

THE HON T F BATHURST AC

CHIEF JUSTICE OF NEW SOUTH WALES

**FAREWELL CEREMONY FOR THE HONOURABLE JUSTICE MARGARET
BEAZLEY AO UPON THE OCCASION OF HER RETIREMENT AS A JUDGE AND
PRESIDENT OF THE COURT OF APPEAL OF NEW SOUTH WALES**

WEDNESDAY 27 FEBRUARY 2019

1. 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

¹ [2013] NSWCA 187.

² (1998) 43 NSWLR 695.

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

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.

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 tippies 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 were 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.