

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

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

Monday 17 October 2011

**SWEARING IN CEREMONY OF
THE HONOURABLE CHRISTINE ADAMSON SC
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

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

(Commission read)

(Oaths of office taken)

- 2 **BATHURST CJ:** Justice Adamson, on my own behalf and on behalf of all members of the Court, I warmly welcome you to the Court and wish you a long and happy time on it, thank you.

- 3 **MR B COLES QC PRESIDENT NEW SOUTH WALES BAR ASSOCIATION:** May it please the Court. It is now commonplace, prior to ceremonial sittings of this Court, to dig and delve among on-line law journals, reports, newspapers and the like. The object of the exercise being to capture the gist of someone's legal practice, but also to carve, if possible, a cheerful anecdote or incite into their life, whether inside or outside the law, and if the latter, so much the better.

- 4 The first item I discovered in relation to your Honour's public appearance was an article in the Sydney Morning Herald on 27 May 2004. It was a little surprising because, despite your Honour's well-deserved reputation for being thoroughly undemonstrative, your Honour featured front and centre in a quarter page photograph, flanked by three of the women

barristers whom you had mentored, and not to mention inspired, during your time, up to that time at the Bar. The article dealt on the particular difficulties that women need to overcome in order to establish a successful practice at the Bar, but ended on a characteristically enthusiastic note.

5 Your Honour likened yourself to a born again Christian when talking up the Bar as a place to practice law and in relation to the prospects which it offered to the women who might follow your Honour's fine example and join it. I remind the Court about this article, not because it was a very public pronouncement of your Honour's zest for the Independent Bar as an institution, it also encapsulated your generosity towards junior women barristers and indeed, barristers generally. The vital encouragement you have given to so many is a theme that recurs throughout your Honour's own highly successful career.

6 It is a privilege, indeed a considerable one for me, to speak on behalf of the New South Wales Bar this morning. In doing so, I pay tribute to a thoroughly courteous, patient and articulate advocate with broad experience acting for both plaintiffs and defendants and an innately judicial temperament. In the eyes of many, a briefing solicitor and industrious junior, your Honour has been the epitome of a senior counsel, learned in the law, meticulous, diligent and quick to seize upon the essence of a case. Some of these persons have confessed to feeling bereft since your Honour's appointment was announced, nor should this opportunity pass without mentioning the enormous debt of gratitude, owed by all of those in need of legal services, past and present, as a result of the important professional conduct matters in which your Honour was briefed to appear for the Bar Council of New South Wales.

7 Your Honour is universally admired for eschewing all manner of waste and excess. Indeed, it is said your Honour does your own typing and I am told once took an inordinate degree of convincing, just to be persuaded to fly business class. One of your Honour's readers asked rhetorically, do you think it is a Scottish thing? Your Honour is reportedly immune from the

attractions of reality television, whatever they may be, and your Honour devotes your attention in such of those hours of leisure as the demands of your Honour's considerable practice have allowed, to the occupations of poetry and literature instead.

- 8 The 2004 Bench and Bar dinner, at which your Honour appeared as Ms Senior, was the first occasion of that kind your Honour had ever attended. During your Honour's speech on that occasion, your Honour provided an interesting vignette recording that, following your Honour's appearance in younger days at a Jessup Moot, a member of the Melbourne Bar had taken your Honour aside and urged you to come to the Bar. As your Honour on that occasion so succinctly observed, a chance remark like that can change someone's life. There is, as I have said, some surprise that your Honour is leaving the Bar, given that for so long your Honour has been such a forceful and eloquent proponent of the Independent Bar, its norms and institutions.
- 9 Your Honour once described the Bar as a good place to practice law, if one has a certain temperament of intellect, doesn't mind anxiety attacks, insomnia, working on Sundays and irregular cash flow. Such advocacy on behalf of the meritocracy of the Bar led one of your colleagues, indeed one of many of your colleagues, to describe you as the very essence of a barrister. Sense of loss amongst women barristers is culpable, particularly amongst the legion of those who have benefited from your mentoring. I dare not speculate on how your Honour, the Chief Justice, was able to persuade your Honour to join the bench of this honourable Court, save to say that his Honour would have no doubt have been required to muster all those very considerable powers of persuasion for which he was so universally renowned in his own career amongst us.
- 10 Your Honour graduated from the University of Adelaide in 1986 with honours in law. Along the way your Honour attained numerous distinctions and prizes, including three Stow prizes and the highly prestigious Stow Medal. A Stow prize, as I understand it, is awarded to

students who have shown exceptional merit in more than two courses, an obvious encouragement to avoidance of the temptations of specialisation, which your Honour so successfully did in your Honour's later career at the Bar. Your Honour also received the Bennett Medal and other marks of distinction in a stellar undergraduate career.

- 11 Your Honour joined the Commonwealth Attorney-General's Department as a legal officer after graduation and rose through the ranks, accumulating experience in matters as diverse as debt recovery and international law. According to your resume, at one stage you were seconded as Assistant to the Deputy Secretary of the Standing Committee of Attorney's-General, an organisation known euphoniously as SCAG. In March 1988, your Honour came to work in Sydney at the Australian Government Solicitor's Office. Your Honour's talents were quickly noticed and your Honour participated in, and instructed in, a number of important cases. Perhaps one that remains memorable is the case in which your Honour acted as instructing solicitor to Donald Grieve QC, the important case of *Amann Aviation v The Commonwealth*.
- 12 Your Honour began practising at the New South Wales Bar in February 1989. You did so at the age of 26, obviously oblivious to the conventional wisdom espoused at least by some, that it may be foolhardy to do so without money, contacts or experience. It helped, as your Honour succinctly put it, but you found it easier to get excited about a local court arbitration at Bankstown at the age of 26 than might have been the case at the age of 36. Your Honour read with Stephen Robb and Michael Rudge. Your Honour took a room in Blackstone Chambers and built up a successful practice encompassing a very considerable range of activities including trade practices, administrative law, constitutional law, professional negligence, personal injury and disciplinary matters.
- 13 A considerable part of your Honour's earliest career as a junior was spent initially before the Administrative Appeals Tribunal and the ADT, but as time went by you regularly appeared alongside the leading Silks of the

day. Although your Honour was understandably much in demand as junior counsel, your Honour embraced readily the pleasures and challenges of appearing unled in a very large number of cases of real significance. By the early 2000s, your Honour had begun to develop what became a very considerable practice in this Court, and your Honour's eventual considerable appellate practice, appears to have commenced at least while your Honour was still in your Honour's 20's. A case reported in Volume 28 of the New South Wales Law Reports in 1992, records the Honourable R P Meagher giving the leading judgment with the words:

"As a result of Ms Adamson's persuasion, the appeal must be allowed."

That case was doubtless noticed by many. It may fairly be said that, at least from the perspective of those contemplating what became briefed to your Honour in subsequent appellate practice, a star was indeed born.

- 14 Your Honour took Silk in 2003 and in 2004 your Honour became a founding member of Banco Chambers. A little while later, in August 2006, perhaps no doubt in partial recognition at least of your Honour's growing contribution to the subject matter for which the body exists – that is to say, your Honour's increasingly reported number of cases in the New South Wales Law Reports – your Honour was appointed chairperson of the New South Wales Counsel of Law Reporting, a position which your Honour has retained until recent times. In a notable career spanning some 22 years at the Bar, there have been very, very many cases in which your Honour appeared.
- 15 It would be unnecessarily lengthy to recite them all and it would be a challenge bordering on the impossibility merely to single out the significant and important ones. Suffice to say, your Honour has, in the course of your Honour's distinguished practice, engaged in all aspects of the law, which will be relevant to the exercise of judicial function. For example, those cases in which your Honour has been involved in connection with such

matters as abuse of process, privileges and their waiver, and like matters, will readily stand your Honour in good stead for dealing with the issues of the day that arise so frequently in ongoing trials. Once, not so long ago, your Honour appeared in an environmental law matter in which your Honour's skills were deployed in the defence of endangered and protected grey nurse sharks. Their gratitude for that remains yet to be manifested.

16 In 2002, your Honour appeared in the HIH Royal Commission, on behalf of officers of one of the failed insurers. That marked, along with a number of other important inquiries, a very considerable practice which your Honour developed, acting as counsel assisting various bodies, including ICAC. Most recently, your Honour has made submissions to the Special Commission of Inquiry into electricity transactions in New South Wales. Needless to say, these exposures to the public controversies of the time, amply qualify your Honour for the increasing jurisdiction which is undertaken by this Court when those controversies spill over into areas requiring judicial determination.

17 I have touched upon, but I cannot fail to mention, the professional conduct matters upon which your Honour represented the Bar. Again, the citation of those matters would be lengthy, but your Honour invariably in those, and in every other case, conducted your Honour's cases with a deep sense of public duty and commitment to the protection of the public interest where that was at issue in the proceedings. As with your Honour's other cases, your Honour did so dispassionately and with an impeccable sense of fairness. Justice Adamson, the Bar is delighted with your appointment. Long ago you were identified as possessing judicial qualities in quantity as ample as your own personal generosity. Firm, determined, even-tempered and polite to a fault, has been said to be a defining characteristic of your Honour's approach. The community has been excellently served by your Honour's appointment and we wish you well in this new and challenging phase of your career. May it please the Court.

- 18 **Mr S WESTGARTH PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. New parents are often subjected to well-meaning advice as to how best to ensure that their children grow up well adjusted and as contributing members of society. US author and humorist, Dorothy Parker, an author whom your Honour, Justice Adamson, likes to quote, suggests that the best way to bring up children is to make the home atmosphere pleasant and to let the air out of the tyres. Dorothy Parker also said, I don't care what is written about me, so long as it isn't true. That is not an approach which I wish to follow today.
- 19 Her approach to bringing up children may work for some, but it takes a very special parenting style and family dynamic to give children both roots and wings – that is, providing a safe and nurturing environment in which to grow, while preparing them for the time when they will go out on their own. It would seem that the Cashmore/Adamson family, has done this particularly well. On behalf of the solicitors of New South Wales it is an honour and a privilege to welcome your Honour to the Supreme Court Bench. Your Honour comes from a distinguished family of high achievers and we welcome them here today. Your mother, Jennifer Cashmore AM, former Liberal MP and Minister in the Tonkin Government of South Australia, who was a member of the Order of Australia in 1998 for services to the community, particularly in the areas of palliative care, women's issues and economic development and to the South Australian Parliament.
- 20 Your father, Ian Adamson, management consultant and general manager of a number of companies; older sister, Her Excellency Francis Adamson, Australia's first female ambassador to Beijing and younger brother, Stuart, Anglican Chaplain at Prince of Wales Hospital. I note that three of your five nieces and nephews have also joined us today. Your Honour, today is your day, the day we celebrate your achievements. A time to reflect on where you have come from, the moments and life experiences that have defined and shaped you and the challenges and the opportunities that lie ahead. No doubt, being the middle child, your Honour would have some empathy with others in the same pecking order. However, if the family

dinner table is anything to go by, your Honour has well and truly held your own.

- 21 A lively conversationalist, some would say a born contradictor. In the nicest possible way, your Honour would usually engage family members in pointed debate about issues of social justice and feminism. More often than not, these lively and sometimes heated debates, would involve sparring with your father. Even in those early years, your Honour proved to be a formidable opponent, exhibiting a searing intellect and a quick wit. The importance of these dinners cannot be underestimated in terms of developing confidence, social behaviours and manners and strengthening family bonds. Like your mother, your Honour loves cooking and entertaining and reflecting those times at the childhood dinner table, you will go to enormous lengths to make each dining experience an occasion, always the perfect hostess.
- 22 They say home is where the heart is, and indeed your Honour's eastern suburbs residence contains a collection of memorabilia and sentimental items from the small Japanese calligraphy to the bust of Virginia Woolf, sculptured by the renowned South Australian artist and sculptor, the late John Dowie. A room full of books; not a legal tome to be found among them, reflects your Honour's voracious appetite for the written word. Favourite books are read and re-read. Samuel Beckett, Oscar Wilde, Simone de Bovoiv, Kazuo Ishiguro and Virginia Woolf. It is indeed, "A room of one's own".
- 23 Your Honour's love of language and the cadence and beauty of words, inspires you to put pen to paper, writing short stories and other works of fiction; writing judgments should be a breeze. Growing up in the leafy eastern suburb of Tasmore in Adelaide, it was obvious from an early age that your Honour was not an average student. In your first year at Lyndon Infants School at the tender age of four years, all the children were given flash cards on which they could print the first word that they wanted to learn and then practice. The Adelaide Festival of Arts program was being

promoted at the same time. While other children were selecting words like ladder and house, your Honour chose Salzburg Marionettes and, of course, had to be issued with a flash card about a metre long.

- 24 Your Honour attended Walford Anglican School for Girls, where you served on the Students' Representative Council and won numerous prizes, culminating in dux of the school in 1979. There was still time for tennis at Tusmore Park, hockey games and debating such topics as, 'The Hand That Rocks the Cradle Rules the World'. There were school productions under the direction of the dynamic and progressive English and drama teacher who made sure that the girls, rather than the boys from a neighbouring school, were awarded the best roles. In keeping with the theme of disorder, it is fitting that in year 11, your Honour played the role of Demetrius in Shakespeare's, a Midsummer Night's Dream.
- 25 This was a theme revisited when your Honour studied English literature as part of your arts/law degree at Adelaide University. During the school holidays of your final year, your Honour spent several months in Germany after winning a Goethe scholarship. You returned with what has been described as a dose of liberation, the details of which were never revealed to family members. It was around this period that your Honour would spend time huddled in the corner of the dining room, listening to the stereo with headphones, lost in the sultry tones of Marlene Dietrich and torch songs which your Honour would then reprise in fluent German.
- 26 To complete this image, your Honour would be sporting your favourite outfit at that time, grey King G overalls with a touch of lace at the front and knitting with what could be described as 'cricket wickets', a large open weave garment from raw wool that you had spun yourself. Your brother, Stuart, never benefited from the fruits of this labour. More recently, your spinning has been confined to 'spin' classes on a stationary machine. Not overly sporty as a child, nowadays, without a stint at the gym doing pump classes or laps at (Boy) Charlton Pool, your Honour doesn't feel fully equipped for the day.

- 27 Given your upbringing, education and personal characteristics, it's not surprising that your Honour entered the profession of law. Perhaps your father, having been on the end of your cross-examinations and noting how much you enjoy the cut and thrust of argument, may have had a role in influencing your decision. The profession is all the richer for your career choice. After backpacking around Europe with sister Francis, your Honour enrolled in law and arts at the University of Adelaide, graduating with First Class Honours and winning the rarely awarded law faculty's highest honour, the Stow Medal.
- 28 Admitted as a practitioner in 1986, your Honour was recruited by the Commonwealth Attorney-General's Department, working in Canberra as a Government Solicitor for two years. In 1987, your Honour taught property Law at the ANU and in 1989 Constitutional Law at the University of Sydney. As we have heard, your Honour joined the Bar in 1989 and was appointed Senior Counsel in 2003. Your Honour has made an outstanding contribution in many areas; the Counsel of Law Reporting, acting on behalf of the Bar Association and the Health Care Complaints Commission with regard to professional misconduct cases; the Australian Competition and Consumer Commission and the Independent Commission Against Corruption.
- 29 In addition, your Honour has taken up many cases in the public interest and has frequently appeared in the New South Wales Court of Appeal. Whether it is acting for the Environmental Defenders Office of New South Wales in the Administrative Appeals Tribunal with the aim of protecting endangered grey nurse sharks, or encouraging more women to join the Bar, a unifying aspect is your Honour's commitment to social justice and the greater community good. Your Honour has always been very supportive of women and the function they play in terms of presenting a different viewpoint, of being persuasive advocates without being excessively strident.

30 Your Honour takes a strong mentoring role in encouraging junior barristers to be the best that they can be. Perhaps this harks back to your youth when you and your sister attended the 'Women in Politics' Conference in Canberra in 1975. As your mother stated in the book, Women's Electoral Lobby, 21 years in South Australia 1972 to 1993; We marvelled at the intellectual stimulation and the feeling of common purpose that was generated there. Your Honour is known to be a very generous and caring person, devoted to family, highly respected, and highly regarded as a member of the profession and of the community. Your colleagues describe you as decisive, forthright, incisive, perspicacious, intellectually honest and always charming and incredibly well mannered. These are the characteristics that auger well for your new role on the Bench.

31 It seems fitting to remind your Honour of the poem that you contributed to the Walford Anglican School Year Book of 1979, titled; Metamorphosis. Once again I quote:

"You stand with your foot in the door of the world, knowing that behind you is the impetus which will enable you to pass through."

Your Honour, the solicitors of New South Wales congratulate you on your appointment and wish you every success as a judge of this Court. As the Court pleases.

32 **ADAMSON J:** Chief Justice, your Honours, Mr Coles, Mr Westgarth, members of the profession, ladies and gentlemen. Thank you, Chief Justice, for your words of welcome. Whether one is inclined to accept an invitation depends both on the person who issues it and its timing. Although I had a vague thought that being a judge was something I might like to do when I was older, it was not something I was expecting so soon. When the Chief Justice rang to ask if I would be prepared to be recommended to the Attorney as a judge of this Court, I realised that, at 48, I was already older and that youth was no longer a plausible excuse.

- 33 Many, if not most of you, know how persuasive our Chief Justice can be, and you can imagine how honoured I was by his invitation. In addition, his timing was impeccable. I was counsel assisting a Special Commission of inquiry and hardly a day went past without my hankering for the court room and the delights of the adversary system. So when the Chief Justice assured me that even judges were allowed to go to the gym, the only possible answer was yes.
- 34 Many of the letters which you have been kind enough to write, have implied that my appointment was inevitable.
- 35 We are familiar with statements from the authorities in joining courts, not to allow themselves to use hindsight unduly. As it happens, the vicissitudes of life – what a lovely phrase that is – could have led me anywhere but here. If it had not been for my mother, I may never have had the confidence, not only to speak in public, but to enjoy it. In her 16 years in the House of Assembly, she was the only woman for three of those years and the only woman on her side of the house for 12 years. If it had not been for her experience and her advice, I may have been discouraged by the relatively low numbers of women at the Bar.
- 36 If my father had not talked me out of going to drama school and encouraged me to do law, I would probably be an out of work actor between roles, serving in a coffee shop at the Adelaide Central Market. If it had not been for my brother and his unfailing kindness and affection, I might not have made Sydney my home. But for my conspicuously successful older sister, Francis Adamson, I may not have had the perseverance and fortitude that her consistent over achievements have engendered in me. Ten years ago I decided to leave the Bar when I lost the case which I wanted to win more than any other. My leader, Noel Hutley, persuaded me to stay and I am very grateful that he did.
- 37 I enjoyed the Bar very much. Indeed, as has been said, those who know me best might regard me as a natural contradictor. When my old English

teacher from school was told that I had become a barrister, she nodded wisely and observed that I had always been disputatious by nature. You have heard from others about my life, perhaps too much about my life. You know from the speeches, if you did not know before, how significant my family and friends have always been to me. I am very fortunate that both my parents and my brother and sister can all be here, as well as many loved ones and friends.

- 38 What I like about being in court is that it is both polite and adversarial. Everyone at the bar table has a right to be heard and will be given sufficient time, as long as they are succinct and to the point. There is no need for aggression, for fighting, for interruption or for impoliteness. Although one sometimes sees belligerence, it can, in my experience, be overcome. One of my juniors actually accused me of killing my opponent with courtesy which sounds rather more violent than I recall it to have been. The court room is one of those rare places where people are actually obliged to answer the question and not just give the answer that is convenient, but the answer that is true. That is not to say that some witnesses don't give the convenient answer first before they ultimately see the benefits or necessity of giving the truthful one. I confess that I have very much enjoyed cross-examination and I shall try to resist the temptation to indulge in it from this day forward.
- 39 I have been fortunate to have a broad practice. Sitting in the Common Law Division will extend my knowledge and my experience. I am grateful and humbled that the Chief Justice has the confidence in me to allow me to sit there.
- 40 I have been much assisted by my juniors. It has always struck me as very unfortunate that one has to take Silk before one is allowed to have juniors. The people who need them most are readers. There is nothing like having some bright person hand one a note when one is stuck for an answer to a judicial question. That is not to say that such notes are always apposite or helpful.

41 Shortly after my marriage ended, I was appearing in the Court of Appeal before three very senior male judges. Just before I finished addressing the Court, my junior leant forward to attract my attention. She handed me a note. There, in her eminently legible handwriting, were the words, "They are all too old for you". Quite a few of you will know who she was. The judges peered down at me and wondered why I was blushing. I can only hope that they could not read the note from their elevated position on the bench. The court officer was roused from his siesta and wondered what he had missed. The presiding judge, who shall remain unnamed, asked me if there was anything further. No, your Honour, I replied, with as much sangfroid, if not savoir faire, as possible.

42 I shall miss working with my juniors, especially that one. It is a joy to be part of a team and to be ably assisted by others in the presentation of a case; the victories are sweeter and the losses are easier to bear.

43 I want to make particular mention of Bell J. I have had some dark times at the Bar and in life and she has helped me enormously. Indeed, she advised me to say yes to the Chief Justice and so, to some extent, she is the reason we are here today. Her Honour is a great inspiration to me and I thank her.

44 I also want to thank the judges before whom I have appeared, especially those I wish to emulate. It has always seemed to me that those who accept judicial appointment consent to have a microscope placed over their flaws. That many judges can withstand such scrutiny and remain patient, temperate, judicial, learned and understanding, is a very great tribute to them. I hope that I can count myself among them.
