

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

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

Wednesday 2 May 2012

**SWEARING IN CEREMONY OF
THE HONOURABLE STEPHEN CAMPBELL
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

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

(Commission read)

(Oaths of office taken)

- 2 **BATHURST CJ:** Justice Campbell, on behalf of all the members of the Court, we welcome you. We are delighted to have you amongst us and hope you have a long and fruitful career as a judge of this Court.

- 3 **THE HONOURABLE GREG SMITH SC MP ATTORNEY GENERAL OF NEW SOUTH WALES:** If the Court pleases. Your Honour, on behalf of the State of New South Wales and the New South Wales Bar, it is a great pleasure that I congratulate you on your appointment to the Supreme Court. Today is a family affair for you. Your wife, Cathy, your four children, Fiona, Joseph, James and Katie and siblings, Meg, Frank and Tom are all here. Only your brother David could not attend, but I am sure he shares the pride of the others in your achievement. Your Honour was born in Glasgow, Scotland, in 1957, the son of Frank and Margaret. Your

parents moved to Australia when you were nine years old, looking for a better life and more opportunities for their children.

- 4 If your Honour's success is anything to go by, they made the right choice. The Campbell family settled in Sydney's southern suburbs, where you attended the local co-ed high school, Kirrawee. You showed early promise, serving as school captain. Your Honour always wanted to be a barrister and attended the University of Sydney to study law. You were admitted as a solicitor in 1982 and now have over 30 years of experience in legal practise. You commenced your legal career as a clerk at White Barnes & McGuire, where you gained valuable experience in workers' compensation claims, as well as common law claims for personal injury.

- 5 After your admission as a solicitor, you worked as a solicitor advocate for the State Rail Authority of New South Wales before moving to the firm of Curwood & Derkenne. After just three years as a solicitor, you were called to the New South Wales Bar in 1985. Your career as a barrister has been spent at Wardell Chambers and William Deane Chambers, where your generosity and consideration for others has made you a popular employer and friend. You are unfailingly polite and always take the time to thank your staff for a job well done, but most importantly, you regularly provide coffee and even sweets for Mrs Campbell. You are on notice that the Supreme Court will be expecting similar largesse.

- 6 It is quite fitting that you will serve in the common law division. Your practise has embraced all areas of liability work, including industrial and motor accidents, occupier's liability, double-insurance cases and policy-wording interpretation. You were appointed Senior Counsel for the State of New South Wales in 2002. Since then, you have retained your interest in personal injury and insurance law, but focused on larger and more complex cases. You have also maintained a strong interest in workers' compensation matters through your appellate practise. You have appeared frequently in the District Court, Supreme Court and in the New South Wales Court of Appeal. You have also appeared before the High

Court on occasion, most recently in *Zheng v Cai* and *Adeels Palace v Moubarak*. And you appeared as counsel assisting the ICAC in Operation JAREK, one of the largest and most complex investigations in the Commission's history.

7 In court, your colleagues describe you as a tough but pleasant opponent, known for a rhetorical flair and sharp memory. You get on well with fellow barristers and juniors and you are always willing to lend a hand to solicitors. The main task of all three is to try to resist your charm and to extract written submissions from you. You are not on your own there. You retain more than a hint of your Glaswegian burr, which has proved both an advantage and a source of confusion. Justice Beazley has been heard to comment that your lilting Welsh accent could make the most outrageous proposition sound persuasive. Your Honour takes great pride in your court appearances and you clearly enjoy the intellectual contests of legal proceedings.

8 However, your contribution to the law does not end there. You have delivered papers at a variety of gatherings, including the State Legal Conference, Australian Lawyers Alliance seminars and the New South Wales Bar Association Personal Injury Conference. Some might consider topics like s 151Z under the magnifying glass a bit dry, but your rhetorical skills and fine sense of humour keep your audiences alert and interested. You have even been known to get some laughs. I can assure you that is no easy feat. You also maintain a number of interests outside the law. You can speak knowledgeably about most sports, but true to your Scots heritage, you have a particular passion for golf. I am not sure why. You openly admit to being the worst golfer at two separate clubs. When I first heard this, I assumed your Honour was being humble, or 'umble. I double-checked with your colleagues, you were not lying.

9 I am also told you are a Beatles fan. Aren't we all? This is not the case. You are, in fact, a Beatles tragic. You have every Beatles cassette, CD, box set and DVD ever produced. Sometimes, two copies. After all, you

are an insurance expert. You have been a member and then chair of the Bar Association's Common Law Committee for a number of years. In your time, you have drafted numerous submissions to government, proposing changes to the *Workers Compensation Act*, *Motor Accidents Compensation Act* and *Civil Liability Act*. Your colleagues on the committee describe you as a charming man and a fine lawyer. They praise your calm manner and strong work ethic. You have even been known to take a complex query on common law while putting on the 15th green. That might help explain your golf game.

10 You have also served on the Senior Counsel Selection Committee. Keith Mason observed that the warning the committee received about the amount of work involved would have escaped the easy toils of the negligence test, but would have struggled with the *Fair Trading Act*. It might have been hard work, but your presence on the committee is a testament to how much the legal profession trusts and respects your opinion. The New South Wales Bar and the New South Wales Government has no doubt that your skill and experience will make you an excellent addition to the bench. Just don't expect an invitation to join the Court's golf team. All that is left for me, on behalf of the Bar and the government, is to wish you and your family all the best. May it please the Court.

11 **Ms ROS EVERETT JUNIOR VICE-PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. The Attorney is always a very hard act to follow and I have been going through striking out half of my words here, your Honour, but I will soldier on. Chuck Berry, the American rock and roll pioneer, as the creator of the famous duck walk, probably did not envisage his leg hops to be replicated on the stage during a performance of Andrew Lloyd Weber's *Joseph and the Technicolour Dreamcoat*. The director of this Kirrawee High School production probably didn't either, but it seems the audience loved it. Playing the lead role of Joseph in his all-singing 1970s production was a young Steve Campbell,

school captain of Kirrawee. I am told Kirrawee is flying a large banner congratulating you this week.

- 12 Now, as the story goes in Joseph, once he tried on the technicolour coat, he knew his sheepskin days were gone. Perhaps the judicial robes your Honour wears today are not quite as colourful as the technicolour coat – well, maybe nearly – but it certainly becomes you and, on behalf of the solicitors of New South Wales, I am delighted to welcome you to the Supreme Court bench. In the 50s and 60s, the lure of the employment, education and housing, better climate and lifestyle saw many immigrants take advantage of the assisted migration scheme, commonly known as the Ten Pound Pom, and your family came to Australia. While around one-quarter of these immigrants later returned to their homeland, your father, Frank, and your mother, Margaret, and your siblings, David, Frank, Tom and Meg, stayed, for which were eternally grateful.
- 13 That is not to say you didn't have a settling-in period. Three months in Adelaide followed by several months in Brisbane, until your Honour's family finally found God's own country in the Sydney Southern Shire. Born in Pollag in the south-western side of Glasgow, Scotland, your Honour was noted for your vivid imagination and loquaciousness, something that obviously endeared you to your teacher, Ms Saint-Monico in Glasgow. Despite having older brothers, your Honour always had a way of disarming them, expressing yourself gently, validating different points of view and demonstrating the ability to see the humour in any situation. Such was your personality, you endeared yourself to everyone.
- 14 In your Honour's high school years, you demonstrated strong interpersonal skills and a leaning towards the humanities and music, rather than sharing your brothers' mathematical and sporting interests. I believe you also demonstrated some skill with the guitar and possessed a good singing voice. Even today, your nieces and nephews say you can still bust a groove, as witnessed by those who attended your 50th birthday party recently, and you treated your family and friends to a commendable

rendition of the Eagles' song, Desperado. Less commendable, as we've heard from the Attorney, but equally enjoyable is your Honour's golfing prowess, despite being a member of Wakehurst Golf Club and owning a property at Blackheath which backs onto the golf course.

- 15 Your Honour owns a small dog, Patch, a Cavalier King Charles Spaniel, a breed renowned for craving human company. However, one wonders if it's more a case of his two-legged owner's fretting for Patch when he attends day care, or enjoys the company of Paul Stockley's golden retriever, Bella, when you venture out at night. Your late parents, Frank and Margaret, were by all accounts remarkable people who sought every opportunity for their children, took extreme pride in each of your accomplishments and saw the value of a good education. They would be very proud of you today. While Tom followed in your father's footsteps as a plumber, brother Frank is the Assistant Governor of the Reserve Bank's Corporate Services. David is a nuclear physicist and Assistant Deputy Director-General for the Department for Fusion Science and Technology in France.
- 16 Your Honour has likewise instilled the value of education in your children, Fiona, James, Joseph and Katie, whom we welcome here today along with your beautiful wife, Cathy, who also read with you at the Bar. Cathy was also supportive in your quest to become the incredible disappearing man some years ago, when you shed considerable kilos on a prescribed diet program and exercise, shaved your beard off and sported a whole new set of clothes. As mentioned, your Honour started as a law clerk with Francis White Barnes & McGuire after completing the Barrister's Administration Board diploma. Co-workers described your Honour as a quite young, shy man who diligently applied himself to the job at hand. From insurance litigation practice at Curwood & Durkin to being called to the bar in 1985, your practice has focused on personal injury and insurance law and common law. Joining at William Deane Chambers in 2000, one colleague described his first impressions of you as being the "studious Scotsman, career oriented, always courteous and extremely well prepared". The desk

of the 1980s that looked like a bomb had hit it had been replaced by an organised space. Your reputation for an encyclopaedic and photographic memory has been a great benefit to your colleagues in terms of your ability to pinpoint files and refer them to specific page numbers of particular judgments. In fact, a certain District Court judge I'm told suggests it may be quicker and simpler to ask Steve than to consult Estoppel, the paper that formerly published up the law reports.

17 From personal injury cases in the Supreme Court such as representing a former erotic dancer for complications arising from breast enlargement surgery to counsel assisting the ICAC inquiry into Hunter Council kickbacks, your Honour has also gone public on the need to overhaul the greenslip compulsory insurance scheme to divert large profits from insurers to fund compensation for people injured in road accidents. As a junior law clerk, your colleagues did not foresee that you would become not only a powerful senior counsel but a Supreme Court judge. A quiet achiever, once your Honour sets your sights on becoming a silk, the next logical step was the judiciary. As that high school production foretold when Joseph donned the technicolour coat, we all dream a lot; some are lucky, some are not but if you think it, want it, dream it, then it's real. Your Honour, I trust you will continue to live the dream. May it please the Court.

18 **CAMPBELL J:** Chief Justice, your Honours, Mr Attorney, Mr Coles, Ms Everett, ladies and gentlemen. I feel a little like you, Ms Everett, because having heard the wonderful speeches from the Attorney and from you, I think that what I have toiled over these last few days might be redundant. I do hope that you will all bear with me if it sounds just a little repetitive. I would like to thank you, Mr. Attorney for your words of welcome on behalf of the State and the Bar and also you, Ms Everett, for your welcome on behalf of the solicitors. May I say this, I know it is customary on these occasions to ensure the pudding is generously egged. However, you must appreciate that most of the people present here know me well. And I rather feel that they may now think they have come to the wrong place,

and that the real Stephen Campbell is being sworn in somewhere-else in some secret location. But sincerely, thank you very much for the warm welcome.

19 Could I simply add that your speeches are a testament to the ingenuity of the profession, given that you must have worked very hard to make me sound, possibly, interesting. I am just a little uncomfortable, however, as I sit here amongst my new colleagues, acutely aware from appearing before them on many occasions, and always coming second best in the legal debates, that they are possessed of accomplishments beyond merely legal attainment. I am not able to say the same thing about myself, and that is not only about golf. My only qualification for this office is the bare legal qualification. However, as the Attorney said, it is true to say that putting aside boyish ambitions like driving racing cars or being a jet pilot, the only thing I ever really wanted to be was to become a Barrister. And that might seem a slightly strange ambition for the fourth of five children of ordinary working people from – as you have been told – Glasgow. So it is hard to explain how I achieved that ambition and now have been sworn in today as a judge of the Supreme Court of New South Wales.

20 As has been said, we owe everything to our parents and our parents were greatly ambitious – not in a bad way – for my brothers, my sister and I to improve our lot in life. I think this can be put down to being a child, in their case, of that generation who grew up during the Great Depression and the Second World War. My father, Frank was born in 1930 and my mum, Margaret in 1932 and they both hailed from working class areas of Glasgow. Dad from Ibrox and Mum from Govan. For the football aficionados amongst you, even though dad was – as it were – born in the shadow of Ibrox Park, he was a lifelong supporter – some may say the number 1 ticket holder - of the team from Parkhead, the great Glasgow Celtic. Mum and Dad married in 1951 and at that time, dad was a journeyman plumber working in the shipyards on Clyde-Bank and Mum, as it was then put, was an office girl.

- 21 As I have said, they had a strong beliefs and they, after the Second World War, felt – like I think people in the western world everywhere – that a better place was now beckoning and with that hope and optimism, they were certainly resolved that the world would be a better place for their children. That determination expressed itself by inculcating into us the idea that by education you could better yourself and realise your ambition; Mum, in particular drummed this into us.
- 22 It was this same resolution that brought them to Australia in 1966. They were only then in their early to mid thirties. When they left Scotland, Dad had built a comparatively comfortable life for his family through his hard work at his trade as a plumber and by working a second job selling insurance at night. I think they had no great desire to leave family and friends, hearth and home but they considered that the opportunities would be better for their children in Australia. So we emigrated arriving at Port Adelaide on a cold night in May 1966 with all of our possessions in a number of sea chests Dad had built himself. With all due respect to my colleagues and friends from Adelaide, I have to say that that tableau I have just painted did not quite measure up to the brochures that Australia House issued to prospective emigrants considering Australia as a new home in the 1960's.
- 23 Inevitably Mum and Dad, and I think all of us, were home sick and after three months we moved to Brisbane by train where we had family. On the way we stopped off for one day only in Sydney to reunite with friends from our street in Glasgow. And I remember it well even today. It was one of those magical bright sunny Sydney winter's days and touring the sights of this great city in the company of friends, well, really did capture those brochures. Consequently we never really settled in Brisbane and by May of 1967, as you have heard, the family had returned to Sydney to live at Kirrawee in the Sutherland Shire. Dad had to requalify as a plumber which he cheerfully undertook, and afterwards worked as a sole-trader. In what

now may sound clichéd, Mum and Dad, in time, really came to regard the Shire - as everyone who lives there always calls it - as “God’s Country”.

24 You have also heard that my three brothers, my younger sister and I were all educated at Kirrawee High School. It was a fine government school, staffed by dedicated teachers to whom I personally acknowledge my own indebtedness. You have heard about the family success. David, the eldest – and it must be said, he unfairly got more than his fair share of the brains in the family - was dux and has gone on to great things in plasma physics. I won’t repeat the details that you have heard. Frank was also captain at Kirrawee before me, he obtained first-class honours degree in Economics from Sydney University and he has had a distinguished career at the Reserve Bank, where he is now an Assistant Governor. And I can also add he is a good, true and upright man. Tom followed Dad into the plumbing trade, and Meg undertook secretarial studies after leaving school. Like our Mother she is a proud mother and grandmother today. I am glad to say all of my family have done well and, I think that the fact that we have done well truly justifies Mum and Dad’s confidence in their adopted home, Australia.

25 You have heard about my career as a solicitor’s clerk and a solicitor, so I will not repeat it. I hope, Mr Attorney, this is the only time I will have to correct you in court, but I performed poorly at the University of Sydney Law School. It would be unfair to the university to say that I dropped out. I think there is another word for it. But I was not quite done with the legal profession yet and I decided I would try and get a real job and see if I fared any better in that capacity. I answered an ad in the paper – the Sydney Morning Herald – for a job as a legal clerk at what was then called Messrs. Francis White, Barnes and McGuire and, contrary to all expectations, I was employed. I see that Stephen O’Halloran is here today. He is still a partner with the firm and I am very pleased to see him. I worked for John, later McGuire J, of the District Court. I like to say, normally in less polite company, that I still have the welts to prove it. Those who knew his

Honour would agree that he was a strong and determined man. But his tough, perhaps irascible, exterior cloaked a warm and compassionate human being. But I am not letting him off the hook so easily, the great late John McGuire. When it came to dealing with law clerks he had a “take no prisoners” attitude, so you had to shape up or ship out and I assume he must have thought I had shaped up a bit.

- 26 My short time at the SRA wetted my appetite for my original ambition of the bar but I was, for a time, diverted by my good friend, Brent Hedges, who told me about a job going at, Curwood & Derkenne, where I got to see the other side of the record in my three years there. I worked for Warren Derkenne and Warren was an interesting man, using the word “interesting” in the Chinese sense. Notwithstanding his deep understanding of human psychology, or perhaps because of it, he could be extremely difficult. But he had, I thought, a gift for written expression in plain English, rather than legalise, and he did his best to get me to write in a similar way.
- 27 I was not very happy doing solicitor’s work and I came to the bar, as you have heard. I need to say that I read with Larry King (now SC) and Larry is not only a wonderful advocate, a good lawyer and the very best of blokes but he is also the epitome of everything a pupil master should be. It is no wonder he had a legion of readers, many of whom have taken Silk. It is always one of my proudest boasts that I was the first of Larry’s readers. He was generous to a fault; he was the only Senior Junior during those early days for whom I was inveigled to do some devilling work who insisted on paying for it on “the noggin”. This was, as you can imagine, a great help during those early months of exceedingly insipid cash flow.
- 28 Like most Barristers, I do value the camaraderie of the Bar and I was very happy at both chambers, Wardell Chambers and William Deane Chambers, and I really value the friendships I formed there. Since I have taken silk, I have greatly enjoyed working with the many juniors. It was my pleasure to lead them. Many of them are very good friends of mine today

and I am very pleased, looking around this courtroom, to see so many of my former brothers and sisters in arms at the bar present.

- 29 One cannot practice without a clerk and I suppose it will come as no surprise, given that I enjoyed some success at the Bar, that I have a very high opinion of barrister's clerks. In the old days, I used to make the joke that I worked for my clerk and, to some extent this was true, especially in your formative years, when you were liable to be sent anywhere at any time to do something you knew very little about. This phenomenon started with the first of my clerks, Karen Templeman – now Conti – and Karen simply refused to see me sit in chambers contemplating paper work when there was a case to be run somewhere, anywhere, and there was a possibility that I could earn a fee out of it. Some of my solicitors, and others, might think she has a case to answer.
- 30 Margaret Ashford took over as the clerk for 15 years. She is now the clerk at sixth and seventh floors St James Hall and was a wonderful clerk and very supportive. Trish Hoff was the dynamic clerk at William Deane Chambers when I arrived there in the year 2000 and was my clerk when I took silk in 2002. Like Margaret, Trish and her recently late husband, Ian, remained good friends throughout the years. Ian regrettably died from the effects of mesothelioma just recently, which he contracted whilst serving in the Royal Australian Navy. Megan Robinson has been my clerk since the chambers moved to level 3, 167 Phillip Street seven years ago; another good friend, her virtues as a clerk include the fact that she is extremely down to earth and practical in her approach. Things which stand her in good stead, I think, when dealing with prima donnas at the bar.
- 31 I should say that my room in Chambers, and my practice, would not have functioned with whatever semblance of efficiency I managed to achieve without the hard work of my personal assistant over the last 15 years, Poppy Xenakis. Poppy kept a tight reign on the business side of things, and I can assure you, scolded me appropriately when she thought I wasn't

working hard enough, particularly in chambers. She and her husband, Manuel, have become close friends of ours and I am very delighted that Poppy has agreed to come to the Court with me as my associate.

- 32 One could not practice at the Bar without the hard work and support – forbearance, perhaps – of the solicitors of New South Wales. I need to say, that in working with me, they did prove themselves to be a hardy, patient and forgiving bunch. I know the exasperation level rose like mercury on a February day on occasions. I hope I will not offend the many other excellent solicitors who briefed me over the years if I mention two. First my old friend Brent Hedges, formerly of Curwoods and now of Walker Hedges; Brent and I studied law together at the SAB and BAB courses and, as I have said, at one stage worked together. Through all the ups and downs of one's career at the Bar, he remained loyal with a steady flow of briefs and a wide variety of cases and I want to thank him for his unswerving support.
- 33 The other is Peter Utiger of Moray and Agnew at Newcastle. Peter favoured me with a lot of challenging work at first instance, and on appeal. I think that Peter really gave me my start to become some sort of appellate advocate. The work was often challenging, but I hope he will forgive me for saying that sometimes the largest part of the challenge was negotiating with Peter about his expectations in relation to the likely outcome of the case. Having said that, he has always been gracious in defeat as in victory and I am grateful for his strong support over the years.
- 34 I am very proud of each of my four children Fiona, Joseph, James and Katie. Like all fathers I can say they have always been a source of joy to me, not necessarily constantly. But I say that because they so admirably fulfil the primary obligations of children towards their father - to keep his feet on the ground, his head out of the clouds, and his hand in his pocket - I am very glad they are here.

- 35 There are some aspects of life which are too private to be spoken about publicly but I do wish to say that whatever I may have achieved these last few years in my professional and private life is in no small measure due to the love, help and support of my wife, Cathy. I am very pleased that so many of Cathy's family are here today; in particular, that my mother-in-law, Rita Hobbs is present. Rita is soon to celebrate her 90th birthday and given that my own parents are no longer with us, it is great to have Rita here representing the older generation.
- 36 I wish to thank you, Chief Justice for having confidence in my capacity to fill this high office, and for supporting my appointment to it.
- 37 May I say to you all that I have been completely overwhelmed by the letters and other messages of congratulations that I have received from Judges, past and present, members of the profession, family and friends following the announcement of my appointment. I have been greatly touched by the warmth of the sentiments expressed. May I assure you all that I greatly value your good opinion, and your goodwill. I will seek to justify it in my future work.
- 38 I am conscious that today I join one of the world's great legal institutions. It is great not only because of its nearly 200 years of continuous service in the administration of justice and maintenance of the rule of law in our free and democratic society; it is also a great institution because of the accomplishment, scholarship, and conscientiousness of the men and women who constitute it. Contemplating my new colleagues I confess to feeling a little hesitant about my ability to measure up to the high standard which they each set in their service to the people of New South Wales. In accordance with the oaths I have taken today, may I assure you all that for the whole term of my appointment I will strive to emulate their example.
