

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

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

Monday 2 March 2009

**SWEARING IN CEREMONY OF
THE HONOURABLE ROBERT ALLAN HULME
AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES**

1 **HULME 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.

2 **SPIGELMAN CJ:** Thank you, Justice Hulme. Please be seated while your Commission is read. Principal Registrar, would you please read the Commission.

(Commission read)

(Oaths of Office taken)

3 **SPIGELMAN CJ:** Principal Registrar, I hand to you the form of oaths to be placed with the records of the Court and the Bible so that it may have the customary inscription placed in it and presented to his Honour as a memento of this occasion.

4 Justice Hulme, on my own behalf and on behalf of all of your new colleagues. I welcome you as a Judge of this Court. Your Honour brings to this Court considerable experience in the criminal law, both as an advocate and a judge. I look forward to serving the people of this State with you in the future.

- 5 **THE HONOURABLE JOHN HATZISTERGOS MLC, ATTORNEY GENERAL OF NEW SOUTH WALES:** 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.
- 6 You bring to the position a wealth of experience from an extensive and varied legal career. You also bring an immaculate reputation for diligence, aptitude and consideration and the unqualified confidence of the legal profession. I am certain that you will serve the State of New South Wales with the remarkable capability you have brought to all stages of your professional life thus far.
- 7 I understand you began your legal career early in the Local Court before qualifying as a lawyer. Your various roles in research, administration and as a Clerk of the Court whetted your appetite for advocacy, which was to remain your passion.
- 8 You studied with the Solicitors Admission Board and you were admitted as a solicitor in 1984 and so began (if I may put it this way) your life of crime, starting with the role of Secretary to the Inquiry into the convictions of Alister, Anderson and Dunn for conspiracy to murder National Front leader, Robert Cameron.
- 9 You then began work with the criminal indictable section of the Legal Aid Commission before moving to the Office of the Director of Public Prosecutions. Here, you gained a breadth of experience including as head of the Special Crime Unit. This was a high profile unit renowned for its challenges, complexity and intensive workload. This appointment was in early recognition of your commonsense and reliability.
- 10 Your Honour has a reputation for superhuman efficiency - no-one has ever seen you exhibit signs of stress or disorganisation. This efficiency may be attributable, in part, to your early training as a Clerk of the Court where you learned to type at phenomenal speeds and more accurately than the

professionals at the time. I am told that you can be typing a brief on the left whilst engaging in conversation about something completely unrelated on the right. Information management is one of your great strengths and your colleagues describe you as knowledgeable, prolific and punctual.

- 11 As a barrister you were of great assistance to the bench in that regard, intimidating opposing counsel with your terrifying ability to bend technology to your will. Apparently you always have the law at your fingertips while others fumble for a textbook. You have been known to email for advice mid-way through a trial, allowing you to remain two steps ahead of the most organised counsel.

- 12 You studied Criminology at the University of Sydney. In 1990 you were called to the Bar and appointed a Crown Prosecutor, before becoming a Deputy Senior Crown Prosecutor. Here you acted with Mark Tedeschi QC on the high profile Phuong Ngo trial and were, I understand, a most impressive junior. You were involved in cases at all levels, including the High Court, but were known to take what you were given, no case was beneath you in the pursuit of justice and you advocated every one with aplomb. You were known for your integrity and impeccable fairness. There are some who say you displayed the judicial demeanour long before you were appointed as a judge with your level-headedness, even-handedness and serious mind. You were made silk early, in 2002, and it seems that as the stakes got higher you not only rose to the occasion but performed better and better.

- 13 In 2003 you took on the role of Deputy Senior Public Defender, being one of only a few statutory appointments to both sides of the criminal bar. You managed to distinguish yourself both as Crown Prosecutor and as Public Defender. Yet, you are known for your humility: One former adversary tells a story of a time you advised your client that his appeal had no merit, only to exceed even your own expectations by succeeding in having the Crown case dismissed.

- 14 It was at the Court of Criminal Appeal that you thoroughly distinguished yourself as an outstanding legal mind, impressing with your superb grasp of the law and extremely well-founded arguments.
- 15 Four years ago you were appointed as a District Court judge and, although you were missed at the Bar, you have been a favourite among practitioners appearing before you. Counsel appreciate your unfailing courtesy and respect, from the outset the very model of the benign and fair judge.
- 16 Your Honour has co-written Criminal Law News for a number of years and your encyclopaedic mind is well suited to the task. You have contributed to the development of future generations of lawyers by teaching advocacy at the Australian Advocacy Institute and Bar Readers. Amongst those future generations is your son, Spencer, who follows in your footsteps towards a career in law and to whom you have been a dedicated father.
- 17 Your District Court brethren hold you in very high regard and report that you are the perfect sounding board for difficult legal questions: They say they always leave your chambers more informed than when they went in. They have appreciated your thoughtful insights and dignified company.
- 18 Your Honour has been described as a very private man, always quietly humble in the face of success and stoic in the face of adversity. Your consistent professionalism, hard work, intelligence and pleasant demeanour are remarked upon by all who know you.
- 19 The only idiosyncrasy that your Honour appears to display is a quintessentially Australian one: You have been described as fanatical about AFL football and golf. A keen supporter of the Sydney Swans, you have been known to travel to Melbourne to be first in line for tickets to grand finals and to adorn your chambers and your associate in red and white.

- 20 Your Honour never travels anywhere without your golf clubs and you are reputed to have great technical ability with them, with a very impressive single-digit handicap. You must bring to this sport the same extraordinary focus, competitiveness and sense of fair play that you bring to your legal practice. I believe you have enjoyed the District Court circuit for the access it gives to a variety of golf courses around New South Wales but that you have also journeyed as far as Britain to play with friends. I hope you will find time to continue with these passions in your new role.
- 21 Your Honour, you will be the second Justice Robert Hulme to be appointed to the Supreme Court and I sense in this the potential for some amusing anecdotes in the future. The issue of your name has already tested the logistical skills of the Court's administration with some concern over how to distinguish your Honours from one another on the lists. I understand that his Honour, the other Justice Hulme, has already been the recipient of some misdirected emails and, at one stage, kindly paid for your leased car.
- 22 A friend disclosed that you have a secret terror of the civil applications list though it will be beyond anyone here to understand why, given your incredible organisational skills, intellectual capacities and ability to turn your mind to any legal question. You take everything in your stride and your resilient calm is legendary in the sometimes unwieldy District Court short matters list. No doubt you will bring this sagacious perspective to the Supreme Court workload. I have every confidence that you will overcome your terror and embrace the challenges of the broader common law.
- 23 You have demonstrated unfailing discretion as well as valour, consistency as well as exceptional ability and good humour as well as gravitas which makes your Honour an almost inevitable choice for judicial appointment. You have excelled from both sides of the Bar and both sides of the Bench. You have unquestionable credentials in the criminal law and the legal aptitude to traverse with proficiency the full spectrum of law at the Supreme Court.

- 24 You have already served at the Supreme Court in an acting capacity and I am delighted that you have now accepted a permanent appointment. We welcome you warmly to the newest phase in your legal career. Congratulations, your Honour, you will be an asset to this Court.
- 25 **MR CATANZARITI PRESIDENT LAW SOCIETY OF NEW SOUTH WALES:** I am delighted to congratulate your Honour on your appointment to the Bench of the Supreme Court and to extend the best wishes of the solicitors of this State as you assume this new role
- 26 Of course your Honour has already had a practice run in the lead up to Christmas last year and it appears that rather than finding the experience daunting it has whetted your appetite.
- 27 With two Justice Robert Hulmes now presiding in the Supreme Court - Robert Shallcross and Robert Allan - it could give rise to some confusion, at least on paper, although I understand some creative colleagues are suggesting some rather dubious solutions to this possible dilemma (RS and RA, senior and junior et al).
- 28 Such has been your Honour's impact on your associate, Carol Lloyd, that she is also leaving the District Court after twenty-seven years to join you in the State's highest court. Your Honour, she said, would have to be one of the brightest and nicest people she has ever worked with. It is a sentiment echoed by your colleagues in the District Court.
- 29 Your colleague, Judge Peter Berman SC of the District Court, says he could always count on your Honour to enlighten him whenever he had a problem. He said, "I would go to Robert and always come out knowing more than when I went in. He has an excellent knowledge of the law."
- 30 Renowned for your multi-skilling abilities, typing agility and meticulous attention to detail, your Honour nonetheless is not the only beaver working

away in the District Court. The other “beaver” pops up when your Honour manages a hole in one on the floor’s mini golf course. Whether your Honour will be able to continue your chipping practice in chambers remains to be seen but hopefully you will still have opportunities to frequent those magnificent golf courses in Bathurst, Orange and Newcastle in the course of your duties. Courses further afield such as the hallowed grounds of St Andrews in Scotland will have to wait until your Honour’s holidays.

- 31 A friend of many years, Glen Biggs, was keen to remind your Honour of your Highland Games skills ably demonstrated on the 18th fairway at St Andrews after returning from a small inn renowned for its vast selection of health-giving medicines. Carrying a rather nice single malt medicine, Glen recalled, “Rob, absorbed in all things Scottish, decided to re-enact the Highland Games. Adopting a true Highland Games stance he feigned the action of the big shot putt. Disaster struck: Rob accidentally released the medicine into the pitch black evening sky and despite desperate searching this medicine was never recovered.”
- 32 Glen apologises to your Honour for breaking a solemn pact in divulging this incident but he felt that on such an auspicious occasion the story needed to be told. In fact, Glen marvels that the Scottish authorities continue to admit your Honour given repercussions emanating from another incident of food poisoning after you demolished a large jar of cockles as well as some haggis that had reached their “use by” dates.
- 33 On a more serious note, Glen said your Honour has always proved to be a true friend even when he on one occasion did not behave in the same manner. It is, he said, “a true measure of the man and his friendship which has only heightened my respect and admiration for him”.
- 34 As was noted at your Honour’ swearing-in to the District Court in May 2005, you perform better on the green than when faced with operating tools and appliances. In terms of golfing prowess your handicap is to be

envied but in the handyman department your handicap is anything but an asset. We are ever thankful that you will be wielding no more than a gavel on the Bench.

- 35 Golfing has always been a strong family pursuit. Your late parents, Phena and Russell, and elder brother, Brian, were all accomplished golfers, as is your younger sister, Gail, who I believe trumped your Honour during a recent Go Golfing Tour in Tasmania. Your Honour's golfing memorabilia is only rivalled by your Sydney Swans collection.
- 36 In relation to your Honour's AFL leanings, your high reputation for intellectual rigour and for delivering well reasoned, impartial judgments could be called into question. Your colleagues have attested to your Honour's total lack of rationale and almost fanatical support of "the Red and the White". Even when the Swans have been soundly beaten your Honour blames the umpires. If a Swans player faces the tribunal the opposing team must obviously be at fault.
- 37 Anyone accompanying your Honour to a game will be ostracised if they are not decked out in Swans memorabilia as your sister, Gail, found out on one particular occasion. Your Honour refused to let her to sit anywhere near you unless she wore an item of clothing bearing the Swans insignia. Gail duly returned with a Swans scarf.
- 38 Growing up on the upper north shore your Honour's various talents were evident from an early age. As well as your reputation for being a formidable player in school sporting competitions your Honour was also reportedly noted as sometimes absent from Normanhurst Boys' High School honing your golf skills or imbibing a few pale ales at a well-known Hornsby watering hole (The Blue Gum). Nowadays your Honour favours a capriosca at family festivities, apparently a blend of crushed ice, double vodka, lime and sugar.

- 39 I think now that your son, Spencer, has well and truly completed his schooling we are safe to divulge such information in his presence. I understand that Spencer is following in his father's footsteps and is also pursuing a legal career.
- 40 As the Attorney General has already noted, your Honour was admitted as a solicitor in 1984 at which time you were secretary to the Justice Wood inquiry into the convictions of the Ananda Marga trio, Paul Alister, Ross Dunn and Tim Anderson, on charges of conspiracy to murder Robert Cameron, Sydney leader of the Australian National Front, by planting a bomb at his residence.
- 41 Following the conclusion of the inquiry's formal hearing your Honour made a critical discovery with respect to the envelopes containing the press releases that allegedly were to be sent to the media after the bomb went off, a discovery that gave further credence to evidence submitted during the inquiry that the documents were not the work of the Ananda Marga.
- 42 Your Honour's discovery was noted in Tom Molomby's 1986 publication entitled "Spies, Bombs and the Path of Bliss" as follows:
- "It has always been a curiosity that the names on the envelopes had been surrounded by the type of quotation marks used in France and Spain. Police informant, Richard Seary, denied at the trial ever having used these. ... Secretary Bob Hulme was tidying up the voluminous papers when his sharp eyes noticed among records produced by the police a page of notes in Seary's handwriting which contained the quotation marks."
- 43 Your sharp eyes have undoubtedly served you well throughout your career from a senior solicitor at Legal Aid New South Wales to Deputy Senior Public Defender and most recently District Court judge.
- 44 Your Honour's appointment today is a recognition and acknowledgment of your astute intellect, model advocacy and thorough case preparation coupled with a breadth and depth of experience, skills and criminal

knowledge, attributes that will stand you in excellent stead for the task ahead. The solicitors of New South Wales commend your Honour on your appointment and wish you well for the journey ahead.

45 **HULME J:** Chief Justice, your Honours, Mr Attorney, members of the profession, ladies and gentlemen, family and friends: First let me say thank you to you, Mr Attorney, and to you, Mr Catanzariti, for your most generous words. Where they concern my personal life I have to confess that in large part they are true. As to those that have been complimentary of my professional life, flattery and exaggeration is a wonderful thing and I appreciate every ounce of it.

46 It is true that I have a passing interest in golf and the Sydney Swans. I cannot hide the fact that my favourite reading is not the Commonwealth Law Reports but Australian Golf Digest. My home page in Internet Explorer is not the caselaw database but AFL.Sydneyswans.com.

47 I must say I was astounded at being asked to join the Bench of this Court. I was comfortable and happy at the District Court and thought it would be my professional home until retirement. I was quite taken aback when I received the phone call. I imagine many would see an appointment to this Court as a great achievement in a career in the law. If I may borrow the recently reported words of an Australian cricketer who was speaking about the prospect of an Ashes tour to England, "it is like the carrot at the end of the tunnel". I do, however, look upon my appointment with humility and some trepidation. The challenges that lie ahead, particularly as I venture into areas of the law that I have thus far successfully avoided, I see as formidable.

48 I am sad to be leaving the District Court. The variety and the volume of work there is challenging and stimulating. Under the stewardship of the Chief Judge, Justice Blanch, the busiest trial court in the country has become its most efficient. The collegiality and the camaraderie of the judges is something I have enjoyed and deeply appreciated. The support I

have received and the friendships I have shared with both the judges and the staff will not be forgotten. I am honoured and grateful that a number have found it possible to attend this morning.

49 The District Court has provided me with the opportunity to travel to country areas on circuit where I have come into contact with a wider circle of members of the profession and the public. I can assure you it has just been coincidental that the places I have volunteered to go to have had golf clubs with reciprocal rights with my home club in Sydney. Country people generally have a more down-to-earth approach to life and that was nowhere demonstrated more than by a jury I had at Bathurst a few years ago. It was in the middle of winter and the pipes in the court house had frozen on a particularly chilly morning. I thought it would be intolerable to keep the jury in a jury room with no working plumbing so I proposed releasing them for the morning. However, the message came back that if a couple of buckets were provided they were happy to press on with the trial.

50 There are quite a number of people to whom I am particularly grateful.

51 My fellow and later instructing solicitors at the Legal Aid Commission and the Office of the DPP include many who have been influential upon me. Their professionalism and dedication cannot be understated. The same can be said for the Crown Prosecutors and Public Defenders with whom I later worked. I am pleased to see that a number have found it possible to be in attendance this morning.

52 I would like to express my gratitude to Justice Blanch in particular. I met him over twenty years ago and he has been in inspiration since in many ways. Any advice he has given has been valuable and insightful and I am honoured by his presence today.

53 I would also like to take this opportunity to pay tribute to the late Alan Viney of Queen's Counsel who was a judge of the District Court from

1990 to 2000 and continued as an acting judge in the years that followed. I worked as his professional assistant for a time in 1987 when he was a Deputy Director of Public Prosecutions. He was inspirational in his ability to quickly and efficiently deal with serious criminal cases with remarkable calmness and good humour.

54 Alan was a source of sound advice to me through the years. Shortly after I was appointed to the District Court he gave me a tip. Being both criminal law specialists he was aware of my apprehension at the prospect of presiding over civil cases. He told me how he had sat in a small number of such cases early in his judicial career and how in each of them he had been overturned on appeal. This presented him with the opportunity to go and see the then chief judge and advise him that presiding in any further civil cases was contrary to the public interest. It worked for him. Somehow I doubt it will work for me here. I will simply do the best I can.

55 I met Judge Peter Berman at the same time in 1987, he being my counterpart as professional assistant to Justice Howie. Judge Berman's advice and support in the years since professionally and otherwise is something I would like to publicly acknowledge. I bequeath to him the early bird pole position in the Downing Centre car park.

56 Two others I would like to publicly acknowledge for their help, support and friendship in my time in the District Court are Jenifar Garvey and Rob Fornito. Jenifar, I will be the first to console you when the Swans beat Carlton in the forthcoming AFL season and I thank you both for the departing gift of the supply of Honey Jumbles.

57 There are many others that I should mention but I doubt it would be a good start in this court to become part heard in my swearing-in ceremony. I would, however, like to thank the authors of the many emails, cards and letters that I have received in the past week or so. I will respond individually but I do thank you now for your very kind wishes. Some have ventured suggestions as to how I might be known in this new life to

distinguish myself from my namesake here. The majority, I have to say, have been distinctly unhelpful, most of all Andrew Haesler's.

58 My family cannot go without mention. My son, Spencer, has a promising career ahead of him as he completes this year his law and commerce degrees at Macquarie University. If a comparison is made between his academic record and mine, he being a far more conscientious and diligent student than I ever was, he is destined to do well. My sister, Gail, has been unflinching in her support throughout the years. I thank her for her presence and hope that the sickness that prevented her from going to work today will quickly resolve. One thing I regret is that my parents are not here. I owe them so much in terms of the values they instilled in me in my formative years. I know that they would have been so proud if they were here to see this.

59 Finally, I am grateful in embarking upon this formidable journey that my associate for the past almost four years, Ms Carol Lloyd, has agreed to come with me. She is loyal, discreet, and unstinting in her support. She has made a significant contribution to whatever I have achieved as a judge to date. She constantly reminds me of the value of brevity. I will take note of that now and conclude by thanking you all for sparing your valuable time to share this occasion with me.
