

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

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

Monday 12 March 2012

**SWEARING IN CEREMONY OF
THE HONOURABLE JUSTICE ROBERT BEECH-JONES
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

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

(Commission read)

(Oaths of office taken)

- 2 **BATHURST CJ:** Justice Beech-Jones, on behalf of all the judges of the Court, I would like to welcome you to the Court. It is a privilege to have someone of your intellectual standing and integrity join us, and we hope you have a long and fulfilling judicial career.

- 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 it is my great pleasure to congratulate you on your appointment to the bench of the Supreme Court. I also extend my congratulations to your wife, Suzie, and children, Gabriel and Sasha. I understand that your parents, Michael and Joan, and one of your three brothers, David, are also here today, enjoying what must be a satisfying moment for you and for them. There is an advertisement currently running

on television for James Boags beer that lauds the mystical qualities of the water in northern Tasmania. As St Patrick's Day approaches I am reminded of the similar mystical qualities of the water of the River Liffey, used for brewing Guinness.

- 4 I can only presume that your Honour also benefited, having spent your childhood years in the settlement of Savage River, a small mining town in the wilderness of north-western Tasmania, where you attended Wynyard High School. Savage River is famous for its iron ore deposits and extreme isolation, but its charms could not hold you for long. In 1981 you left, headed for the bright lights of Burnie, where you attended Hellyer Matriculation College. You then secured an undergraduate scholarship to study law and science at the Australian National University. You graduated with Honours in 1988, having taken out the Commonwealth Constitutional Law Prize, the Evidence Law Prize, and the AN Tillyard Prize for outstanding contribution to university life.
- 5 Luckily for us, you decided to practise law in Sydney, where you have since enjoyed a distinguished career spanning almost a quarter of a century. Initially you worked as a solicitor for Freehill Hollingdale & Page, now Freehills, before moving to Craddock Murray & Neumann in 1990. Then, after just four years as a solicitor, you were called to the New South Wales Bar in 1992. Your career as a barrister has been spent at 11th Floor, St James Hall. You will find many familiar faces on the bench, including former St James Hall occupants the Honourable Justice Peter McClellan, Chief Judge at Common Law, as well as the Honourable Justices Hammerschlag and Rein.
- 6 You were appointed senior counsel for the State of New South Wales in 2006. You practised primarily in the areas of commercial law, regulatory enforcement, whitecollar crime and administrative law. However, you remained committed to the view that a good barrister should have a wide breadth of experience and be able to appear anywhere. This belief is reflected in the wide variety of legal proceedings you have been involved

in over the years. Your name is associated with a number of landmark cases. You appeared as counsel for the Minister in the High Court appeals *SZBYR v Minister for Immigration and Citizenship* and *SZFDE v Minister for Immigration and Citizenship*. Very anonymous cases, if I might say so.

- 7 You also acted as counsel for former Guantanamo Bay detainee Mamdouh Habib in *Habib v The Commonwealth*, in his suit against the Federal Government, and as counsel for Christina Rich in one of the largest sexual harassment cases in Australian history, *Rich v Price Waterhouse Coopers*. You have acted for the Australian Securities Investments Commission on a number of occasions, including as counsel for ASIC against senior executives of GIO Insurance in *ASIC v Vines*, and in trial and appeal proceedings against former directors of James Hardie. You also performed the role of counsel assisting the Royal Commission into the collapse of HIH from 2001 to 2003, and have acted as counsel assisting the Independent Commission against Corruption.
- 8 Asked to describe your style in court, colleagues comment that you look more disorganised than you really are. I think we share something there. I have no doubt this is a clever ploy designed to casually disarm your opponents, because above all else your peers emphasise that in a profession renowned for its academic excellence you stand out as being bright, exceptionally bright. And while you take great pleasure from the intellectual challenge of court proceedings, your contribution to the law extends far beyond the courtroom. You are a passionate defender of human rights, serving as a member of the New South Wales Bar Association's Human Rights Committee in 2011.
- 9 You were also a member of the Bar Association's Professional Conduct Committee – or one of them – for a number of years, where you took on a number of large investigations. You were highly regarded by your colleagues, who describe you as a genuine asset, a delightful man, with a fine sense of humour. The Professional Conduct Committee also

remembers you for your excellent writing skills. You have contributed numerous articles to the Australian Institute of Administrative Law Forum, and while you may never equal the achievements of your wife Suzie, who has won the prestigious Kitt Denton Fellowship for excellence in performance writing, the legal community still appreciates your efforts.

10 However, the law is not your only passion in life. Growing up in Tasmania you formed an early obsession with Australian Rules Football. You have maintained this connection into your adult life and coach at your son's AFL club, the East Sydney Junior Bulldogs. I see the Canterbury Bulldogs had a great win on Saturday. You support Sydney's own red and white, unless they are playing the Blues. And your knowledge of AFL is described as encyclopaedic. In fact, I have it on good authority that not only can you recite every premiership-winning team in AFL and VFL history, you also saw fit to demonstrate this talent in your wedding speech.

11 And while only a recent convert to running, you have already successfully completed half marathons and participated in Sydney's iconic City to Surf. I trust you will continue to find the time to enjoy these pursuits. Outside the sporting arena you are renowned for your dazzling mathematical ability, with a Bachelor of Science to complement your qualifications in Law. Your colleagues speak fondly of your willingness to bore them with complex mathematical principles over lunch. I am told that should I ever need to calculate the angles required to send a rocket to the moon, you are the person to ask. On a more serious note, you are renowned for your keen intellect, attention to detail, and logical mind.

12 At the same time you remain down to earth, approachable, and willing to share your expertise with others. Sounds like a judge in waiting. Perhaps there was something in the water of the Savage River. Your Honour is certainly respected by the bench. I see High Court Justices Bill Gummow, Dyson Heydon and Virginia Bell, and former Justice Michael McHugh in the body of the Court, and various other judges. The New South Wales Bar and Government is convinced your Honour will serve the State of New

South Wales. All that is left is to wish you and your family well. If it please the Court.

13 **Ms ROS EVERETT JUNIOR VICE-PRESIDENT LAW SOCIETY OF NEW**

SOUTH WALES: May it please the Court. On behalf of the 25,000 solicitors of New South Wales I am pleased to add my remarks on the occasion of your Honour's swearing-in to the Supreme Court Bench. It is an appointment that reflects the skills, experience and personal attributes you have gained during your long career. These skills will equip you well in your role as a judge of this Court. May I begin by welcoming members of your family here, and particularly your parents Mike and Joan, who are sitting on the right here, who have travelled from Perth to share in this occasion. Tasmania's north-west-coast town of Wynyard, on the banks of the Inglis River, have been described as the quintessential Australian town, from the sights of the rugged cliffs of the extinct volcano, Table Cape, to the magnificent beaches.

14 For four brothers growing up in such a country town in the 60s, by today's standards life must have seemed relatively simple and uncomplicated. There was footy in winter, cricket in the summer, school days playing under the magnificent old oak tree in the grounds of Wynyard Primary School, and holidays spent riding a bike and camping by the creek. That said, the 60s were a time of great change socially, politically and economically, from the Vietnam War and the reintroduction of the National Service, voting rights for Australia's indigenous peoples enshrined in legislation, introduction of decimal currency and the breathalyser, and the opening of the Savage River iron ore project on Tasmania's west coast.

15 The 60s were also a change for your Honour's family, parents Mike and Joan, who arrived in Australia from Wales in 1963 with your brothers David, Mark and Martin. Your Honour, the youngest of four boys, was born in Wynyard, Tasmania. Your father had a management role at Savage River Mines, during which time the world's longest pipeline, of some 80 kilometres, was constructed to transport metallic minerals. With

no extended family in Australia, your Honour enjoyed a close family relationship, but growing up with three older brothers was not without its challenges. Being the shortest of the four prompted your brothers to dub you The Leprechaun. Belting into another child with your plastic spade in preschool failed to catch their attention, but served only to incur the displeasure of the teacher.

- 16 Nor did your later attempts to fly by jumping off the top of the old garage at Hole win you the Superman title. However, I am advised that your Honour seemed to be blessed with not having to study hard, and always did well at school. In fact, you were less than pleased if you fell below an A in any of your school reports. Your Honour's family moved to Montreal, Canada, in 1975, and stayed long enough to witness the staging of the Olympic Games in 1976, before returning to Australia in 1977. A high achiever throughout your Honour's academic life, you were the recipient of several law prizes at the Australian National University, where you graduated with a Bachelor of Science and Honours in a Bachelor of Laws in 1988.
- 17 Indeed, you and your brothers have all carved out very successful careers. Your eldest brother David also graduated with a Law degree from ANU. He now works in the area of human resources for a company in Melbourne, Mark is an inspector with the Tasmanian Police Force, and Martin is an engineer in Western Australia. Your Honour likewise married a high achiever, the internationally acclaimed playwright and lawyer Suzie Miller, with whom you have two children, a son, Gabriel, and a daughter, Sasha. In recent times your Honour chose to spend 12 months in England, where your wife was working, and fly in and out of Australia to meet your own work demands.
- 18 Your Honour is known to be a prodigious worker, possessing a remarkable analytical mind, and with a great insight into the underlying basis of legal principle. One solicitor, who has briefed you in matters of immigration law, commercial disputes and some administrative law matters over the years has described your Honour as having the most incisive mind of any

barrister he has had the pleasure of briefing. Admitted as a solicitor in 1988, your Honour's early years exposed you to many areas of practice, including criminal law, commercial litigation, immigration law, and industrial relations. However, four years later you were called to the bar and subsequently appointed senior counsel.

19 As we have heard today, your Honour has been involved in many high profile cases in recent years. During some of these long-running and often testing times your Honour still managed moments of levity. For example; During the ASIC and James Hardie directors' trial in the Court of Appeal in the High Court, such was the pressure your Honour was known to work through the night. Your intention to spend the night in chambers was duly noted by colleagues when you were seen donning a poncho over your work clothes. The mystery of the poncho was never truly explained. Was it a mobile blanket to catch an hour's sleep in? Perhaps a source of comfort or inspiration.

20 Whatever the reason, once the poncho came out, colleagues knew an all-nighter was on. For stress relief, there was always the opportunity to polish off the grapes in the chamber's fruit bowl, a visit to the nearby Society Café, or a run to Bondi Beach. Then there is football. Your Honour is forgiven for being an avid Carlton supporter when one remembers there was no Tassie Devils when you were growing up in Tasmania. Fortunately, in your current home State you have a son Gabriel to wave the mighty Swans flag. While your Honour is likely to miss the cut and thrust of barrister work, I am sure your new role on the bench will prove very rewarding and fulfilling. On behalf of the solicitors of New South Wales, I wish you every success. May it please the Court.

21 **BEECH-JONES J:** Chief Justice, fellow judges and honoured guests, I would like to acknowledge the Gadigal people of the Eora nation as the traditional owners of this part of Sydney where we have assembled.

- 22 Mr Attorney and Ms Everett, thank you for your kind words. Such are your powers of persuasion, that for a brief moment I shared in the nice delusion that my life to date has been a mixture of the careers of Murray Gleeson and Kevin Sheedy, with a log-cabin to White House narrative thrown in. Sadly, I am neither of them, nor am I Lincoln, and this is certainly not Gettysburg. You mentioned my old school in Wynyard, Tasmania. The town of Wynyard might resemble Springfield, Illinois, but I think it was a bit more like Springfield in The Simpsons cartoon without the nuclear power plant. It was a good place to live, and the people there looked out for each other. The high school had committed teachers, and the AFL and basketball games at lunchtime were played at State of Origin-level intensity, mixed with an amount of sledging that Steve Waugh would be proud of. It was good practice for the bar.
- 23 As town names go, Savage River always excites interest, but having lived there I can tell you that is where the excitement ended. For me, the major highlight was the arrival of the town's first and only Space Invaders machine. Savage River was a good place to study.
- 24 As you mentioned, I studied at ANU. I will spare you any university anecdotes, mainly because they cannot be retold while my parents are in the room. Suffice to say, the friendships I made there have endured to this day and very much define who I am. I am very honoured that many of my friends from that time have come to this ceremony.
- 25 I was very fortunate to attend the ANU Law School. As everyone in this room knows, it was then, and remains now, the nation's pre-eminent law school. I had first-rate teachers, including Professor Finn, now Justice Finn of the Federal Court, Professors Lindell, Davis and Greig, two professors who later became Commonwealth Ombudsman, Professors Pearce and McMillan, and the incomparable Professor Leslie Zines. His style of teaching included a two-hour lecture devoted solely to the Communist Party case, consisting of a one-hour history of the events that gave rise to that struggle, followed by a Socratic-style testing on whether

we really understood what the case was about. Now, I am not sure if law students today have that luxury, but if they do not, then they are missing out. I would also like to make particular mention of the late Professor Phillipa Weeks, who was not only a fine speaker but a good friend to the students, including me. Her passing was a great loss to legal education in this country.

- 26 As you have mentioned, after law school I commenced work as a bright-eyed solicitor at Freehills, under the supervision of a then very young partner, Geoff McClellan, the brother of the Chief Judge of the Common Law Division of this Court. It seems that after 24 years I have come full circle, and once again I will hopefully be having a McClellan signing my leave forms.
- 27 After a year I rotated to the industrial section under the supervision of John Colvin and Michael Harmer. I spent two years at Freehills, but I felt like I had gained five years of experience. And like the old joke, I am sure my timesheets will corroborate that. I then went to a small firm, Craddock Murray Neumann. Their office was then smack bang in the middle of Chinatown, and I practised in crime and immigration. And to say that that was something of a contrast to Freehills is a bit of an understatement. The solicitor who succeeded me at the firm, a young future comic called James O'Loghlin, found that place to be a treasure trove of comedy which he leveraged into a new career.
- 28 The firm was previously known as Buddin Bates & Muir, and was founded by Terry Buddin, now Justice Buddin of this Court, but who next week returns to being Terry, and I think as we all know has never really stopped being Terry. I would like to honour his contribution to the Court today.
- 29 At Craddocks I worked for two partners. One of them was then known as Crash Craddock but he has now been reborn into respectability as Gerard Craddock SC. Another was Greg Murray, who ran an entire practice very successfully without ever having picked up a pen. Sadly, Greg passed

away last week after a battle with cancer, and by all accounts he faced his disease in his usual phlegmatic style. He will be very much missed.

30 I started at the bar as a reader on 11th Floor St James Hall, or as it is more well know, The 11th Floor. I have been there ever since. I have no doubt that for many aspiring barristers access to the floors at Phillip Street can be difficult, even daunting. However, for my part I knew only one door, I knocked on it, and it was opened with a warm greeting. Holding the door handle was one of my tutors, David Robinson. He tried to teach me about an amorphous body of legal myths and legends called equity, something I still do not quite get. Back then, I was apparently young and thin with a full head of hair. David and his partner Ginta took pity on me for being in a city with no family and tried to compensate by over-feeding me. The rest, as they say, is history.

31 Present on that floor was an all-singing all-dancing attack machine called Hammerschlag, which some of you may have heard of. There was a wily, no-nonsense campaigner called Philip Biggins, and an overworked David McGovern, who handed you last-minute briefs that emitted a very loud ticking noise. There was an incredibly busy young junior called Robert Newlinds, who found time to marry our best clerk and take her away from us. He then left the Floor with our star recruit, Andrew Coleman, to help set up rock star chambers, aptly positioned on top of the Reserve Bank. Just after I finished the Reader's Course he flicked me a brief the morning of the trial, which I was sort of grateful for. As I was preparing for it in my room I heard some sort of commotion downstairs. I later learned that that noise was the riot that broke out in reception when news of my involvement had been passed onto the clients. One of the clients, an otherwise mild-mannered Reverend from the north coast, had apparently shouted, "This is the worst day of my life" before breaking into tears. The details of this scene of woe were kept from me before the hearing because it was thought it might unnerve me a little. There are some things it is better for the barrister not to know.

- 32 Even though we had some defections, the Floor's talent scouts did their work well. As we heard, we had some Gary Ablett-style lateral recruits in Peter McClellan QC – now Chief Judge of the Common Law Division, Nigel Rein SC – now Justice Rein of this Court, and later Martin Einfeld QC, who took over the thankless task of head of chambers. We also did well in the first round draft picks: Gail Furness SC, Peter Newton, James Duncan and Professor Reg Graycar are just some of the very fine counsel who came, and not only prospered, but most importantly made the Floor a nice place to be.
- 33 Of course, the real work of tending egos and herding cats on a barrister's floor is done by the clerks and the support staff. Our floor was no exception. I would like to make special mention to Michelle Newlinds (see the earlier reference to Robert), Sarah Wiles, Sally Newman – and who later returned as my secretary – and the current clerk, Ian Belshaw. I received great support from my secretaries, June Foster, Patrice Anderson and Anne Middleton. Their ability to read my writing and put up with my mess was nothing short of miraculous.
- 34 I spent four years as a solicitor before coming to the bar. I used to think that I had an understanding of the solicitor's perspective when they briefed me. I now think I was completely wrong. From a number of solicitors – most notably Brigitte Markovic, I have learnt that not only are there important litigation skills that barristers just do not have, there are important skills they do not even know they do not have.
- 35 One thing that saved me from disaster over the years was excellent leaders, and then even better readers and juniors. I was lucky enough to be led by a number of fine silks, including John Basten QC, now a Judge of Appeal, Jeff Hilton QC, Neil Williams SC, Justin Gleeson SC, and the Commonwealth Solicitor-General Stephen Gageler SC.
- 36 Taking silk was just like starting out as a reader; at the start the briefs were often late, second-hand and just about to explode. I was saved time

and again by excellent juniors such as James Emmett, Anne Horvath, Nick Bender, David Lloyd, Jonathan Kay-Hoyle, and my star ex-reader Kate Morgan. I hope I get the same assistance from them when they appear before me.

- 37 After this speech, the only people who have to listen to my war stories will be my associate and my Tipstaff, so I will just have a stab at it two last times. On the ides of March 2001, a certain insurance company slipped quietly into provisional liquidation, but then all hell broke loose. The government set up a Royal Commission, and a number of barristers, including me, found ourselves assisting an inquiry that was really 150 commercial cases rolled into one. The counsel and solicitors I worked with were all first-rate. Amongst the counsel, two have since been appointed judges of this Court, Justices White and McCallum, one was later appointed a judge of the Supreme Court Victoria and then the Federal Court, Justice Dodds-Streeton, and our leader in every sense, Wayne Martin QC, is now the Chief Justice of Western Australia.
- 38 The Royal Commission was presided over by Justice Neville Owen of the Western Australian Supreme Court, now retired. Royal Commissions are pretty rough affairs. I have acted for clients on the receiving end of some inquiries since then, and I have seen the damage to reputations and livelihoods that they can do. Justice Owen thought long and hard before making adverse findings. He was the model of fairness throughout that inquiry, and it was that quality, more than anything else, that led to a general acceptance that his report represented the truth about the collapse of HIH.
- 39 A few years ago, Tony Bannon SC and I, and our merry team, slugged it out in a six-month hearing, most of which involved seven days a week, 18 hours a day, sometimes 24, against a truckload of highly-skilled, fired-up opponents. The two rounds of appeal that followed were no let-up either. Everything I would like to say about Bannon is simply inappropriate for a

swearing-in, so that will have to wait. I can only record my thanks for his blood, sweat and tears, and those of the rest of that fine team.

40 I am fortunate to have close family here today. My parents-in-law, Robert and Elaine Miller, have come from Melbourne to provide support, as they always do.

41 As you heard, also present are my brother David, his partner Jenny, and my niece Brownyn. They have come from Melbourne as well. David studied Arts/Law at ANU, and in doing so became the first person in the entire history of both sides of my parents' family to attend university. That was not an easy path, but by walking it he made it much easier for my brothers and I to follow if we so chose.

42 My brothers, Mark and Martin, cannot be here due to work and family commitments. As you heard, Mark is an Inspector of Police in Tasmania. I suppose I can look forward to a healthy dialogue on the state of the criminal justice system with him, but that will be nothing compared to the passion created by the ongoing debate between us about the relative merits of Carlton and North Melbourne.

43 With me in Court today are my parents, Michael and Joan, my children Gabriel and Sasha, and my wife Suzie. As a son, father and husband, I have been loved and believed in.

44 As you heard, in 1963 my mother stepped off a 40 hour flight from the United Kingdom at the grand old age of 23 with my three elder brothers, all of them under the age of five. My father had come out on the boat looking for work six months before. They came looking for better opportunities for their children. They found them, sometimes in some pretty remote places. But wherever we were, it was always the whole world to me, and I always felt like I was the most important thing to them. For my parents, faith, family, community and devotion to each other are not just key performance

indicators, but values they have lived every day for their whole lives, I am grateful for having the opportunity to acknowledge them in public.

45 Just over a month ago, my children both started new schools. New schools, new uniforms, new curricula, new friends, and an impressive amount of homework. As I sit here dressed in red, I am just beginning to appreciate how daunting that can be. They both have great courage, and Suzie and I are very proud of them.

46 My wife Suzie is not only the rock upon which our family is founded, but she is the blazing star around which we all orbit. She has more Google hits than anyone I know and, like the proverbial mayfly, she achieves in a day what for others can take a lifetime. The most common reaction of people who meet her is to think that I must be more interesting than I appear to be because I am married to her. She has put up with the worst aspect of being married to a barrister, which is not so much the lost hours, but having a partner physically present but whose mind has drifted somewhere else a long time ago. She is the love of my life, and I cannot thank her enough, especially for the wholehearted support she has given me for the significant step I am taking today.

47 Ninety-eight years ago my maternal grandfather, John Griffiths, stepped out of his front door on what was undoubtedly another cold, wet day in North Wales, walked a number of miles down the road, descended a mineshaft, scrambled a further distance to the coalface, and commenced the first day of his working life. He was 12 years old, the same age as my son Gabriel is now. He was a kind and devout man, and I got to know him well in later life. It was only very rarely that one could detect in him any hint of bitterness at a system that robbed him and his workmates of their childhoods. I think if he were here today he would marvel at the course of events and social advances that have led to his family being on the other side of the world and having opportunities that he could only have dreamed of. Most of those opportunities were not gifted, but fought for, by

him and people like him, here and overseas. If there is a role model for decency and humility as a judge, it is my grandfather.

- 48 I am greatly honoured to join the Supreme Court of New South Wales. The greetings I have received from the Chief Justice, the head of the division and all the judges have been extremely warm. Their support, and that of the Court staff, including my new associate, Susie Packham, has already made the collegiate atmosphere of the Court very real to me. My fellow judges maintain a high standard, and I will strive to do likewise.
- 49 But now, the time for me to talk is over, and the time for me to listen has commenced. Thank you for honouring me with your presence today.
