

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

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

Thursday 28 February 2019

**SWEARING-IN CEREMONY FOR
THE HONOURABLE JUSTICE ANDREW BELL
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES
AND PRESIDENT OF THE COURT OF APPEAL**

- 1 **BELL P:** Chief Justice I have the honour to announce that I have been appointed a judge of this Court. I present to you my commission.

(Commission read)

(Oaths of office taken)

- 2 **BATHURST CJ:** Justice Bell, on behalf of all of us here, can I warmly congratulate you and wish you an enjoyable time on the bench.
- 3 **THE HONOURABLE MARK SPEAKMAN SC MP, ATTORNEY GENERAL OF NEW SOUTH WALES:** Justice Bell, on behalf of our State and the Bar, it is my great honour to congratulate you on your appointment as a Judge of the Supreme Court, a Judge of Appeal and as President of the Court of Appeal.
- 4 I welcome today three generations of your Honour's family, your wife, Joanna, and your two children, Lucy and Tom, your mother, Dr Pamela Bell OAM, and your brother, David, and his wife, Michelle. Sadly, your dear father, the late Dr Harold Bell AO OBE, is not with us today. Dr Bell

was decipherer of codes, both actual and economic. Dr Bell was a well-known and extremely well regarded economist with the AMP Society and economics commentator for more than 40 years. Rumour has it that he was an avid conjugator of Latin verbs. He and a young master Andrew Bell would walk from their home in Mosman to the Zoo, conjugating verbs as they went. Your Honour, I am sure that Dr Harold Bell would be so proud today.

- 5 Your early life was spent on the Lower North Shore of Sydney. You attended four schools, Balmoral Infants, Mosman Primary, Neutral Bay Opportunity and Sydney Grammar, where you captained the cricket team. You made your mark at Sydney University, taking a Bachelor of Arts with First Class Honours and the University Medal, followed by a Bachelor of Laws with First Class Honours and the University Medal, as well the Convocation Medal. Having scooped the pool at Sydney, your Honour went on to Oxford as Rhodes Scholar for New South Wales, topping the Bachelor of Civil Law and then finishing your DPhil in just a year.
- 6 Having scooped the pool at Oxford, you came home and in 1995, you were admitted to the New South Wales Bar. Your Honour's work has taken you across the country. Your broad practice includes corporate and commercial matters, class actions, general appellate matters, public and constitutional law, insurance, shipping and transport disputes. Your Honour was appointed Senior Counsel in 2006 and you built a practice that has seen you named in the litigation or alternative dispute resolution and "bet the company" litigation categories in the annual Australian Financial Review survey of top Australian lawyers.
- 7 Your Honour's case list is extraordinary. Notable recent cases include acting for Qantas against Rolls Royce, the Rinehart children in trust litigation against Gina Rinehart, and Channel 7 in relation to cases arising from the AFP raid. You have appeared in 30 High Court appeals across a broad range of areas.

- 8 Your Honour's work in arbitration and ADR is not strictly limited to legal practice. Consider your Honour's role as arbiter on discussions as to the duration, quality and dietary support surrounding your physical training regime. A negotiation is rumoured to have occurred between your Honour's long-suffering personal trainer, Jodie, and you, in which Jodie had provided you with authority to do short laps in your morning Hyde Park runs. This supposed authority accounts for your propensity to drop to the back of the Eleven Wentworth group at the beginning of the training session and mysteriously re-appear at the end.
- 9 It is said that when you have fronted up to training the quantity of exercises halved but, to your Honour's credit, the quality of banter doubled. Jodie was also the recipient of more than the odd photograph of your evening fare, especially if it consisted of a hearty looking steak, chips and a glass of red. Predictably enough, Jodie would respond with a directive to stick to salad and bone broth. Predictably enough, your Honour would cheerfully ignore the direction.
- 10 Your Honour's courtroom skill and style are legendary. One technique you employed more than many barristers was the oral call for documents. While witnesses are regularly warned by their counsel not to bring documents into Court, this would not stop your Honour. In one matter you discovered that a witness had a habit of keeping acquaintances' business cards in his wallet. You went immediately on the attack with, "I call for the wallet", and next the Court saw you rifling politely, if one can say that rifling is polite, through the witness' wallet and asking him to comment on business card after business card. When it became clear that the business cards related to a highly suspect tax evasion in Switzerland, the case settled.
- 11 Outside the courtroom your Honour has made a significant contribution to the law and to the legal profession. With the Bar Association, for example, you have been Senior Vice President and Treasurer and a member of the Bar Council, a Professional Conduct Committee, the Finance Committee,

the Education Committee, the Editorial Committee and as editor of Bar News.

- 12 As to Bar News there's a tale of a tête-à-tête that unfolded during your editorship. The story goes that your Honour was seen by a revered old silk mortally sinning by eating a pie, in robes outside Court. Now eating a pie outside Court while robed is generally considered improper and something for which Horace Miller was apparently reprimanded many years ago. So affronted was this revered silk by your Honour's incursion, that he took your photograph mid-pie on his mobile phone and he promptly issued the evidence to Bar News, noting that a senior member of the bar had been photographed eating a pie in his robes and calling for some form of censure. The editor, now known as your Honour, responded to the writer in the same edition of Bar News by thanking him for his concern and congratulating him on being able to work his phone.
- 13 Indeed your Honour has published extensively including the book your DPhil begat, *Forum Shopping in Transnational Litigation*, and *Nygh's Conflict of Laws in Australia*, which makes it all the more extraordinary that you are widely regarded as someone with time for everyone and with an excellent ability to understand and recall the finer details of any matter that comes to hand, even as you are busily working on a myriad of others.
- 14 Your generosity of time extends to your loyal care and leadership of your juniors. It is said that your Honour would never leave a junior in chambers to slave away on submissions while you went home to bed. In fact I believe the opposite is true. Your Honour has worked extremely long hours to ensure that you are on top of a case and you never expect a junior to wait in chambers while you toiled away.
- 15 Your Honour is known to always get down in the detail rather than relying on juniors to do the grunt work, a characteristic that leaves your colleagues wondering how you have got the time to fit it all in. Your loyalty and generosity extends to your colleagues in chambers. One colleague said

that your Honour has been instrumental in maintaining the collegiality of Eleven Wentworth and the Bar more generally. I wonder whether your self-appointed role as the President of Fun or Chairman of the Floor contributed to this perception? Or the white linen suits in which you walked the floor during your chairmanship? Your Honour's sartorial elegance is a matter of record. One of the members of the *Sculpture by the Sea* board remarked upon hearing of your elevation to the bench that perhaps you won't be wearing pink shorts so often.

- 16 You have been described as a man who loves life and the law in equal measure. Along with your work with the Bar Association you have sat on the council of St Paul's College of the University of Sydney and as Secretary and a selection committee member with the Australian Rhodes Scholars' Association.
- 17 Your great love of art found exceptional expression in your relationship with *Sculpture by the Sea*, for which you were a board member for ten years and chairman for six. Even when you had a schedule full of complex briefs, you would take calls at ten or eleven at night and switch gear energetically from your current case to the legal needs of *Sculpture by the Sea*.
- 18 In your usual manner your Honour's contribution to the organisation was not only professional but colourful. On opening night visits to Cottesloe – to see sculptures by that western sea – you would often wear an Hawaiian shirt – a touch of whimsy that Western Australian benefactors did not quite understand or appreciate. I do not know whether your Honour was wearing an Hawaiian shirt when, as chairman of *Sculpture by the Sea*, you escorted Crown Prince Frederik and Crown Princess Mary at the Sydney exhibition. Of course, as your Honour will attest, the Crown Princess regarding meeting your Honour on that illuminated coast as a highlight of the couple's trip to Australia in 2011. Of course as your sculpture colleagues will attest, where Crown Princess Mary was concerned you never let the truth get in the way of a good story. Even as your Honour

took the stage on the 20th anniversary dinner of *Sculpture by the Sea* in 2016, with a photograph of the Crown Princess and you looming in the background, your Honour's first order of business was to point out to the audience how delighted the Princess looked.

- 19 In you we see a man of rounded interests, of exceptional talent and extraordinary generosity and, by all accounts, a fabulous sense of humour, albeit one that can teeter, I am told, at the edge of what might be appropriate in any situation. Which leads to a final anecdote.
- 20 I am told of drinks in chambers one Friday afternoon – and the host, a senior member of the floor, holding court – regaling the whole room with war stories of his brilliant forensic manoeuvres. Apparently this had been going on for some time with some too junior and others too polite to leave. Your Honour shuffled into the room, still in your bar jacket with jabot askew, calling urgently for red wine. Upon this interruption the court-holder was determined that his story would not be derailed. He continued on raising his voice, casting disdainful glares at your Honour, to which you smiled in return. After a few sips of wine your Honour's face fell and you said, "Is he giving a speech? Has he been going on very long? Oh dear, I think I might have to come back later", and your Honour turned to the host holding up your glass and asked, "You don't mind if I take this with me do you?" From there laughter burst around the room, all present lost their composure, the host lost the floor and Friday afternoon drinks continued with a relaxed spirit that Friday drinks deserve.
- 21 So I am going to wrap up there in case your Honour seeks a glass of wine or a temporary departure.
- 22 Justice Bell your appointments are an acknowledgement of your exceptional expertise, knowledge, hard work and dedication. Congratulations and best wishes for your career on the bench. May it please the Court.

- 23 **MS ELIZABETH ESPINOSA, PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. I acknowledge the traditional custodians of the land on which this honourable Court stands, the Gadigal people of the Eora Nation, and I pay my respect to their elders, past, present and emerging and I also acknowledge any indigenous Australians present in the Court today.
- 24 Justice Bell, it is my privilege and honour this morning as President of the Law Society of New South Wales to congratulate your Honour on this high and most fitting appointment. The solicitors of this State anticipate with confidence and support your leadership of this Court. As yesterday's ceremony revealed, your Honour will follow in distinguished footsteps. In continuing that same spirit of principled leadership, your Honour will make a marvellous contribution to the State of New South Wales.
- 25 Your Honour has been described as one of nature's great enthusiasts and from Sydney Grammar days, your strength, vigour and love for life was evident. At times this sense of enthusiasm was as shrewd as it was genuine. For example, your committed study of the classics was not to your disadvantage, as the Classics Master coached the First XI cricket team for which you then qualified. Your fine cricketing performances were matched on the soccer field, where you also played in the Firsts. Your other sporting interests, which have over time tended to focus on sports requiring less cardio-vascular intensity, have included softball, swimming, tennis and golf.
- 26 At the University of Sydney, you had a distinguished academic career. During your study of a Bachelor of Arts and Bachelor of Laws your excellence in Roman Law, taught then as now by Justice Arthur Emmett, saw you win the prize in that subject. Debating took your Honour interstate and overseas as part of the Intervarsity competitions and world championships where you had great success. Your regular debating partner in those days was the Honourable Paul Fletcher MP. Many have

reflected that your champion debating talent was well suited to be honed later into an impressive style of courtroom advocacy.

- 27 During the course of the 1984 Adelaide Intervarsity competition your Honour took to wearing a Tyrolean-style, or Alpine, hat fit for a Bavarian. Lederhosen were not observed to be worn but nevertheless you became known as “Otto” among the debating crowd. This added some diversity to a suite of nicknames that have previously revolved around hollow metal objects that make a ‘ding’ sound when struck.

- 28 While at University you resided at St Paul’s College from 1985 to 1989 where you were Chapel Warden. You have contributed to the College since graduation as a Member of the College Council, including service as Deputy Chairman between 2010 and 2013. Your Honour’s career at University was truly stellar and showed you were destined for high office. In fact, the likelihood of judicial appointment was evident when a large Sydney law firm saw fit to send a limousine to fetch you from St Paul’s College for a summer clerkship interview. When undertaking Honours, you became greatly interested in the economic history of the early Federation era, when a now-defunct body called the Interstate Commission was established. Fellow students listened with admiration as your absolute engagement with this Trade and Tariff Commission, a subject that may otherwise have experienced as dry, made the subject riveting.

- 29 You won the University Medal in both Arts and Laws and became Rhodes Scholar in 1990. Following graduation, you were Associate to the Honourable Sir Anthony Mason AC KBE at the same time that a young woman named Jo was Associate to Justice McHugh. Now a matchmaking institution would not be seen as the foremost role of the High Court Associates, but nevertheless, you got to know each other and the rest is history.

30 Sir Anthony has supplied the following message to mark the occasion of your Honour's swearing in and I quote:

“My wife and I are delighted that Andrew has been appointed President of the New South Wales Court of Appeal. We have every confidence that he will play an important part in maintaining, and indeed, enhancing the fine reputation of the Court”.

31 Now in Oxford you topped your class in the BCL, the Bachelor of Civil Law with first class honours and the Vinerian Scholarship. This is the most prestigious law scholarship awarded by the University of Oxford. I note that past award holders have distinguished themselves in the judiciary, legal practice, academia and civil service. The list of scholars since 1929 includes three Law Lords and Justices of the High Court of Australia, Justice Heydon and Justice Keane.

32 While at Oxford you had a flat at Magdalen College overlooking the Botanic Gardens. The flat became a popular stopping-off point for friends from Australia, and you reciprocated by visiting friends in the United States, where you mined for resources in the Law Library at Columbia University in your third year while working on your thesis.

33 In 1994, under the supervision of Professor Adrian Briggs, you specialised at Oxford in a Doctor of Philosophy in private international law with a distinct focus on forum shopping and transnational litigation. It was an area of law you found completely gripping. Now most students take at least three years to complete a Doctor of Philosophy thesis which is equivalent to a PhD in Australia. Not for you, your Honour; you completed the thesis in approximately nine months. This led to your fascination with the competing legal weapons available to litigants to secure a favoured forum. Those weapons included the anti-suit injunction, to restrain a party from commencing, or pursuing, proceedings in a foreign court.

34 Before your Honour returned to Sydney as Dr Bell, few, if any, had heard of the anti-suit injunction. Once your Honour came back from Oxford, you

were called to the Bar almost straight away. Within days of your arrival at the Bar, your Honour secured a brief in a major Supreme Court case in which Australian Courts were, for the first time, being asked to consider the very topic of your DPhil thesis. Observers wondered: Was this an extraordinary coincidence, or just an early example of your Honour's knack for timing and foresight? You wasted no time displaying incredible industry in every aspect of the case. Initially the anti-suit injunction was granted, and New South Wales was secured as the forum. With your Honour as witness, the anti-suit junction had thus leapt from the pages of your thesis to the case books. Your private international law practice was well and truly underway.

- 35 It was not long before talk of cross-border disputes and forum shopping became more commonplace in commercial litigation circles. A favourite junior in many large cases, you were instantly attracted to the art of cross-examination and received educations from great leaders at the Bar, among them Frank McAlary QC. All was proceeding smoothly in your flourishing private international law practice until in 1997 a majority of the High Court found the relevant proceedings to be 'oppressive in the *Voth* sense' and dismissed the anti-suit injunction in favour of international comity in the case of *CSR v Cigna Insurance*. Some speculated that this High Court judgment would be a set back to your Honour's practice. But like all good advocates, your Honour turned a loss into a success.
- 36 In an early example of fearless tenacity, you published with Justin Gleeson a powerful article responding to the judgment, named "The Anti-Suit Injunction". Although the article was substantially written prior to that decision it incorporated references to *CSR v Cigna* in a much-cited contribution. Your practice marched boldly on and you were briefed in every major case where forum and jurisdiction were in issue.
- 37 At the Bar, you were as highly sought-after as you were totally well-equipped to speak on your materials and deal with questions from the Bench. I understand you have become a regular nominee on a list

maintained by the Senior Associates of a major law firm known as ‘the Hot List’.

- 38 You have had a tremendous gift to adapt your presentation to the Judge to whom you were speaking, whether curt, discursive, formal, or informal, your Honour’s manner suited the Judge’s tastes; and while the form changed, the substance stayed the same, and was consistently brilliant.
- 39 Your Honour has done work for high-profile clients, some of which we have heard: Channel Seven, including a case which involved search warrants in relation to Schapelle Corby; Merivale, including a dispute of a renovation for the Coogee Pavilion; and Gina Rinehart’s three eldest children.
- 40 There have been matters of enormous scale and complexity which only more strongly revealed your Honour’s skill. *Ingot v Macquarie* was one such case. You appeared for a defendant in a commercial case enduring six months with 40 lawyers representing more than 30 parties. It was so big it couldn’t be held in the law courts here and had to be moved to the Downing Centre. Your Honour’s excellent talent for advocacy, led by Bruce Oslington QC, came to light. *Ballard v Multiplex* was another such case, spanning more than 80 days and interrupted when the sitting judge could not continue due to ill health. Justice McDougall took over the case on the basis that all the evidence already taken would be evidence before his Honour in a new trial. Your Honour faced another factually and legally complex case, explaining it to a judge who had not been there for any of the original evidence in a structured, sound and helpful way.
- 41 In all these matters, your Honour’s forensic grip on the issues meant that when you produced submissions they were so beautifully argued that it felt to those listening that the only natural, logical, inevitable interpretation to be arrived at was the one your Honour presented. Your phenomenal natural gift for argument and advocacy, both written and oral, will now

manifest on the bench as a gift for elucidating the reasons for decisions by delivering truly sound judgments.

- 42 Besides your Honour's obvious academic and legal brilliance, your Honour attracted instructing solicitors because of your fearless tenacity. You would stand up for your clients and were at your brilliant best when backed into a corner. But they appreciated something else, too: your sense of fun and zest for life. You have many solicitor friends gained throughout many collegiate discussions had over lunch or dinner. Solicitors got the sense you genuinely wanted them around and they relished the personable access to your Honour that not every instructing solicitor gets to enjoy when briefing such a senior counsel. One has said your Honour may be the only senior counsel with whom he has ever enjoyed the said meat pie in the corridor of a courtroom.
- 43 Another solicitor once hatched a plan to insert a roast chicken leg into an important section of the brief, to appeal to your Honour's love of food and attract your attention. This was a plan which would never have been considered unless it was known it would be received warmly and heartily, which it was.
- 44 I understand, since the news of your appointment hit, flurries of emails have been exchanged within the solicitor profession to the effect of, "What are we going to do now?" Generously however your Honour has created your own version of a succession plan, making way for other talented counsel to take up these warm connections formed over many years. To the delight of solicitors your Honour famously always said yes, no matter how tight a squeeze such a request would produce. Your profound intellectual capacity meant you were able to bounce from one commitment to another in what appeared to be a feat of immense logistical acrobatics.
- 45 I have referred to your Honour's knack of being in the right place at the right time earlier. While appearing in a case for Bega Cheese last year, your Honour was in Melbourne and the said case was already dragging on

when the judge announced, “We need another day.” You were asked if you could appear again in two to three days’ time. You readily agreed. What the Judge did not know is that you were due to be some four hours’ flight time west in Perth in the intervening days. Your attendance back in Melbourne for Bega was dependent on your Honour getting a seat on the final flight out of Perth the night before the additional day in court. True to form, your Honour got into Melbourne close to midnight, got up the next morning, and finished your arguments with poise and completeness. You facilitated everything perfectly, and you won.

- 46 In another matter, your Honour represented a company whose CEO was due to be cross-examined on a Friday. Friday was not going to work for said CEO. Curiously, on Friday, your Honour took a sudden interest in the philosophy underpinning discovery rules and obligations. You gave a learned and genuinely brilliant treatise on discovery obligations, essentially filibustering on the issue for two hours. Very unfortunately, as a result, the CEO’s cross-examination then had to be held over to Monday. Timing is indeed everything.
- 47 Instructing solicitors have witnessed firsthand your Honour’s commitment to your wife Joanna and your children, the Bell-Birds, Tom and Lucy. Your great enjoyment in coaching Tom, who plays cricket at Sydney Grammar, and the long hours you spend watching his matches, has been an example to others. Solicitors say hearing of your Honour throwing thousands of balls to Tom, despite your immensely busy practice, inspired them to spend more time with their own children.
- 48 Justice Bell, you have been described by solicitors and fellow counsel alike as one of the most brilliant lawyers of your generation. This is truly an excellent appointment which will lead to your being much missed by solicitors, but will see you become a highly respected President and Judge of the Court of Appeal.

- 49 Just as clients have been able to rely on you to give absolutely everything to the cause, the people of New South Wales can trust that your Honour will contribute immensely to the administration of justice for the good of all. Again, I warmly congratulate you and wish you all the very best for your time on the bench.
- 50 As the Court pleases.
- 51 **BELL P:** Chief Justice, your Honours, Mr Attorney, Ms Espinosa, distinguished guests, members of the legal profession, friends, family, ladies and gentlemen.
- 52 I begin by acknowledging the Gadigal people of the Eora Nation and pay my respects to their elders past, present and emerging, many of whom I hope will become lawyers and advocates participating fully in the country's civic life in that capacity. In that context I acknowledge the seriously admirable mentoring initiatives of law students by the Bar Association and the Law Society.
- 53 I thank the Chief Justice for his kind words and more generally for the generosity of the welcome I have received from him and indeed from all members of the Court. I had the great pleasure and benefit of being led by the Chief Justice on many occasions, opposed him occasionally prior to his appointment and appeared in front of him many times. He leads a court with a pre-eminent reputation, not only in Australia, but throughout the common law world and it is a signal honour and privilege to join it. Its strength and the respect in which it is held also owes much to his predecessors, the Honourable Murray Gleeson AC QC, and the Honourable Jim Spigelman AC QC, both of whom honour me greatly by their presence today. Over the years, both have given me great encouragement. True it is, at least in the case of Spigelman CJ, that the encouragement, more often than not, was to get to the point, but such is my optimistic nature that I construed the encouragements positively. Such

an eccentric approach to the interpretation of otherwise clear words is unlikely to continue.

- 54 I also acknowledge the major contribution that has been made to the Court, both in terms of its collegiality, and of course more generally, by my predecessor, the Governor-designate. All who know Margaret Beazley know what an outstanding Governor she will be. I wish her well and I thank her personally for the time we have spent together in the last month or so.
- 55 I also thank the Attorney and Ms Espinosa for their kind and generous words, emphasising the good bits and largely airbrushing the rest. It is an excellent thing, I have always thought, that these ceremonies are not treated as *ex parte* applications requiring full and frank disclosure. We may have required a special fixture were it otherwise.
- 56 Speaking of disclosure, there was no disclosure by the Attorney in relation to the convenorship of the Supreme Court yoga group that my predecessor has insisted is a position that travels with office of the President of the Court of Appeal. I have spent much of the past four weeks searching in vain for a legislative basis for this claim. None exists, but it does not really matter because the Chief Justice assures me that he is keen to assume this particular responsibility personally.
- 57 Although never having been admitted as a solicitor, being like my new colleague and old friend Leeming JA amongst the last to be permitted to go straight to the Bar and as such bypass the College of Law, I did have many incarnations at Stephen Jaques Stone James as it then was, initially working in the accounts department in my first summer holidays after high school, and then in subsequent university vacations where I got to know, albeit from a safe distance, the prodigiously talented Julie Ward and the scholarly Richard White, both of whom I greatly look forward to working with.

- 58 One of those summer incarnations was spent in the Perth office of Stephen Jaques and there I met my great friend Brahma Dharmananda, now the leading commercial silk in Western Australian who has flown to Sydney for today's ceremony for which I am most grateful (although he is also here to repatriate most of my extensive Perth practice!).
- 59 Although never admitted as a solicitor, I was fortunate to be briefed by many quite outstanding solicitors. When I reflect on it, a large number of those professional relationships developed into extremely strong personal friendships. That probably says something about the way we attacked the cases together, worked under great pressure with huge intensity but with a common goal, and always managed to find room for a laugh along the way.
- 60 Many of those solicitors who briefed me over the years are in Court today and I thank them for their enormous support and friendship. Those that I can see are looking far more relaxed and less anxious than they used to look when I was addressing the Court, or at least when I was addressing 'the Hammer' in whose court I regularly and happily found myself.
- 61 My acknowledgment of the solicitors who briefed me over the years is for me, and no doubt for many in this courtroom, tinged with great sadness at the recent unexpected passing of Steven Glass, formerly of Gilbert & Tobin. Steven briefed me regularly and as recently as last year in a case for Warner Bros in the Court of Appeal. He was a fine lawyer and a fine man, and I am sure I speak for the profession in mourning his loss.
- 62 As a school boy I was inspired to come to the Bar following a day's work experience with the late and universally admired Justice John Kearney. How fortunate was I to have that opportunity. I was also fortunate whilst still at school to be the beneficiary of the warm and infectious encouragement of the late Bryan Beaumont QC, as his Honour then was, and whose associate I later became for a short period.

- 63 As a school boy, I also enjoyed the strong encouragement of K R Handley QC, as he then was, and later when not long at the Bar, Ken gave me both his Law Quarterly Reports and International and Commercial Law Quarterly Reports, acts of great generosity for which I remain deeply grateful. My friendship and association with the Handley family continued through *Sculpture by the Sea* and Ken's son, David, who introduced me to sculpture, sculptors, the highs and lows of arts organisations and arts politics, and, as you have heard, Crown Princess Mary.
- 64 *Sculpture by the Sea* was a wonderful and liberating ride on which I made many great friends and was complete privilege to be involved with. It made good something I heard the late Justice Murray Wilcox say in a speech to readers when I was starting out which was that "it is very important in the law to maintain interests outside the law", and that I have tried to do.
- 65 Before coming to the Bar three very significant things happened to me. First, following my time at the Sydney Law School, an unexpected opportunity arose to work for Sir Anthony Mason as his associate. To be offered that position was like winning a scholarship and probably the lottery. As many of his other associates would attest, that year was one of the most significant and formative years in my professional life. I am so very pleased he is here today and I look forward to his critique of my speech which, even now, will be in an advanced stage of composition in that ever fertile mind.
- 66 I should also acknowledge the presence of Sir Gerard Brennan, sitting next to Sir Anthony, for whom I have always had the greatest admiration and the profoundest respect.
- 67 The second significant matter that occurred before I went to the Bar and which arose directly from my time as an associate was meeting my future wife, Joanna Bird, who was working for Justice McHugh as his associate. When later asked by a professor at Oxford as to where she had first

encountered me, she gave the entirely accurate answer, “beneath *her* name on the Honours List.” Taking an honours year in economic history was a good strategy from my point of view as I fell out of her year. She has gone on to become one of Australia’s most senior financial regulators doing work as socially and economically important as that done by anybody in this courtroom. I am immensely proud of her and acknowledge and publicly thank her for the disproportionate burden she has carried over the years in relation to our domestic affairs, and the raising of our two wonderful Bell-Birds, Lucy and Tom, whom we love dearly and are extremely proud of.

- 68 The third matter of significance that occurred before I came to the Bar was my time at Oxford. That was an extraordinary opportunity, and no scholar was more important to me during that time than the original and brilliant conflicts lawyer, Adrian Briggs, who taught me private international law, and supervised my doctorate in return for ritual offerings of baklava. He became a firm friend and later a professional colleague as we worked on various pieces of transnational litigation over subsequent decades.
- 69 Very early on at the Bar, I was at a lunch in the old Bar Common Room talking, perhaps overenthusiastically, about anti-suit injunctions when David Jackson QC said, rather loudly I thought, across the table, “Tell me, Andrew, who is the other person interested in this topic?” To slip into cricket parlance, I regarded that as a completely acceptable sledge, the first of many I was to receive from colleagues over the years. Of course, I never reciprocated, that being completely contrary to my nature.
- 70 The whole of my time at the Bar I was on Eleven Wentworth, reading with Phil Greenwood on that floor, and with my new colleague and co-author of “*Nygh*”, Justice Brereton, who was on Three Wentworth. I also did a great deal of work in the early years with my friend Justin Gleeson SC, for whom I have immense admiration.

- 71 Eleven Wentworth was, and is, a wonderful set of chambers and I will miss my friends and colleagues there greatly, although I hope to be able to maintain my membership of the brave but always unlucky “Wentworth Wombats”, one of the finest cricket teams ever to leave these shores but never to taste success. With Emmett AJA opening the bowling, Ireland QC behind the stumps, and the redoubtable Thos Hodgson batting at 3, that record is unlikely to change.
- 72 I will also miss, and here publicly acknowledge, the most devoted and loyal staff at Eleven Wentworth, Anne Deighton, Melinda Morris, Mandy Allen, Zach Rymer, Jeremy Hestelow and Mary Greenfield. They all took their cue and learnt their values from the best clerk a barrister could ever have, my dear friend Paul Daley OAM. I also thank my EA of many years, L’Annie Field, who has come to the Court with me as my associate.
- 73 Early on in my time on Eleven, Allan Sullivan QC took me under his wing and, with Stephen Gageler, we worked on a number of memorable cases together, a bond forged by the fact that we had all been associates to Sir Anthony. For many years I had the chambers next door to Stephen. We both worked extremely hard, often returning to chambers for the nightshift after dinner at home. I would often make him a cup of tea about midnight. I take it that he will remember those acts of kindness and generosity on the extremely rare occasions he grants special leave to appeal from a decision of the New South Wales Court of Appeal.
- 74 I also worked extensively and happily with many barristers from other chambers and continued to do so when I took silk. Many of those juniors were young women, and many of those have gone on to form a cohort of immensely talented young female silks whose ability is already shining through, and will continue to do so. There is another wave of talented female advocates not far behind them. The Bar has changed, and is continuing to change, in that respect, and that is an excellent development.

- 75 Allow me to take a brief moment to say something about the New South Wales Bar Association. I do not think it is fully or sufficiently appreciated or acknowledged just how many barristers devote so much of their time entirely voluntarily to the diverse affairs and committees of the Bar Association and how important this work ultimately is for the rule of law in this State and maintenance of respect for rule of law. That dedication and sense of social obligation lies at the heart of the Bar as a profession. That is something to be cherished. It is honourable and it is vitally important, as is the often unsung pro bono work done by so many. The same observation no doubt applies, Ms Espinosa, to countless solicitors who do similar very important work for the Law Society.
- 76 I am deeply honoured by the presence here today of my four immediate predecessors as President of the Court of Appeal, the Governor-designate, Chief Justice Allsop, the Honourable Keith Mason and the Honourable Dennis Mahoney. The Honourable Michael Kirby has kindly sent his apologies as he is, inevitably, giving a lecture in Melbourne today which he assures me is sold out. All of my predecessors were outstanding lawyers and it is a profound honour to be assuming this office in which they served with such distinction.
- 77 For deeply personal reasons, I am particularly pleased that Dennis Mahoney has, at 94, been able to attend this ceremony, as it was he who delivered the eulogy at my father's funeral more than ten years ago.
- 78 My father was born in 1921 having lost his own father at the age of eight on the eve of the Great Depression. He left school in 1937, and secured a job by competitive examination with the AMP in Ballarat. By 1951, at the age of 30, he had not only worked at the AMP and seen active service in the Navy for six years in the Pacific Fleet, but had also picked up through part-time study bachelor degrees in arts and economics, the seventh Master of Commerce ever awarded by the University of Melbourne and a doctorate earned in two years from the London School of Economics. He was someone who made the most of the opportunities he was afforded

and, as the Attorney has said, went on to become a very well-known and highly respected economist and public commentator. I was immensely proud of him. I wish he could be here. He could, and did, speak about economics with the same clarity that Sir Anthony Mason wrote about contract law and equity, and that is a clarity to which I aspire.

79 Happily, my mother is able to be present. As was often the custom at the time, her father did not let her go to university. But when I went to high school, she fixed that. She did an honours degree in fine arts, a master's degree and then her doctorate. She became the first curator of the University of Sydney's art collection and is a highly regarded art historian, art curator and artist in her own right. She has been a wonderful supporter over the years. I am so pleased that she is able to be present, together with my much taller, more handsome brother, David, and his lovely wife Michelle.

80 My parents gave and taught me so much: to seize opportunities; to value education; to think broadly, openly and compassionately; and that with privilege and opportunity come social responsibility to repay that good fortune.

81 I am acutely conscious of the opportunities and indeed privileges I have had, particularly in terms of my education and professional life. I am also acutely conscious of the heavy burden and responsibility I assume today. I do so willingly and with a sense both of humility and cautious excitement. I am also most fortunate to be joining a Court of Appeal comprised of such outstanding and dedicated judges. On their hard work, integrity, skill and devotion to duty rests the significant, and indeed global reputation of the New South Wales Court of Appeal, and on that reputation and that of the Court more generally, ultimately rests respect for the rule of law in this State. That is something that can never be taken for granted and, as this Court approaches its bicentenary in four years, and beyond, it is something that through hard work, I publicly undertake to advance and uphold.

82 I greatly look forward to discharging my judicial duties and thank you all for the honour you do me and the Court by your presence today. Thank you.
