

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

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

Monday 3 November 2014

**SWEARING IN CEREMONY OF
THE HONOURABLE JUSTICE HELEN WILSON SC
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

1 **WILSON 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.

(Commissions read)

(Oaths of office taken)

2 **BATHURST CJ:** Justice Wilson, on my own behalf and on behalf of all the judges of the Court, we welcome you to the Court. We hope you find your career here an enjoyable and satisfying one.

3 **MS JANE NEEDHAM SC PRESIDENT NEW SOUTH WALES BAR ASSOCIATION:** On behalf of the New South Wales Bar Association and the barristers of New South Wales, may I welcome the appointment of the Honourable Justice Helen Wilson to the Supreme Court. Your appointment, with your expertise in criminal law, is one which will enhance this Court.

4 When I first heard of this appointment, I did however wonder if New South Wales courts might be imitating the ABC's *iview* service, offering full-length catch up shows for those who missed the first time around.

- 5 Upon collecting my thoughts, I recalled that a rapid progression from one Court to another is not unprecedented. Sir William Deane, who was appointed to the Equity Division of this Court in February 1977, went to the Federal Court just two months later. Justice Price has gone in a number of directions and like the Honourable Justice Latham, the Honourable Justice Rein, and numerous acting justices of this Court, such as perennial acting judge, Jane Mathews, Justice Wilson brings with her the invaluable experience of having sat as a trial judge in the District Court.
- 6 Justice Wilson, your spell on the District Court was all too brief. One wag said to me, "We did but see her passing by". Yet, I am told that your Honour made an immediate impression on those at the bar table, that from day one you presided with an air of authority and composure. One example relayed to me, was your decision to hand down a non-custodial sentence in a recent matter concerning an Australian soldier suffering from PTSD. By all accounts, your weighing of the service record of the accused, and the likelihood of treatment and rehabilitation, produced a fair and just outcome.
- 7 Justice Wilson, today's swearing-in is important, in more than one respect. Appointments to the Supreme Court are not frequent, and those involving women are more infrequent still. So it gives me added pleasure to welcome an appointment that rounds out a Women's First XI on this Bench.
- 8 It is safe to presume that all judicial appointees in this State are learned in the law and have a wealth of experience in private practice. The people of this State are fortunate that Chief Justices and Attorneys General, both past and present, have a deep pool of talent from which they can draw when the need arises.
- 9 Naturally, the Bar welcomes today's appointment of a former Crown Prosecutor with a formidable breadth and depth of experience in criminal

law, and a reputation for being a daunting cross-examiner, but of equal assurance to the community, and to the legal profession in particular, are the various qualities collectively known as, “judicial temperament”, encompassing a strong ethos of public service and common sense, not to mention courage.

- 10 I was told of an experience your Honour had, possibly apocryphal, when much younger and living in then not so gentrified area of Kings Cross/Darlinghurst. I am told that your Honour gave up on preventative security and resorted to deterring intruders onto your terrace house balcony with well-timed blows to their hands with a heel of a shoe. I am sure that this instance of judicial courage will stand your Honour in good stead when dealing with counsel spats on the admission of evidence.
- 11 Empathy is an essential quality for a judge and fortunately for me, a surfeit of stories circulate at the Bar regarding your Honour’s compassion, whether it be for those appearing before you or the stray and injured animals. In the Hunter Valley, you are well-known for rescuing superannuated racehorses from the knackery and caring for them on your property. I have heard that while driving to a trial in East Maitland, your Honour picked up an injured bird by the roadside which you cared for in a box at the Bar table.
- 12 Your Honour, the salient features of your career were mentioned in your earlier swearing-in, in the other place, and out of consideration to those who might have attended both, here I shall state them only briefly.
- 13 Your Honour considered studying medicine but instead chose Arts and Law at the University of Sydney. You volunteered to work at the Redfern Community Legal Centre, where you answered phones, helped solicitors with legal research and took instructions from clients needing assistance. At that time, Virginia Bell was principal solicitor, and you were in the company of such people as Simon Rice and Andrew Haesler, now Judge Haesler of the District Court.

- 14 You were admitted as a solicitor of the Supreme Court of New South Wales in December 1989. Your first role was as a solicitor in the Criminal Division at Legal Aid between 1990 and 1992. The next seven years of your Honour's career was spent in the office of DPP, where you served as senior solicitor between 1992 and 1995, then managing lawyer at the Campbelltown branch from 1995 to 1997, before rising to the rank of trial advocate.
- 15 Your Honour began practising at the Bar in April 1999, initially as an acting Crown Prosecutor before attaining a permanent appointment in 2001. In 2005, you moved to the Newcastle Crown Prosecutors Chambers, and from there, your career progressed from strength to strength. You prosecuted a number of child sexual assault cases, some quite high profile, including the trial of Milton Orkopoulos in 2008.
- 16 Your Honour took silk in 2013 and in the ensuing months, you appeared in a succession of cases in the Court of Criminal Appeal. In fact, in the two years prior to your appointment to the District Court, you appeared in nearly 40 appeals before the CCA. In one such matter, you led a successful Crown appeal against the leniency of a sentence handed down in a domestic violence case, a result that greatly fortified the unfortunate victim.
- 17 Your Honour, there are some at the Bar who are of the view that this may not be your last swearing-in and that I should keep some material in reserve. I am reminded of Chief Justice Allsop's comments during his third swearing-in, recall his thoughts during his first, in which he said, "I thought that I was making a speech of a kind that I would not have to repeat". Justice Wilson, the Bar is delighted with your appointment and we wish you a long and satisfying career as a judge of this Court.
- 18 **MS ROS EVERETT PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** Today we are very proud to welcome your Honour to the Bench

of the Supreme Court and to celebrate your years as a solicitor of this State and your subsequent stellar rise to judicial office.

19 I had the privilege to speak on behalf of the State's solicitors at your Honour's swearing-in, as a District Court judge only in April this year, and I well remember the very positive response your appointment elicited from members of the profession, your friends and family. I am mindful of the salient points of your career to date that have been noted by my learned friend, Ms Needham, so I hope I am not too repetitive, but as I always say, I have no material left otherwise. In the six months since your appointment to the District Court, your Honour has run a very busy list at Newcastle. Your diligence, confidence and ability to act without fear or favour, have won many accolades and you have earned the utmost respect from your peers and defendants.

20 You were born in Newcastle and your Honour's youth was spent in the Swansea area where your family had a commercial fishing business. As we have heard, your Honour attended Swansea High School and then undertook studies at the University of Sydney. While your Honour's preference was to enrol in medicine, a change of heart saw you graduate in Arts Law.

21 We are pleased to claim you as one of our own. Your Honour practised as a solicitor for some 10 years before being called to the Bar. As noted, your Honour was admitted in December 1989, working initially in the Criminal Division of Legal Aid before moving to the Office of the Director of Public Prosecutions, where you progressed from senior solicitor to managing lawyer at Campbelltown regional office and then to trial advocate.

22 From day one your Honour was described as someone who was born to be in a courtroom. A great lawyer, manager, mentor and then Crown Prosecutor, you were renowned for taking on the tough briefs and

discharging them with distinction. You were always focused and professional in dealing with everyone, also displaying your warm humanity.

- 23 In 2001, as part of the Australia/China inter-governmental program, teaching local prosecutors the value of protecting human rights, your Honour accompanied the then Director of Public Prosecutions to China. By all accounts, it was an eye-opener. Your Honour was also seconded to Vanuatu to assist with introducing proper processes and procedures in the Office of the DPP. I am told by the former DPP, Nick Cowdery that you did brilliantly. In 2003, your Honour became a lecturer for China/Australia Human Rights Technical Cooperation Program in Sydney.
- 24 Over the years, your Honour has volunteered your expertise and mentoring in presenting CPD papers to members of the legal profession. Your Honour's skill and forceful but unfailingly applied style in the courtroom, has seen many a witness come unstuck. No doubt, a product of your intense and thorough preparation and innate ability to cover all the avenues of challenge.
- 25 Your Honour also demonstrates considerable stamina, when under sustained pressure, as particularly noted during some of the high profile cases we have heard about today, when you have appeared as counsel for the Crown. One criminal lawyer who has appeared against you on your many trials, appeals and sentences, recalls his daughter tell him that, after sitting on a jury, during a murder trial which you were prosecuting, said to her father, "How do you ever win a case when she is the Crown Prosecutor?". Your Honour has appeared in hundreds of trials over the course of your career and in the years prior to joining the District Court bench, excelled in numerous trials in the Court of Criminal Appeal.
- 26 During the six months on the District Court, your Honour has presided over a diversity of matters, from drink driving, pension fraud, to attempted murder.

- 27 With a menagerie of stray and rescued four-legged friends, residing at your Hunter Valley property, you are kept very busy outside the courtroom. Here, the judge's robes give way to boots and riding gear.
- 28 Your elevation to the Supreme Court bench and Sydney's CBD will no doubt have challenges in terms of your future residence and learning the ropes of your new role. Given the propensity for thorough preparation and research, you will quickly have all the bases covered and your transition will be smooth and extremely fulfilling.
- 29 I have no doubt that with your skill set and judicial temperament, you will be a tremendous asset to the Bench of the Supreme Court and the solicitors of New South Wales wish you well in your new role.
- 30 **WILSON J:** Chief Justice, your Honours, ladies and gentlemen, all of those who have been kind enough to come today. I thank Ms Needham and Ms Everett for their addresses which, I must say, make me seem far more interesting than I am. Can I say that it is a delight to see two women representing the profession and delivering those addresses today.
- 31 For a criminal lawyer of almost 25 years now, addressing a court is something that ordinarily holds no fears for me but today, I must confess to feeling quite terrified. Although the cynical might say it is unusual for a barrister, I have a terrible allergy to speaking about myself and my career. I have never really been a teller of war stories from my latest trial, or expected anyone but myself to find anything interesting in my professional history. Listening to the generous addresses just given, they almost seem to be about someone else.
- 32 On Friday when I was sitting in my District Court chambers in Newcastle, frantically typing my last couple of judgments as a District Court judge, I received an email from an address that I was not familiar with. It had no content, simply the rather enigmatic and very disturbing subject title, "Your

Identity has been Changed". I looked at the computer screen and wondered what on earth that could mean and who I in fact was. What could my new identity be? The email did not answer those questions and I was left wondering as I finished the day, finished my commission as a District Court judge, and left my chambers.

- 33 Over the weekend I still seemed to be myself although I have to say, a version suffering from a greater anxiety disorder than is usual, at the prospect of making this address. In other respects, I was who I usually am on the weekend and that was a mother. I had my daughter's school fair to go to on Saturday which, as any of you with children will know, involves getting up much earlier than you wish, assembling what should be home baked cakes - although I am afraid I cheated and bought our contribution from a patisserie - and then staffing stalls, selling cakes and all manner of usually felted goods made by the children. At the fair, my only identity was as Freya's mother. Freya is here today. Very few people at the school know I am a lawyer. Fewer still know that I am a judge and, since my daughter goes to a Steiner School, that professional identity impresses absolutely no one.
- 34 On Sunday, I maintained my principal identity of mother. I took my daughter to see Cirque du Soleil and being there, I was no more than one of the hundreds of amazed people in the audience watching the extraordinary performances of the acrobats and jugglers.
- 35 This morning, the enigma of my changed identity that had troubled me all weekend, seemed to be resolved by an email that described me as Justice Wilson. In the mystifying operation of the departmental email system, which anyone in Attorney-General's will be familiar with, the announcement of my altered identity on Friday was apparently supposed to convey to me that my email address had been changed from Judge Wilson at courts and so on, to Justice Wilson.

- 36 Although the mystery of my new identity had been solved, I have to say that my amazement at it remains. When in late July or early August, I had a message to ring the Chief Justice, my heart actually sank as I wondered, as a very new judge of the District Court, what mistake I could have made that was so egregious that it was felt necessary for the most senior judicial officer in the State to personally ring me and remonstrate with me.
- 37 When the Chief Justice in fact asked me if I would consider an appointment to this Court, I was astonished. In fact, astonishment probably significantly underrates the emotion.
- 38 Since the formalisation of that offer, I have been overwhelmed by warmth and goodwill from this Court and from members of the profession.
- 39 As a regional lawyer and more recently, a regional judge, I generally assume that no one knows who I am - and many do not of course - but even those who do not know me have been, from this Bench, kind and generous in their welcome and offers of assistance, gratefully received from all civil judges and, from the profession, who have been warmly positive about my appointment. It has made me feel both very grateful and very humble.
- 40 When I was typing notes for this address at 6.30 this morning, trying to think of something vaguely interesting to say, my daughter asked me, "How long is your speech going to be mum?". I told her, "As short as I can reasonably make it". I know when I was sworn in as a judge of the District Court six months ago, I scandalised some, but hopefully relieved a great many more by saying barely anything at all. I rationalised that for myself by thinking, even if it was somewhat boring and not consistent with the tradition of a judicial speech on appointment, at least those that needed to get to court quickly for the work of the day, could do so. I felt less able to defy the traditions of this honourable court by saying nothing, but since the Chief Justice told me that swearing-in addresses could be as little as

10 minutes although, he cautioned, they should not go for longer than 90 minutes, I aimed for the lesser of the two estimates.

41 Can I thank everyone for coming. There are many here who have been critical to me, both as a lawyer and a person. They know who they are and they know how grateful I am to them for being my friends and teachers. There are also many friends and mentors who are not here. Having almost always worked outside Sydney, I have had the privilege of working with some brilliant lawyers - they do exist outside Sydney and Phillip Street - and many of those are far away today, appearing in courts right across the State. They also know who they are and I thank them too.

42 Thank you Chief Justice, your Honours.
