct – as your judgments encourage and inspire women and men alike to challenge the habits and attitudes of the past and dare to create a fairer future. A strong cohort of barristers and former tipstaves, particularly women, praise your Honour's generous nature when it comes to devoting your time to mentoring them and their careers.
- 41 Your Honour has been actively involved in academic activities as the chair of the New South Wales Chapter of the Australian Institute of Administrative Law and through co-authoring and contributing to various legal texts. When your Honour spoke in 2017 to a recently admitted cohort of solicitors you said it was an integral part of the legal profession to be involved in the community and to be aware of contemporary social issues. This is a responsibility your Honour has never failed to meet.
- 42 You have consistently gone above and beyond to volunteer your time and expertise as patron of the Toongabbie Legal Centre. Your love of the arts – a trait inherited from your mother – has no doubt influenced your support of the Arts Law Centre of Australia of which you are President of the Board and you have given generously in support of students, lecturing at Notre Dame Sydney School of Law and been a member of its advisory board.

- 43 Over more than 40 years, your Honour has made a noble contribution to the law. As a barrister you fearlessly and fiercely advocated for your clients and as a judge you have brought some extraordinarily high legal intellect to this Court of Appeal bench.
- 44 You have presided over some of the most complex questions of law – some involving heinous and harrowing crimes, some involving exorbitantly large amounts of money and no doubt many fascinating in their own right.
- 45 You have delivered justice with dignity and respect in the most humble and balanced way.
- 46 You have mentored, inspired and encouraged others and you have given selflessly to the community and the law.
- 47 You not only brightened the bench with your own style and colour you have consistently delivered with substance.
- 48 In your Honour’s own words, “[i]t is all about substance. It does not matter how many plums you have in your mouth or how many times you bash your fists on the podium, you are not going to succeed ... it is much more about substance. There is an art in advocacy.”
- 49 Justice Beazley, on behalf of the bar and the people of New South Wales thank you for your dedication, commitment and service to the law and to justice and for the personal sacrifices you have made along the way. I give you the warmest of wishes for your next chapter and for your continued involvement as a pillar and a role model for the people of New South Wales. May it please the Court.
- 50 **MS ELIZABETH ESPINOSA PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. I humbly acknowledge the traditional custodians of the land on which this honourable Court stands, the Gadigal people of Eora Nation, and I pay my respects to their elders

past, present and emerging, and I also acknowledge any indigenous Australians present here today.

51 Justice Beazley, on behalf of the solicitors of New South Wales, by whom you are greatly respected, I truly am privileged to come before this Court as President of the Law Society of New South Wales to honour an extraordinary path taken through law and life. Beyond walking this remarkable individual path, your Honour's career serves as a blueprint for others, now and for years to come. Now yours is a path which winds its way into a new chapter of profound contribution to the public good.

52 The legal profession has always recognised certain qualities and values in your Honour: intellectual rigour, time for others, leadership, composure and a persistent sense of humour. Armed with these virtues, your Honour has already made a monumental contribution to the life of the law in this State. These qualities were evident from your earliest days.

53 Your family was one of modest means, with seven in a three-bedroom house, and your childhood was a happy haze of backyard cricket, billy carts, feeding the chooks and riding a bicycle to school.

54 As a child your Honour always had your nose in a book and could often be found curled up, reading at the back of the garage. You and your siblings would join your father, as we have heard, on milk runs in the school holidays, which he completed in the wee hours before dawn seven days a week.

55 Your Honour undertook the final two years of school at Mount St Joseph in Milperra, or MSJ. MSJ had been started in 1960, in answer to a desperate for a Catholic girls' secondary school in South-Western Sydney. Just as your parents Gordon and Lorna put an absolute importance on receiving a good education, the Sisters of St Joseph at MSJ were inspired by the vision of St Mary MacKillop, their founder: opportunity for all. It was at MSJ where you came under the tutelage of two individuals by the name of

Stan and Jude. That would be Sister Stanislaus, whose family name was Nora Finucane, and Sister Jude, whose family name is Patricia Malone.

- 56 Sister Nora Finucane has passed away, but Associate Professor Patricia Malone is in attendance today and is enormously proud of your Honour. In a time where young women might have aspired to clerical work as a reasonable career prospect the sisters encouraged you and your peers to realise your true potential, especially when it came to the possibility of tertiary education. You had a particular faculty for speech, language and debate, although learning the nuances of French pronunciation from a very Irish nun gave considerable amusement to your children during trips to France, as you spoke the language with a distinctly Irish lilt. Now, the sisters speculated you might end up as the first female Australian prime minister. They were not far wrong and their belief in you inspired a growth in your confidence, particularly when you were elected school captain.
- 57 Your interest in law was evident from early days. Your eyes were often glued to the television screen when Perry Mason came on, featuring the trials and travails of a brilliant LA defence attorney. Even as a child all around you could see your Honour was a born leader, a born thinker and a born challenger.
- 58 After matriculating and being awarded a Commonwealth Scholarship your Honour dove into the law headfirst. You enrolled in law at the University of Sydney and graduated with honours in 1974. You then served your Articles of Clerkship with Winter & Sharpe before being admitted to the legal profession on 3 February 1975, for what must have been a terribly interesting whole entire month as a solicitor. Your Honour was called to the bar on 14 March that same year, and alongside the now retired Justice McDougall you read with Murray Tobias, the now retired Justice Tobias.
- 59 As a young barrister your Honour was tremendously hardworking. The first task that confronted you was finding chambers. When you first applied for legal chambers in a city centre law office you were refused.

The person to whom you spoke was most apologetic, helpfully explaining “We have nothing against women; it’s just that we already have one”. Ultimately your Honour settled in at the ninth floor of Selborne Chambers, where you developed a close camaraderie with instructing solicitors and other members of the bar. Still you were a pioneer at the bar in those times and you had few women peers, although Justice Jane Matthews AO, who secured so many firsts for women in the law, was a notable friend, and she very much regrets that she is not able to be here today with her friend Margie.

- 60 During the 80s, your Honour acted for the Commissioner for Revenue in a case involving hundreds of charges. You and your opposing counsel decided to meet in his chambers for a discussion about the case. As you entered the opposing counsel’s office, he said with a smirk, “Hello Angel, there’s a lot of charges here”. Your Honour did not skip a beat,. You smiled, and replied breezily, “Well yes, there are a lot of charges, but I only need to prove one”. With that, you turned on your heel and left. Your opponent and his young assistant were left stunned in the office. After you had left the barrister turned to the assistant and said, “Watch her, she’s going places and she doesn’t play games”.
- 61 At the bar you built up a flourishing practice, as we have heard, in equity, commercial and administrative law, while gaining a taste for judicial life. From 1984 to 1988 you were a judicial member of the New South Wales Equal Opportunity Tribunal and just after taking silk you served as an acting judge for the District Court of New South Wales between 1990 and 1991.
- 62 During these years your Honour became familiar with the juggling act that is having and raising young children while one’s career is in full flight. As a mother your Honour was tireless, loving and inspiring to your three children, Erin, Lauren and Anthony. Hard as you worked, they never perceived your work as coming before them. As they got older, they realised that your Honour must have been working a full day, coming

home for dinner and then continuing to work until midnight, before getting up at 5.00am the next day to fit in more work before driving the kids to school.

- 63 You attended the nearby botanical gardens excursion for all three of your children. Each of them had the pride in different years of watching their dynamic pocket rocket mother dashing across Macquarie Street to meet them in the boldest of 90s power suits and heels. This was followed by high school visits to the court, mock trials, key note speeches at schools, and University speech nights across Sydney, inspiring the next generation as well as your own children.
- 64 In early 1993 your Honour was appointed to the Federal Court. Your children were six, four and 15 months. Attending a social event shortly following this appointment, a senior counsel bowled up to you without warning and declared, "The government was socially irresponsible to appoint you." He made no introductions and no explanations, your Honour was stunned and asked, "Why is that?" He replied, "Because you're married - and you've got children". By this time your Honour had recovered from the initial shock and responded, "Oh well - dinosaurs do die out". Later this same senior counsel had to appear before you. One can only assume your Honour had the last laugh when he had to bow before you while entering and then leaving the courtroom.
- 65 Another memorable moment arose when your Honour was in court, sitting alongside the late Justice Roddy Meagher, who was presiding. The now Justice Michael Slattery was counsel in relation to a contract case around the turn of the twenty-first century, at a time when gender-neutral language was being encouraged at the bar. Clause 7 of the contract was in contention and there was some debate as to the correct construction of this clause. Mr Slattery, as he then was, used the term "draftsperson" whilst discussing the drafting of the clause. On hearing this, Meagher JA shot back sternly, "Draftsman!"

- 66 As to the toing and froing continued over the use of the gender-neutral word, from which Slattery did not let up, your Honour became a circuit breaker after the third or fourth time that Meagher JA thundered “Draftsman!” from the bench. You said to the then Mr Slattery, “Don’t worry, Mr Slattery, a draftswoman would never have drafted a clause as bad as clause 7”.
- 67 One capacity in which your Honour has been much beloved is as a generous mentor to tipstuffs. To these young people your Honour was instantly impressive and instantly likeable on first meeting. They were understandably nervous to come to an interview with such a senior judge. One former tipstaff remembers approaching your chambers, her nerves only compounded when she spied a poster hung up on the door which read, “Watch out, judge inside”. From your first appointment to the Federal Court on level 23 of this building it still hangs above the door of the present chambers I understand. It turns out that this was actually an ironic drawing by one of your children and the reality was far less scary as soon as she caught sight of your warm smile and experienced your easy talent for interesting and interested conversation.
- 68 Your Honour took all of your staff under your wing and took a great interest in their future careers. From your Honour they learnt that diverse interests, friends outside the law and commitment to family do not have to compete with being a fine lawyer; they can make you an even better one.
- 69 One tipstaff remembers walking past a line of photographs of the Presidents of the Court of Appeal each day. She was struck that your Honour was the first woman in that series, a bold, coloured suit among the grey and navies preceding you, encouraging her never to allow self-doubt or the status quo to thwart her ambition.
- 70 On the bench your Honour has always been patient and in control, as we have heard. You uphold the dignity of the office while using it to respect others’ dignity. This translated to your consideration of others on the

bench, whom you led in a cohesive, unifying manner, earning your Honour respect from brother and sister judges of Appeal, not just as a fine jurist, but as a trusted leader. Despite the administrative demands of the presidency, your Honour always took a fair share of the load, including those which were managerially difficult. You have taken an explicitly long term view about the Court of Appeal and you want it to be the best intermediate appellate court in Australia.

- 71 Your Honour wears the wig of the late Sir Kenneth Jacobs, President of the Court of Appeal from 1972 to 1974. It was Sir Kenneth who said that, “The law develops not by deductive logic alone, but largely from judicial choices.” Your Honour’s approach to judgments has been sensible to this reality. These judicial choices have always been made in the true context of a dispute, often recorded in narrative form in your Honour’s judgments far above a merely academic exercise. You have asserted the giving of reasons as a multi-faceted task, one which valuably records the legal, social and moral history of our times.
- 72 Under your leadership the Court of Appeal has cemented its reputation as a viable, intellectual force in Australian law. Sir Kenneth also described the independent judiciary as the bulwark of freedom. As President of the Court of Appeal your Honour has been fearlessly committed to the independence, the dignity and the capability of this Court.
- 73 Your Honour, as we have heard, over ten years ago at your investiture as an Officer of the Order of Australia for services to the judiciary and the law, particularly through contributions to professional and ethical standards, to the advancement of women in the legal profession and the community, your Honour’s mother and children attended the ceremony at New South Wales Government House. Your children were astonished as to how your Honour had found the time to achieve the long list of achievements that were read out, whilst being the most generous mother imaginable.

- 74 Your own mother, Lorna, however, whilst being physically not so tall, actually sat as the spiritually tallest person in that room that day in Government House, looking directly at her brilliant daughter, whose achievements and success did not surprise her one bit. She considered it an honour to be in the presence of the Governor of the day, then Dame Marie Bashir, and to see her daughter given such an accolade. Today we reflect on the fact that your Honour will now assume this very role, which so filled your mother with awe. Your parents would have shone with even greater pride at their daughter's achievements.
- 75 We celebrate your Honour as a Hurstville girl from a humble background, educated by the sisters out at Milperra, whose confidence in your education and your ability to contribute in the law paved every step of the way throughout a judicial career of exceptional achievement.
- 76 This morning on behalf of the solicitors of New South Wales I truly thank your Honour for your service to this State. The legal profession looks forward to welcoming you in a new capacity as you prepare to render profound service to the communities of this State as our 39th Governor. As the Court pleases.
- 77 **BEAZLEY P:** Thank you, Chief Justice. Mr Attorney, Ms Espinosa, your Honours, distinguished guests, practitioners, friends and family. Although my life has been contained by the law and therein you are not to cry, okay, I am going to break the rules immediately. I was not going to mention anyone by name, particularly Erin, but we in this profession receive a lot of acknowledgment, and there are people in this room, and I could acknowledge each and every one of you, and I do, but I actually want to start in a rather unusual way. I am sorry, Chief Justice that I am off-piste at the moment but I will get back on track in a moment.
- 78 There are two people in this room, one who is used to courtrooms and one who is not and I think I should just mention them at the outset. Angela Mifsud, who is gasping up there to my left, has turned up every Monday at

our home for about 30 or 35 years, and has transformed it into the chaos it was on Sunday night, to the calm faith it was on Monday night. Angela, myself and the kids we really love you very much and are very, very appreciative of what you have brought to our life.

- 79 Sitting next to her is Dessie Kaputin. Dessie is a magistrate from New Guinea. She has made her own way here today. She should be at a conference in the Philippines, but she has taken a side track, as it were, and Dessie I am very, very grateful and also have very, very much loved your friendship over the years.
- 80 I did, however, have a Freudian moment yesterday when for the first time I thought I should give some thought to what I was going to say, and I commenced to tap onto the keyboard a few thoughts in preparation for this morning's ceremony. The first phrase that came into my mind was this, "I've had the advantage of reading in draft the reasons of Justice ..". It was at that point that the finality of today's ceremony actually came upon me.
- 81 Mr Speakman, Ms Espinosa, it is customary at these ceremonies to be humble about the accolades but eternally grateful for them, and I am and I thank you both. I will leave it to those present to separate fact from fiction and your informants will be dealt with later.
- 82 When Michael Duffy, the then Attorney General, rang me in late 1992 to offer me an appointment to the Federal Court I was concerned that I was, and if I can use this expression, too young. He suggested, however, retirement at 60 and a second career thereafter. As I approached my 60th birthday many years later, I had this subliminal moment and I allowed the whole thing to just flicker past me and not give it any acknowledgment at all. However, as the years started to speed up and the retiring age was increased to 75, I did begin to wonder whether I would retire at around the age of 70 or go to what was then the retiring age of 72. Make it a nice round 30 years on the bench, 25 years on the Court of Appeal, or even stay until 75. I had a lot of options.

- 83 However, Chief Justice, never in my wildest dreams would I have imagined leaving the Court 8,340 days after my appointment to the Court of Appeal. For those without the mathematical acuity of Leeming JA or McCallum JA, that is 22 years, nine months and a perfectly rounded 30 days. If I wanted to add on the Federal Court, it would be 9,554 days, and if I tossed in those few weeks that I sat in the District Court or on the other tribunals, I think I got to at least 10,000.
- 84 I have had the privilege of working with three Chief Justices, Murray Gleeson, Jim Spigelman and of course the present Chief Justice, Tom Bathurst, and three Presidents of the Court of Appeal, Dennis Mahoney, Keith Mason and James Allsop, Michael Kirby having slipped up to the High Court as many Court of Appeal judges have done and will continue to do. It was Michael's appointment to the High Court that opened up the position in the Court of Appeal to which I was appointed.
- 85 The Court, under the stewardship of the leaders whom I have mentioned, has grown, it has adapted and it has thrived. It anchors the administration of justice in this State and its jurisprudence is highly respected. That is the product both of the leadership of the Court and the work of the individual judges, for whom I have the greatest respect and admiration and, may I add, much fondness, and I am here talking about the whole Court and not only the Court of Appeal. Each of you, my judicial colleagues, has made my time in the Court such a fulfilling experience.
- 86 Neither the Court nor the administration of justice functions in a silo. The profession is as much a part of the administration of justice as is the Court. We as judges rely on you to reach the correct result in every single matter that we determine. In the Supreme Court, Court of Appeal and Court of Criminal Appeal, that is over 3,000 determinations in every year, and that is only the reported ones. The burden on us and the responsibility on the profession is not a light one. I thank you very much for the assistance and the support that you have given me personally and to the Court of Appeal

over the time I have been a member of it and as its President. And I am going to descend to alliteration and say I am truly, truly humbled and honoured at the presence of each and every one of you here today.

- 87 The Court operates at many levels and each cog in the wheel is important. I wish to make special mention of the Court of Appeal registrar, Jerry Riznyczok, who has worked so capably and tirelessly with me and to our registry staff who are dedicated and professional. They, too, served the community, just as we judges do. The library, which provides its services to the Supreme and Federal Court, is one of the most professional in the country. The librarians are highly-credentialed and unfailingly helpful. The Court could not maintain its high standard of jurisprudence without your assistance.
- 88 The Court associates carry the burden of our individual chambers, to say nothing of our individual personalities. I have had four associates in my time in the Court, Trish, Lizzie and Barbara who are here, and Kate Dale, my present associate. You were each wonderful and Kate, you have been a powerhouse, especially over the last six months. Your highly-intelligent and careful approach to your work and your thoughtfulness both professionally and personally, is something I will always cherish.
- 89 One of my great loves in the Court has been working with my tipstaves and researchers, many of whom are here including from interstate and overseas. They bring youth, enthusiasm and energy into chambers, and they take from it a lifelong friendship. I trust that you all remember, however, what I taught you, that you can be very, very good at this game without being aggressive. You just need to remember when and how to stand your ground. And I should add that it is a given that you are and will be amongst the best lawyers in this country. Thank you for everything you have given me.
- 90 The associates, tipstaves, registry and library staff, and I also need to add our security personnel downstairs, enhance the collegiate atmosphere that

is such a feature of the Supreme Court and the Court of Appeal and, as I forget, I suspect very quickly, what judgment I wrote, when and on what issue, it is the collegiality of the last quarter of a century that will remain with me, and the collegiality of my time at the bar.

- 91 I have had the great fortune of being able to say, at each stage of my professional life, that it has been rewarding and fulfilling. That goes right back to my school days. All education is foundational, but my final two years at Mount St Joseph were life changing. The school was part of the systemic Catholic education system, so it was not very fancy.
- 92 However, we were turned from 16 year olds who did not know what we wanted to do, let alone what we could do, into young adults who were taught to think, to question, to challenge and to do. I am speaking of 1968/1969, when higher education was beginning to open up for young women, but it was still a long way from being the norm. But it was never questioned that we could do what we wanted to do. That questioning did not happen until I got to law school and then later to the bar.
- 93 Even David Jones had difficulty with the concept of a female barrister. They refused to make me a bar jacket, so I simply did not bother about one until I took silk. Over the years I have actually found it quite therapeutic to ignore the hurdles that were put in my way. Sometimes, though, it was worth taking a stance. When I heard that one of my judicial colleagues did not approve of women in pants, I wore a red pants suit to my first judges' meeting. He did not say anything and neither did I, until now, and he is here.
- 94 I am certain, however, that it was the philosophy with which my education was imbued that has stood me in such good stead. You will understand why I said that education would be my focus, or a focus of my term as Governor, and I am honoured to have Sister Patricia Malone, Jude to us in those days, here today sitting next to my sister Trish over there in the pink jacket.

- 95 The bar has changed hugely since I first entered the profession in 1975. At that time I was the 32nd woman to actively practice and, as the Attorney has said, the 37th woman to be admitted, notwithstanding the passage of the *Women's Legal Status Act* in 1918. I was only the fourth to take silk, at the same time as my wonderful judicial colleague, Carolyn Simpson, after Mary Gaudron 1981, Priscilla Fleming 1985 and Cecily Backhouse in 1986.
- 96 There are now 555 female barristers and 43 female silk. The percentages do not reflect the numbers in law schools, as we know, and the composition of the profession and, as importantly, the longevity in the profession needs to align with those percentages. However, the attitude towards women has changed so fundamentally in the law from the time when I first started and the intellectual vibrancy that diversity has brought to the profession cannot be underestimated, nor should it be allowed to be undervalued.
- 97 Unsurprisingly, a word I have used after Justice Ward, if you read her judgments, the law has become very much part of my DNA. I do believe that it is a powerful force in society. When we as lawyers speak of justice - and I can always remember Chief Justice Gleeson as he then was saying this - we speak of justice according to law. That should never be diluted. At the same time we must remember that the law is not and should not be a straightjacket; it is intended to serve a wide range of people and a wide range of interests.
- 98 Over my years in the Court I have developed a great belief in institutional leadership and institutional respect, in our case the institution of the law. An institution cannot expect to be respected unless it respects the constituency that it serves. The law is not merely a game played out in the theatre of the courtroom. We have all taken an oath, judges and professionals alike, the essence of which is to serve the administration of

justice. The State of New South Wales is privileged to have such fine judicial officers at all levels of the judiciary, and such a fine profession.

99 I have been really quite overwhelmed by the people and the good wishes I have had when the news of my appointment broke, and I thank each and every one of you. There are many, many people here today to whom I am hugely indebted, from my family to my friends and to my wonderful colleagues. They represent and reflect all the aspects of my personal and professional life.

100 And so it remains just to say three more things. I wish to honour my parents, about whom we have heard. They were essentially uneducated. Could you believe that my mother was educated to the age of 12. I am going to divert one more minute.

101 I do recall a wonderful story at home. We were sitting at home one day, my parents were over, Mum and I were sitting on the lounge, and at that stage Anthony wasn't, and Erin and Lauren were there; I think Erin was about five, Lauren was about three, and Erin, the eldest piped up to her little sister, "Lauren, what do you want to do when you grow up?" and Lauren said, "I want to be a Mummy". Erin said, "What sort of Mummy?" She said, "I just want to be a Mummy". Erin said, "You can't just be a Mummy. Are you going to be a lawyer Mummy or a doctor Mummy, what sort of Mummy are you going to be?" But the biggest story really is and the big point really is, three generations, one a person totally uneducated, in effect, one person who had the privilege of the great education that this country gives us, and a new generation who just were going to take it in their stride. So I do thank them and I do honour them. They were so intelligent, so caring and, as you have heard, so extraordinarily hard-working. Dennis, you have been so wonderfully supportive, thank you very much.

102 And now to my beautiful children. Erin, Lauren and Anthony, as we have heard you were six, four and 15 months when I was first appointed to the

Federal Court. You are now five foot four, five foot eight and almost six foot five! It would not be accurate to say that none of you have followed in your very proud parents' footsteps. You literally fled the scene. I am still trying to work it out, but you have each developed your own individual lives and your own individual careers, and I simply want to say, putting aside the fact that I just love you so much, I am so immensely proud of you. Thank you to everybody.
