

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

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

TUESDAY 20 AUGUST 2024

**SWEARING IN CEREMONY OF RICHARD GOFFET McHUGH SC
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES
AND AS A JUDGE OF APPEAL**

1 **McHUGH JA:** Chief Justice, I have the honour to announce that I have been appointed a judge and a judge of appeal of this Court. I present to you my Commissions.

(Commissions read; affirmations of office taken)

2 **BELL CJ:** Justice McHugh, on my own behalf, on behalf of your new colleagues, my colleagues, the members of this great Court, I congratulate you on your appointment. I welcome you to the Court and look forward to many years of excellent service and I am sure you will be an outstanding judge. Congratulations.

3 **McHUGH J:** Thank you Chief Justice.

4 **BELL CJ:** Mr Attorney, do you move?

5 **THE HONOURABLE MICHAEL DALEY MP, ATTORNEY GENERAL OF NEW SOUTH WALES:** Thank you Chief Justice. May it please the Court. I acknowledge the traditional custodians of the land, the Gadigal of the Eora Nation and I pay my respects to elders past, present and future. I also acknowledge our Aboriginal friends and colleagues present today. Chief Justice Bell thank you for your invitation to address the Court this morning.

6 Your Honour Justice McHugh, on behalf of our State and of the New South Wales Bar, it is my very great pleasure to congratulate you on your appointment today as a judge and a judge of appeal of this honourable Court. I welcome your Honour's partner, Kate Morgan SC and your children, Isaac, Max, Nell and

Charlie. Your mother, Jeanette and your father, the Honourable Michael McHugh AC KC are also with us. With them, are your sister Giselle and your brother the Honourable Michael McHugh SC.

7 Your Honour, many of your friends and colleagues are also here and I thank them for sharing a thought or two to help illuminate your journey to this appointment today.

8 Your Honour was born in Bronte and lived with mum and dad and older siblings in Tamarama. You have said it was a great place to grow up and you had a relaxed and happy childhood, as a normal Aussie kid growing up by the beach in the 70s and 80s. You roamed the neighbourhood on your bike, played street cricket and footy, not always to the delight of one of your family's neighbours who would, at times, set the hose on you and your mates to try to keep you all quiet and away from his house. You loved body surfing, despite Tamarama's often treacherous waters. But, despite a few near drownings, blue bottles and regular bouts of sunburn, these were great days for a young boy blessed enough to live near the beach. The type of upbringing, your Honour, we have in common, although Maroubra is a few beaches to the south.

9 I am reliably informed that one of your colourful mates was the son of an SP bookie and another had access to a colour photocopier, which was a unique thing at the time, but with your creative skills and your mate's dad's photocopier, you were able to reproduce a few extra tickets to a Midnight Oil concert when you were short. Midnight Oil is another passion we share, your Honour.

10 Photography was another passion and you share your love of cameras with your brother who remembers you both sitting in the darkroom developing photos for hours, upon hours, as youngsters. Your dad proudly recalls you placing second in the Sydney Morning Herald photo competition, although I bet he is probably happier to see you sitting here today in the court than playing surf photographer at Tamarama or Mackenzies beaches.

11 You have confessed that you loved school, attending Bronte and Woollahra for primary school and then Sydney Boys High. Languages and writing were your favourite subjects. You also enjoyed debating. Sports cemented many

friendships. You were a very slightly built second rower in the rugby team and a self-described worst player, on what was a pretty decent basketball team.

- 12 At home, you were captivated by and drawn to your parents careers. Your father was a barrister, a Queen's Counsel at the time and then a judge of appeal in this very court that you join today. That is a wonderful family and historical symmetry and a great moment for both of you and your family to savour. Your mother was a schoolteacher, before becoming the first woman from New South Wales to be elected to the Federal Parliament, serving as the member for Phillip and Grayndler and Minister for Consumer Affairs.
- 13 You said that, on the one hand, you were conscious of your parents and their achievements but that, on the other hand, they were also just mum and dad, a pair of people showing what you could do, too, with amazing and interesting things in your own life, given time. But from an early age, nonetheless, your life was surrounded by politics and the law and the currency in both of those callings is words. You loved listening to complex conversations that carried on around you as a youngster, soaked it all in and grew to be a participant yourself, willing, yearning, confident, precocious.
- 14 You were also raised in a home that exuded other qualities, more so than most, but particularly the concept of service, service to high causes, the satisfaction that public service can bring and the fact that a massive work ethic was required to really succeed in life. This manifested itself in excellence for you at school.
- 15 Your father was keen for you to pursue law when you left. Your mother wanted you to be a scientist. You thought your future might lay in politics. You made the right choice, your Honour. Law was the winner. You attended the University of Sydney to study Arts and Law, which allowed you to continue your passion for languages while pursuing a legal career. Your fellow students quickly discovered your intellect and talent for the law and were impressed by your approach to study. The results have spoken many times for themselves. You graduated in 1992 with First Class Honours in Arts and Law and you also made some lifelong friends at university where you first met Kate. When asked for first impressions, Kate was her usual romantic self, she said "Well he was tall" and after all these years the admiration and love still flows. She confirmed, for this contribution, that she thinks

you still are tall. She did say a few other things but we will leave them for later.

- 16 After serving as a summer clerk at Blake Dawson Waldron, you became associate to Justice Gaudron in 1995 and were rewarded with a fantastic grounding in so many aspects of the law and legal practice. Kate became the Associate to someone you knew very well, your father. She recalls everyday being a privilege, a great learning experience. You were both daily witnesses to some of the greatest legal minds in the nation. You watched as they masterfully practiced their craft and also saw and absorbed how judicial civility was a cornerstone of their work.
- 17 You became a barrister a year later and joined Sixth Floor Wentworth Selborne. You loved working for yourself and it was clear to colleagues how talented you were, even at that early stage of your career at the Bar. You made a real effort to learn on the job. You loved being on your feet, loved the cut and thrust and challenge.
- 18 A year after becoming a barrister, you were admitted to Law School at Yale, to study an LLM. Kate was also there at the same time and so, while in New York you worked as an attorney at Skadden, Arps, Slate, Meagher & Flom. You graduated in 1997 and returned to Wentworth Selborne.
- 19 In 2005 you were one of the founding members of Banco Chambers and took Silk in 2006 and over the next two decades Banco Chambers would become one of the country's most prestigious chambers and you would go on to be celebrated as one of the leading Silks in our State and nation.
- 20 Your skill and experience has been widely recognised. You have led many cases across a diverse range of areas of expertise, from corporations law to defamation, financial services regulation, insurance, workers compensation and complex commercial matters. Your colleagues regard you as an outstanding advocate, intuitively clever and a great tactician who can back it all up on your feet. Your oratory skills are outstanding and your abilities to get across complex facts is the equal of any practitioner.

- 21 In your personal life, you and Kate have a strong and loving partnership. Kate is one of the founding members of Omnia Chambers and you admire her skill, hard work and achievement. Your support for one another has been unwavering and it has even received a shoutout in Annabel Crabb's book, *The Wife Drought*. Family is everything. The close bond you have with Isaac, Max, Nell and Charlie is the most important thing and you both make time to be active parents. Kate jokes that your main hobby is lying on the couch and looking at the ocean. She says you have a great ability to switch off. I am not sure that is a compliment, your Honour. Friends know you to be warm and compassionate, all the while with a competitive streak which shows in your love of cars when you occasionally indulge yourself with a quick spin around the racetrack.
- 22 Words and languages are still important. Talking about your writing career would take a whole other speech, but let us note today that you have published two wonderful books in, *The Cutting* and Charlie Anderson's *General Theory of Lying* and we hope more will follow, despite the fact that you will be additionally busy now. I know your mother is particularly proud that you have been able to cultivate your creative mind, although she did opine to me privately that she thought Charlie Anderson was a little bit risqué.
- 23 Photography is still a passion. You love shooting on film. Your camera collection keeps on growing and the night sky is your current subject.
- 24 But today, your Honour, is the start of a new chapter in your fantastic career. Friends and colleagues know you are perfectly suited to this new role. You bring a serious intellect to the Court with your innate sense of justice prevailing. I readily agree. Having briefed you on a number of occasions over the years and having been a beneficiary of your advice, I have witnessed your skill firsthand as well.
- 25 I like to say, your Honour, that service to the public is not the only way to make the world a better place, but it is the truest course. Today you follow on your family's course of service and our State and nation will be the better for it. So, thank you for accepting our invitation to join this Court. On behalf of the Bar, the New South Wales Government and the people of this State, I offer you my warmest congratulations. May it please the Court.

- 26 **BELL CJ:** Thank you, Mr Attorney. Ms Jennifer Ball, Senior Vice President of the Law Society of New South Wales.
- 27 **MS JENNIFER BALL, SENIOR VICE PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court. I too acknowledge the Gadigal of the Eora Nation, the traditional owners of the land on which this Court stands and pay my respects to the elders past and present. I acknowledge and extend my respect to all Aboriginal and Torres Strait Islander peoples who are with us today.
- 28 I come before the Court on behalf of the solicitors of New South Wales to offer congratulations and to wish your Honour well in your appointment to the Supreme Court of New South Wales Court of Appeal. Your Honour's partner and mother of your four children, Ms Kate Morgan SC, is an outstanding barrister and Silk, as I am sure everyone in this room is aware. Although Ms Morgan says that she is slightly concerned about the impact your appointment may have on her own burgeoning Court of Appeal practice, she has accepted that it is time for others at the Bar to be cross-examined instead of her and your four children. Ms Morgan assured my team that this is a view she has told other people and is happy for it to be repeated.
- 29 Of course the riddle that is any relationship, especially one between two high achieving legal professionals, includes multitudes. And another view from Ms Morgan was, that this is an extraordinary appointment and in her considerable opinion is one that the State of New South Wales is lucky to have your Honour.
- 30 This was reflected and refracted throughout the solicitor profession and the Bar, family and friends, with remarkable consistency. Your Honour was even gracious enough to recommend that we talk to one of your opponents in some of your hardest fought adversarial cases for big auditing firms and notable industry figures, like the Rinehart family.
- 31 This particular Silk remembered a huge negligence case that went for years. There was clear admiration for your meticulous preparation, cross-examination in trial and in the end, your Honour's adroit dismantling of the whole matter, document by document, with one witness. Your amicable humble balance in victory was also appreciated.

32 Friends who have known your Honour since childhood remember someone who was precocious and showed an enormous intellectual curiosity, alongside incredible loyalty. Other friends noted your Honour's skills and knowledge which were entwined at your core with a strong sense of community and community spirit, likely inherited from your parents as part of your upbringing and their strong commitments to public service. One friend noted, "I think Richard has that inbuilt sense that some people just aren't as lucky and they need to be given a fair go."

33 Solicitors and colleagues warmly spoke of someone with a deep intellect, curiosity, humour and self-awareness, elementally bright and exceedingly successful, but preternaturally grounded despite, for example, being instrumental in planning in setting up Banco Chambers, one of the country's most highly regarded barrister's chambers. Your colleagues have recounted how you were not too keen on the recent expansion of Banco Chambers. Despite this, upon being asked to take on a role supervising the architectural details, you threw yourself into it and it would not have been the success that it is today without your incredibly hard work and scrupulous eye for detail which you did not receive much credit.

34 I should mention here the double edged sword that is the legal rankings. Your Honour, nevertheless, has consistently come out on top, including the Legal 500 Guide for Commercial Disputes, The Doyle's Guide for Commercial Litigation and Dispute Resolution Council, Chambers and Partners Asia Pacific Guide for Dispute Resolution. The tagline quote to the last of these got my attention, and I quote:

"Richard is described by one instructing solicitor as one of my go to guys for bet the company highly complex litigation, intuitively clever and a great tactician with the ability to back it up in court."

35 Every instructing solicitor that my team spoke with mentioned your gifted ability at law, as one might expect.

36 Your Honour was said to be as open with junior solicitors as with partners in conference, an aliveness to all views in the search of the most appropriate legal reasoning in a matter. One instructing solicitor recounted that if you had determined to take on a particular brief, you would then throw your heart and soul into the matter with the due diligent attention it required. This, however, did come

at a price of a large portion of the conferences that you had with your instructing solicitor being taken up with you telling stories about yourself and all the other cases that you had been involved in.

37 There is also the loyalty that you built with your considered maintenance of relationships, your easy rapport with clients. All this could seem like a caricature of success and encomium, were it not for the imagination and interest in life, so clear in your Honour.

38 People mention your self-deprecating sensibility, love of creativity and friendships that are lifelong. These are not the mark of someone concerned with superficial ambition. Know there is much more to your Honour outside the law that speaks to your depth of character. When you were appointed Silk, the holy grail for barristers, you rewarded yourself by purchasing an Aston Martin, the ultimate symbol of elegance. The car that every gentleman wants to drive, including the likes of David Beckham, Ben Affleck and Pierce Brosnan. This was your James Bond moment.

39 You are also, for example, a true lover of kitchen gadgets. Several ice cream makers and a waffle maker were mentioned by a close confidant. Your Honour has fun too. One friend described the love of the technical process of felling a tree and an unnatural attraction to chainsaws. It was suggested that the kit that comes with chainsaws is a magpie shiny thing point of attraction.

40 Your Honour also recently spent the weekend at your brother's wedding where, after a painstaking evening long selection of cameras and lenses, you produced, what I am told, were amazing photos. Ms Morgan said it was wonderful occasion, including someone saying to her, "Don't worry about taking photos, they've got a wedding photographer. He's over there." She looked over and saw you and said "No that's not the wedding photographer, that's the brother of the groom." I would submit that one can only stand here and make such humorous remarks as a true reflection of the views of people close to your Honour, because amongst all of your success, your Honour has the right balance in your life.

41 I also note that it is very difficult to be one of the top barristers in the country, a go to guy for the top end of town, the likes of PWC, Deloitte, ABN AMRO, huge construction companies, senior religious figures and more, and remain as focused

and as good at all points in one's private life at all times. Ms Morgan, to whom this speech is deeply indebted, alongside many other wonderfully smart and interesting people, recollected that as you raised your four children together, and here I will quote Ms Morgan:

“Maintaining how many birthday parties we had to go to in a weekend was beyond him. So was maintaining where we had to be at any particular time for a sporting event throughout Saturday and Sunday and then how we were actually coordinating Sydney traffic and birthday parties and birthday presents. We had been known to pull up outside a particular birthday party, look at the lack of activity at the house and realise we were either a week late or a week early or a day early or a day late and I'm happy to blame him for that.”

- 42 Ms Morgan noted your Honour was always recalibrating your focus on family and the amount of work you were doing as your children grew and encouraging the wider joy that comes with being alive.
- 43 At law and in life, an excellent imagination has allowed you to put yourself in someone else's position, in someone else's argument, in someone else's issues and to pick a complex brief apart and find a novel way through the complexity in less time than it would take most lawyers to read the first page. One senior solicitor, in a leading firm, recalled that your Honour could probably audit financial statements of a publicly listed company as well as any auditor. It comes from a practice akin to a 1950s barrister, across a huge variety of law, with depth and precision, something increasingly rare. I have no doubt that this, and everything mentioned by the Honourable Attorney General, and so much more will be extremely well regarded by solicitors and barristers alike as your Honour begins your judicial life.
- 44 The Court of Appeal is an extremely highly regarded bench. It has produced consistently high calibre judgments. Its depth is equal to the challenge to finding the most complex legal appeals in the most populous State in the country, in matters that define the law for decades. I add to this, that around 42% of all the solicitors in this country, practice here in New South Wales. This Court matters to us.
- 45 Given all that you have achieved, then I wish to thank you, your Honour, for taking this appointment. I have every belief that this outstanding bench will be brilliantly bolstered by your appointment. On behalf of the solicitors of New South Wales, it

is a privilege to congratulate your Honour on being appointed to the Supreme Court of New South Wales Court of Appeal. As the Court pleases.

46 **BELL CJ:** Thank you Ms Ball. Justice McHugh.

47 **McHUGH JA:** Your Excellency, Chief Justice Gageler, justices and former justices of the High Court, former presidents and judges of this Court, judges of the Federal Court, the Land and Environment Court, Industrial Relations Court and the District Court, Chief Magistrate and Deputy Chief Magistrate of the Local Court, Mr Toomey for the profession, members of the profession, distinguished guests, friends and family, thank you for being here.

48 You honour the Court by showing your support in this traditional way. I am grateful that tradition demands a certain looseness with the truth, as far as the speeches are concerned. Thank you Mr Attorney and Ms Ball for being such traditionalists. It is perhaps a bit unexpected in a Labour Attorney. Only my mother will have failed to notice the exaggerations in your speeches.

49 I join in acknowledging that we are on Gadigal country, a truth that was very powerfully brought home in this place at the Bicentenary sitting, a few months back.

50 As my good friend, Justice Beech-Jones, surveys the legal world from level 23 of this building, he clings by his fingernails to the idea he is an outsider. In the face of what is now overwhelming evidence, he still sees himself as just an AFL loving man from Savage River whose grandfather was a coal miner and his parents were schoolteachers. Well, when my great grandfather died, my grandfather, who was 13, took his father's place down the coalmine at Collinsville in Queensland. And my mother, who comes from Kandos, was a schoolteacher. But no one in the law has ever mistaken me for an outsider.

51 My career at the Bar has been a story of relentless good fortune and many people being kind to me along the way. For convenience, and without disrespect, for the most part I will refer to them as they were when I first met them.

52 As you have heard, I undertook the readers course in 1995. I had some very intimidating competition with me. They included the present Chief Justice and Justice Payne of this Court. Some in that group were modest, experienced and

able, others were extremely self-confident, a few others, like me, were agonisingly self-conscious of the limits of our competence. I was a pretty delinquent reader to two generous tutors in Bruce McClintock and Robert Weber. They did their best to show me the light. Bruce says that he taught me everything that I still don't know.

- 53 Justice Payne and I read on the Sixth Floor of Selborne Wentworth Chambers. That floor was overflowing with Silk who were all leaders in their field. I got to work with Murray Tobias, Henric Nicholas, Jim Spigelman, John Sackar, David Bloom and Tom Bathurst, to name a few. The biggest names on the Sixth Floor, at that time, were all men of course as her Excellency, the Governor, had already departed for the Federal Court. Times have happily changed.
- 54 In those days, the readers on Six had no permanent accommodation. We were called floaters. It was not very dignified. In the evenings, we would wander the corridors aimlessly, wheeling our whole practices on a trolley, hoping to find a room that might be empty the next day. But the people on the floor were very good to us.
- 55 Lucy McCallum and Nicole Abadee were sharing a room together in chambers. They took pity on me, my incompetence must have been that obvious to them, and they lent me a shelf in their room for the things that would not fit on the trolley. That was my first taste of barrister real estate. Although, I should say, Chief Justice McCallum has no memory of this at all. It was hugely significant to me at the time, in the way that those acts of generosity can be.
- 56 Guy Reynolds encouraged me to think analytically about courtroom advocacy and that had a lasting effect on me. When I was thinking about studying overseas in 1996, Jim Spigelman said "You get very few chances to increase your intellectual capital" and that I should grab this one, and Tom Bathurst assured me that everything would still be here when I got back. And they were both certainly right.
- 57 As baby juniors, we had more opportunities for advocacy than readers get today. My favourite tribunal was the Local Court at Nowra, running s 52 cases for real estate agents. No matter how badly it went, no one in Sydney was going to find out about it.

- 58 I also had my share of dumb luck. For one thing, I was never briefed to appear before Justice Young in my first five years at the Bar.
- 59 McClintock introduced me to the defamation list. That jurisdiction did have its share of what we called backyarders but it was also a forum for litigating important social issues and even religion. Plus you got to meet movie stars. But the best part of that work was that it involved jury trials. They were some of the most satisfying cases I ever did. I will never forget the first V for the D I got in the District Court on my own or the lunch that followed it. Those trials also showed to me, in a very real way, the reverence that Common Law judges have for the institution of the jury and rightly so.
- 60 I did have plenty of clients who could not afford better counsel. Once I had a year or two of experience under my belt, I started appearing unled in the Court of Appeal. That was a revelation to me. Chief Justice Spigelman and President Mason presided over a court where all that seemed to matter was the quality of your argument and how well you were putting it, and not the fabric that your gown was cut from. It was an exacting forum but not a hostile one, if you were a well prepared junior doing your best. Appearing in this Court, as a junior, was probably the most fun I ever had as a barrister. It also gave me a shot of confidence that carried through to appearing in other courts.
- 61 I started taking readers myself and I fear that I was as delinquent a tutor to them as I had been when I was a reader myself. They were a very able group of people. I think all but one of them have now taken Silk. The one who disappointed me only lasted four years at the Bar before she bailed out. Her name was Jayne Jagot. I think I should take this opportunity to record that, in all the circumstances, I have found it in my heart to forgive your Honour.
- 62 As you have heard, in 2005 I was one of the barristers who established Banco Chambers. It will be hard for many of you to believe it now, but everyone said we were crazy at the time. One colleague who was truly worried for my welfare said simply "You are making a mistake." It was not a popular move for us to leave the established chambers and we knew we were taking a big risk, and for that reason we tried to fly under the radar. The original idea was for a modest venture of six or eight members. As anyone who went to the annual Banco Chambers drinks, a

week ago, can tell you, somewhere along the line there was a change of plan. I cannot really explain what happened, but looking back I do feel a bit like Dr Frankenstein.

63 It is true that we did have some very good barristers. They included my new judicial colleagues, Justice Gleeson and Justice Adamson. We also had some very big personalities to manage. What held us together was the sheer force of will of our leader, Justin Gleeson, who was not a bad barrister himself.

64 But we had to take care to make judicious use of Justin's many qualities. At one point the fit out works had got behind schedule. We asked Justin to come to the next meeting with the project manager. Justin was only there for ten minutes. After he left, the project manager said he would do anything we asked, so long as we promised never to bring Justin to a meeting again.

65 I have been briefed by many able solicitors, some of them over decades. It can be embarrassing to identify individuals, which is why I want to single out John Dalzell. I hope he is here somewhere. John briefed me in some of the strangest matters I have been in. One example was a hybrid commercial criminal case I did many years ago with the great Ian Barker. It was over 800 hectares of prime development land on the far north coast. Everyone in the case seemed to be called Bob. The other side's solicitor was the son of the mayor. Our client had been the caretaker of the 800 hectares. He had, somehow, got an option to buy the land which he had sought to exercise. He had also been charged with about 40 counts of fraud revolving around a forged development approval.

66 One of our client's main tasks as caretaker was to suppress native regrowth, which was bad for business. For that purpose, he had access to a Ute. Some scientists had been conducting a koala tracking study as part of the environmental impact statement. The evidence disclosed that one of the koalas had been clocked doing 40 kilometres an hour across the back paddock before it went out of tracking range. No finding was made by Justice Barrett about the koala's fate, but I did lose the civil case.

67 As to the forged DA, our client was determined not to become, what he called, "an escaped goat." In the end he beat the 40 fraud charges. Sadly, he was convicted on the 41st charge, which was witness intimidation in relation to the first 40.

- 68 I do seem to have attracted a fair number of clients who were in a fair bit of trouble and who wanted to fight. Those are hard cases, but you learn a lot from doing hard cases. I have always hated the phrase, “poacher turned gamekeeper”. I suppose we will have to wait and see.
- 69 It has not been easy for me to leave the Bar, which is the only real job I have ever had. My last clerk, Jeh Coutinho, as many of you would know, is the best a barrister could ever dream of.
- 70 I am grateful, and quite relieved, that my assistant of many years, Anne Middleton, has agreed to come over to the Court as my Associate. I will miss my other colleagues, who claim that they will miss me. If that is so, I can offer them an echo of what Chief Justice Gleeson said on his farewell from this Court, “I hope it comforts you to know that where I’m going I’ll be keeping an eye on you.”
- 71 I have always loved appearing in court. That never got old for me. It hit me last week that I will never do any advocacy again, at least, that I had better not do any, but I think the time is right to do something new. Many of the juniors I have had are now rising to dominate the Bar as Silk. They are lean and hungry and I am happy to get out of their way.
- 72 This Court has enjoyed unbroken decades of outstanding leadership and it shows.
- 73 I know how fortunate I am to be joining this famously strong Court of Appeal. It is a collegial court, whose members have been remarkably welcoming. The President and her staff have been every bit as helpful as I could hope. It is funny the way things turn out. If you had told me when I started at the Bar that in 30 years’ time I would be putting up my hand to work for Julie Ward, I am not sure I would have believed you.
- 74 **WARD P:** I don’t know why.
- 75 **McHUGH JA:** I particularly want to recognise the contribution made by my predecessor, Tony Meagher. He has been a giant presence for the whole of my time at the Bar. When his retirement was announced, several weeks ago, I wrote him a note saying his successor would have some very big shoes to fill. I was speaking metaphorically, of course. Now, that I am actually wearing his robes, I have discovered this morning that the hood is a bit too big.

- 76 There are many aspects of the new role in which I will need to seek practical advice from other judges and guidance, in particular. Most pressing is the question of breakfast. Is Beanbah a daily commitment or is it acceptable to eat there two days out of three? Does Craig mark the roll? I am looking forward to finding out.
- 77 I am not going to say anything about judging today. I would rather wait until I can do that on an informed basis. But I will say this. I know what it is like to have to run a case that you are probably going to lose. As a general proposition, it is not counsel's job to surrender. Within the familiar ethical limits, it is counsel's duty to make every honest endeavour to succeed, as Lord Denning said. I will try to bear that in mind, especially with advocates who have prepared conscientiously and are doing their best in court, but happen to be on the losing side. I cannot promise that I will never get grumpy but I am going to try.
- 78 I do want to take this opportunity to acknowledge three appellate judges I have long admired. The first is Sir Anthony Mason. He remains a towering figure three decades after he left the Court. The second is Mary Gaudron, who is with us today. She has the most brilliant and original mind I have ever worked with. I owe her a great debt for not holding my many privileges against me. The third is my father. He is the last of the great common lawyers trained in the pre-Judicature Act worldview. I do not think we will see his like again.
- 79 That brings me to my family. For better or worse, I am my parents' child. To say much more would embarrass you and them.
- 80 The same is true for Kate and our four children. It is not easy living with a busy barrister, as a parent or partner, and I am in a position to know. One of our children recently started a high paying job. She offered me \$1000 if I declared her my favourite today. I will admit I was tempted, but the offer struck me as dangerously close to an attempt to pervert the course of justice.
- 81 So I will say to my children, only this: I love you all equally. But your mother, whose strength and compassion I admire more than anything in the world, I love the most.
- 82 **BELL CJ:** The Court will now adjourn.