IN THE DISTRICT COURT

OF NEW SOUTH WALES

THE CHIEF JUDGE
THE HONOURABLE JUSTICE D PRICE AO
AND THE JUDGES OF THE COURT

WEDNESDAY 31 MAY 2023

**SWEARING IN OF HIS HONOUR CRAIG MICHAEL EVERSON SC AS A JUDGE OF THE DISTRICT COURT OF NEW SOUTH WALES**Ms G Bashir SCon behalf of the New South Wales Bar Association

Ms Jacqui Dawson on behalf of the Law Society of New South Wales,

on behalf of solicitors

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 (Commission read)

 (Oaths of office taken)

PRICE CJ: Judge Everson, the affirmations of office will be placed in the Court archives as a record of this occasion. May I very warmly welcome you to the District Court and congratulate you on behalf of all the judges on your appointment. You bring to the Court extensive experience in the criminal law which started as a solicitor in the Aboriginal Legal Service. You have made many appearances as a Crown in trials in this Court and the Supreme Court of New South Wales and also in the Court of Criminal Appeal. I am sure you will continue to contribute substantially to the administration of justice in the State. I wish you every success in your judicial career.

JUDGE EVERSON: Thank you, Chief Judge.

PRICE CJ: Ms Bashir.

BASHIR: I begin my acknowledging the traditional custodians of the land on which we meet, the Gadigal people of the Eora nation and pay my respects to their elders past, present and emerging. I extend my respect to all First Nations peoples here today. Your Honour, it is a great pleasure to represent the bar in welcoming your elevation to the Bench, an appointment that has been applauded both in recognition of your Honour’s legal expertise and an acknowledgment of the life experiences outside of the law that inform your Honour’s understanding of human nature and the vast breadth of our Australian society.

 Your Honour has been engaged with issues of justice for First Nations peoples from your early life in the law. As a tutor in criminal law at the Aboriginal Students Centre at the University of New South Wales in 1991 and from 1992 to 1996 as a solicitor with the Aboriginal Legal Service in New South Wales and the ACT.

 Called to the bar in 1996, your Honour practised primarily in criminal law appearing as an advocate before Commonwealth, New South Wales, ACT, Victorian and Queensland Courts mostly defending people charged with serious indictable offences and also practising in administrative commercial and common law until your appointment as a Crown Prosecutor in 2005 and later Deputy Senior Crown Prosecutor from 2014. Then your Honour managed the busy Sydney West Offices, Parramatta, Penrith and Campbelltown from 2014 to 2018 taking silk in 2021. Your Honour brings to the bench this breadth of experience and to courtroom management, firsthand understanding from having practised at both ends of the bar table.

 Your Honour’s upbringing was in the then thoroughly working class Bondi, riding a salty surfboard long before it became a hub for influencers. It has been said that your Honour grew up seeing injustice in the world around you, inspiring you to pursue a vocation that would have a positive impact on society. When your Honour was aged nine, the students in your Year 3 class were asked what they wanted to be when they grew up, your Honour answered, “Prime Minister.” Thankfully for the bar, your Honour later fixed on a place in the adversarial system, and on the golden thread, much to the benefit of the legal profession. Your Honour went on to complete two separate university degrees, graduating a decade apart, first in Arts and later in Law.

 To fund your studies the first time around, your Honour worked as a cleaner for three years and in Housing Commission blocks in Maroubra and Coogee. After graduation, your Honour worked as an internal auditor in the Commonwealth Public Service for five years. Later, while studying law by day, your Honour did nightshifts working security at licensed venues around Sydney including at the colourful Exchange Hotel. Talk about seeing the world without leaving the country. As a doorman, your Honour showed good character, common sense and calm authority: each essential qualities of a judge and indeed, one might say, a part of the selection criteria for all judicial appointments. Your Honour was also a trained martial artist, not currently a must-have qualification for the judiciary, although there is a black belt currently on the High Court. I contemplated setting up an off the bench match until I heard there was someone recently appointed here practiced in cowboys and Indians, and thought that might be more fun. Your Honour trained with your brother, Mark, and you each have a third-degree in black belt Zen Do Kai karate.

 Later, when your Honour was a barrister in private practice in Canberra, you were said to have had the air of a bookish streetfighter. The fact that your Honour had a Bull Mastiff named Dorothy, was emblematic of your formidable but at times gentle style. A robust opponent in the courtroom, your Honour was just as likely to regale a learned friend with obscure case law as your most recent injury from sparring in Brazilian Jiu Jitsu, which by then was your Honour’s discipline of choice. As a courtroom advocate, your Honour has always been calm, well prepared and determined - ready to run a case hard yet always ethical and fair. With a sharp mind and an aptitude for chess, your Honour has also been a considered tactician drawing on your “bible” Sun Tzu’s The Art of War. I am sure the bar rules are somewhere in your Honour’s copy of that masterful text.

 Your Honour’s performance in court speaks to your tireless and precise preparation and an ability to quickly distil what are likely to be the real issues in a trial and focus attention on the efficient conduct of the case. Never boring in execution, and at times even funny, your Honour at one point contemplated weaving lines from both Peaky Blinders and a David Bowie song into a closing address.

 Your Honour brings to the bench an impressive knowledge of criminal law and great legal expertise in running trials, sentence and appellate matters including fast moving interlocutory appeals while the relevant trial is still running and covering the full spectrum of summary and indictable offences and handling a wide range of complex procedural and legal issues. Although your trials are too numerous to list, I do make special mention of a recent cold case Supreme Court murder trial. That matter demanded extreme versatility with arguments spanning the Evidence Act, criminal procedure and two permanent stay of proceedings applications complete with detailed evidence and testing cross-examination.

 The Crown case was led by your Honour showing complete command of a case with a high degree of difficulty. Indeed, there was no body in that case. The trial, itself, which your Honour played a starring role was the subject of a podcast and worldwide attention. From beginning to end, under pressure and immense scrutiny, your Honour is said to have been unflappable in the face of unexpected issues - perhaps invoking the mantra that you are known to often utter in response to wins and losses: “Chop Wood: Carry Water,” in getting on with the job at hand. There have been many other cases that were not high profile yet no less significant with respect to your Honour’s application and dedication in the service of justice.

 For colleagues within the ODPP, your Honour has been incredibly generous with your time and you will be very much missed in Crown Prosecutor’s Chambers both as a mentor and a friend and at the defence bar, your Honour. Your Honour’s door has been figuratively and literally always open and day after day, practitioners seeking your advice about court problems great and small. Good at communicating practical advice, albeit at times in your characteristic laconic style, your Honour was known to answer lengthy rambling emails with one word. On many occasions your sound feedback for juniors sharing witness statements was to concisely advise, “too many words.” As a mentor, your Honour was patient in the moment and encouraging in professional development. Your Honour’s mentorship has extended outside of the ODPP, as an advocacy coach with the Australian Advocacy Institute and on the Bar Practice Course, presenting to hundreds of readers since 2019 on the topic of “Examining and Cross-Examining Expert Witnesses,” and always leaving readers speaking highly of your Honour’s excellent coaching. We have readers here today from the latest Bar Practice Course they have just started this week. Beyond the lecture room, your Honour has been a model advocate within the courtroom; and for juniors, watching your Honour in court has been like having a front row seat to a master class in advocacy.

 Throughout your career, whether at the Aboriginal Legal Service or the ODPP, your Honour has spoken the truth without fear or favour, sometimes at personal cost, and always with a sense of justice and fairness.

 Your Honour, as you transition from bar to bench, the Bar Association thanks you for your contributions to continuing professional development at the bar and for the profession, delivering numerous presentations and workshops beyond the Bar Practice Course and an address on “Aspects of Advanced Trial Advocacy” for an Education Committee Webinar. I acknowledge on behalf of the bar your service to Bar Association Committees on the Health & Wellbeing Committee, the Accessibility Panel and as chairperson of the Chambers for the Future Working Group. Barristers and Bar Association staff who have worked with your Honour have found you to be energised, committed, responsive, encouraging and extremely good natured. As a member of the Accessibility Panel, your Honour has been constructive in your advocacy of improving access to build environments for people with disability including through your hands on approach of attending courthouses to take photos related to access. Both on behalf of the bar and personally, I thank your Honour for your warm and considered contributions and, in particular, for your dedication to the hard-work of the Accessibility Panel, which have been unfailing even after long days in court.

 Your Honour’s vocational life has always been characterised by tenacity and a spirit of community service: qualities role modelled by your Honour’s parents. Stan, your Honour’s father, worked in a hardware store in Tamworth before joining the Royal Australian Navy aged 17. Around the time your Honour was born, your father worked as a nightshift mail sorter at the GPO at Martin Place and at other times as a doorman at the Taxi Club in Darlinghurst and as a deckhand for the Department of Navy. Whilst a deckhand by day, your father studied at night school and qualified to be the captain of small naval support vessels. Clare, your Honour’s mother, left school at 16 and completed a secretarial course. Outside of the home, Clare worked for a cerebral palsy charity and, with a team of other women, collected unwanted clothes from the homes of Sydney’s wealthy to redistribute. There is an impressive family legacy evident in your Honour’s own work ethic and your commitment to social justice and a fairer society.

 Today we share this happy occasion with your Honour’s family. Your daughters, Emma and Maddie I am told are as fearless as their father: Emma having surfed the challenging waves at Uluwatu in Bali and Maddie having lived in East Berlin for almost a year, straight out of school. As well, your daughters trained in freestyle kickboxing as children while your Honour was training in the room next door at the same dojo. There is now a next generation with your grandchildren, born to your eldest daughter and her partner.. We acknowledge your Honour’s wife, Annette, a solicitor in private practice, who in the past worked for the New South Wales Bar Association and was associate to now retired District Court judge, Stephen Norrish from 2000 to 2006. Together with Annette, your Honour shares a love of the Balmain Tigers. Your Honour is still warming up on use of the team’s new name - “Wests.” In true egalitarian style, in a ceremony available to movie stars and street sleepers alike, you and Annette were married in Vegas by an Elvis impersonator at the Graceland Wedding Chapel. Over the years, your Honour has been delighted to see Annette’s son develop into a fine young man, and now a solicitor practising in industrial law. We celebrate today with your Honour’s friends, many of whom have been lifelong friends from in and outside of Law.

 Your Honour, lest I stray into “too many words,” on behalf of the New South Wales Bar, congratulations and all the very best for the years to come. May it please the Court.

PRICE CJ: Thank you, Ms Bashir. Ms Jacqui Dawson on behalf of the Law Society of New South Wales.

DAWSON: 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 their elders, past and present. I acknowledge and extend my respect to all Aboriginal people who are with us today.

 Judge Everson, I am genuinely honoured to come before the Court on behalf of all the solicitors of New South Wales to offer congratulations and wish your Honour well in your appointment to the New South Wales District Court. Your Honour is joined today by your family, your uncle and aunty, your brother, your wife, your two daughters and three grandchildren. I have no doubt they are immensely happy to see you here today and you them.

 Beyond your distinguished career as a solicitor and barrister, your Honour has experienced life in ways that few on the bench have, shooting pistols in Thailand, skydiving in Namibia, surfing in Hawaii. An occasional member of the NSW Bar team in the annual chess competition against NSW solicitors. A lifelong athleticism and love of several sports. A well-rounded, dryly humorous addition to our collective profession and now to the bench.

 Criminal matters have, of course, marked many of your cases, right from your first days as a solicitor. Dealing as you have with the graver end of criminal law for many years, you have been known to unwind by lifting weights. Very heavy weights. And to kick and punch bags; always away from people, as I understand you have clarified. A health approach to what you have no doubt, at times, been troubling matters.

 Your Honour has also demonstrated a coolheaded approach to work and you have worked hard since you were young. You won a scholarship to do your final years of high school at Waverley College and this hard work continued as you went to university where you would earn two degrees.

You earned your BA at the University of New South Wales where you worked to support yourself including, as we have heard, as a cleaner of public housing in Maroubra and Coogee. At the same time, you tried your hand at rugby league. Playing for the Eastern Suburbs under-19 representative side, where you broke your leg badly forcing a long recovery. Whilst rugby league suffered from your loss, it would later turn out to be a win for the law.

 Putting football aside, upon completing your Arts degree, you worked as an internal auditor in the Commonwealth Public Service. This gave your Honour the opportunity to pursue your main long-term interest, martial arts.

 While working as an internal auditor, you progressed to gaining a Third Degree Black Belt in Karate. You also worked as a Karate instructor and took part in competitive kickboxing. Over later years, Brazilian Jiu-Jitsu has also formed a big part of your life.

 However, this was not enough. People who know you have remarked that you were, and are, motivated by a sense of fairness. One, that in your own words, stemmed from “having seen people treated very badly growing up.”

 You were driven by a sense of justice, to do something that would be of interest and benefit to you, as well as society. And so you began a law degree.

 However, there were years of study to contend with. So, as a former higher skilled rugby league player, and one experienced in martial arts, and someone in need of an income, you worked in security on Friday, Saturday and Sunday nights at pubs and clubs around Sydney. This included live music and professional wrestling events throughout New South Wales all while studying law fulltime during the week.

 But when you completed your legal studies, it was the call of the solicitor’s role that gained your attention. Through a necessary combination of ability, passion and charm, in 1992 you entered the role of solicitor for the Aboriginal Legal Service. Having first opened in Redfern in 1970 as the inaugural Aboriginal Legal Service in Australia, and the very first free legal assistance service on the continent, you started where you were needed most.

 Your opening case for the Aboriginal Legal Service was as part of the defence, appearing for children that lived over the road from you, at the time, in Erskineville. From this start, you went on to work as the solicitor for the Canberra Aboriginal Legal Service, working mainly in criminal law.

 Justice Ann Ainslie-Wallace, now retired, was one of your early opponents from that time. Casting her mind back to the 1990s, she remarked that you were first opposed in the Family Court, in what some might call a difficult case for the opposition. She noted, “always charming in victory and glorious in defeat. We were opposed a number of times then, and Craig was good humoured and well prepared and a very decent opponent. Now, he isa very thoughtful advocacy teacher. Both in and out of practice, he’s a decent and sound individual, exactly what one would want for the Bench.”

Thank you for those words, Justice Ainslie-Wallace.

 You took to being a solicitor with alacrity, demonstrating a skill that few attain. However, I must note as remarked earlier, you would later betray this by joining the Bar’s chess team.

 Ruth Shinn, Witness Assistance Officer at the Lismore office of the Office of the Director of Public Prosecutions, and an Indigenous woman, is someone you have known professionally in recent years. You share a common love of rugby and Lloyd McDermott, and the foundation Lloyd established for Aboriginal and young people.

 Ms Shinn recalled once noting to you her cultural connections to Palm Island in Queensland where there were riots in the late 1950s. In her words, “Aboriginal mob went on strike to get fair pay and not be paid in rations, and my family were part of that. I mentioned this to Craig once and my jaw dropped when I heard Craig open up about it. He knew all about it. That warmed my heart to know that a non-Aboriginal person was so connected, and it amazed me to hear it.

 “I also spent time on Country with a mob in a little-known place near Broome, and when I mentioned this to Craig, he knew it immediately. His passion and knowledge about engaging with First Nations issues and culture is real; it’s authentic.” Thank you for those words, Ms Shinn.

 This line of care and reasoning that has stayed with you from your university days, through your many years of practice, to today.

 After practising as a solicitor in mainly criminal matters, for around four years, you were called to the Bar in Canberra in 1996. And it is here that you began a long list of appearances in private practice in significant appellate matters, working for nine years before Commonwealth, New South Wales and ACT, Victorian and Queensland courts.

 2005 marked a shift, as you became a Crown Prosecutor in New South Wales. You rose up through this system and in 2014, you were appointed a Deputy Senior Crown Prosecutor at the Office of the Director of Public Prosecutions. In recognition of your outstanding ability in 2021, you were appointed Senior Counsel.

 Throughout your practice, your Honour has shown a sensitivity to the weight of the matters in which you have acted, whilst outlining the truth of the facts.

 Your Honour once heard the illustrious barrister, Chester Porter, remark that, “You should prosecute with sorrow.” This did not escape you. These words have echoed throughout your later work at the Office of the Director of Public Prosecutions. This Court knows full-well what your Honour is capable of as a lawyer, having witnessed firsthand your skill in argument and your ability to reason with clarity.

 Your Honour has appeared in close to 50 significant appellate, trial and sentencing cases. Many have been serious indictable offences.

 Throughout these cases, you have conducted yourself impeccably in the public eye, and highly effectively at law.

 To get here, to amass this significant list of achievements, your Honour has acknowledged that sentiment of Sir Isaac Newton’s: that we stand on the shoulders of giants. Notably, working under the leadership of Chris Maxwell KC in the Office of the Director of Public Prosecutions. Your Honour has recognised his very positive and supportive influence, and I am glad to mention him today as you join the District Court.

 A level, consistent ability to cut through the law’s more extreme cases, while seemingly easily eliciting the truth from the facts, is a rare thing. Few have shown such strong, intelligent ability in law. Your Honour is one who can claim this.

 Alongside this, you have lived a life with all the rich variation that elevates people beyond mere ability, revealing a world of curiosity, passion and care. This supports your legal practice and makes our judiciary stronger for it.

 It is my very great privilege to acknowledge that today you bring all of this into Court - not as a silk, but as a Judge of the District Court.

 On behalf of the solicitors of New South Wales, I wish you the best of luck. May it please the Court.

PRICE CJ: Thank you, Ms Dawson. Judge Everson.

JUDGE EVERSON: Chief Justice Bell, President Ward, Chief Judge at Common Law Beech-Jones, Chief Judge of the District Court, justices, judges, magistrates, family and friends; I am truly humbled by your attendance today. I am well aware of Sir Francis Bacon’s phrase, made famous by Lord Denning, that “an overspeaking judge is no well-tuned cymbal.” I will not detain you for too long.

 Thank you for this opportunity to pay an instalment on the debt of gratitude that I have accumulated. The list of creditors is extensive and in parts intense: family, friends, martial artists, team mates, surfing buddies, the University of New South Wales teaching staff, the Bar Association’s Inspirational Accessibility Panel, the Australian Advocacy Institute, many lawyers and even some judges. The main creditors though are my wife and my parents. The life of a Crown Prosecutor consumed by chamber work and court appearances is demanding, I will be eternally indebted to my now wife, Annette, an accomplished lawyer in her own right, for the time and space she afforded me to do that work.

 My father, Stan, died of war related injuries in my first year at the Bar, his exposure to asbestos on naval ships in the 1950s proved fatal. Overcoming a stroke and temporarily cancer, my mother, Clare, lived to the age of 89 years thanks to the support of the War Widow’s Guild and my brother, Mark, his wife, Trudy, and their children.

 Radically different in their approaches to parenting, Stan and Clare, equipped my brother and I with skills to survive and thrive in life. My mother was kind and generous but fierce in the face of injustice. My father maintained there was always room for self-improvement, his techniques ranged from the frightening to the hilarious. At age eight, my mother took me to swimming lessons on Saturday afternoons in the baths at South Bondi. There, I was taught to Australian Crawl the length of the pool. When I was nine, my father took me to the rockpool at the North end of Bondi, it was dawn, high tide and huge waves were crashing into the pool. Stan’s coaching advice was simple and useful, “Dive in, do a lap, repeat and don’t get smacked by the rocks or dragged out to sea.” Intimidated by the challenge I asked, “How do I do that?” And Stan replied, “Well, as in life, unless you can walk on water, you better learn how to avoid danger. I suggest you hold your breath and swim underwater.” Thankfully, my very sensible and clever Uncle Brian, taught me additional and easier ways of swimming relatively safely in, through, and out of, crashing waves.

 Measured against most standards, I did well at school. On a Saturday towards the end of third class, my father asked me about my school report card. I showed it to him. It recorded that I had sat ten exams, across ten subjects in which I mostly scored 100%. Stan’s focus though was on the lowest mark, 97 out of 100 for mental arithmetic. All he said was, “What happened to the other three?”

 Self-taught and well read in history, politics and current affairs my father, Stan, would adapt slogans, proverbs, film titles and song lyrics to fashion his advice and arguments. As a youngster, he would tell me to work, train and play smart and don’t let anyone take my lunch money.

 It was during the tumultuous wake of the sacking of the Whitlam Labor Government that I attended university for the first time. My father was an irreverent proletarian intellectual of the type then not uncommon on Australia’s waterfront and working harbours. His advice to me in February 1976 included a Malcolm X quote, “Stand for something lest you fall for anything.” He left me to fill in the details.

 During my second stint at university and towards the end of my law degree we discussed what type of law I should practice. Deploying the title of Spike Lee’s 1989 movie, Stan told me that I should always try to, “Do The Right Thing”. “Don’t worry about making money,” he’d say, adding that he was “born with nothing and still had most of it left”.

 Twenty-seven years ago, I told Stan of my plan to join the Bar. He helped me, if that’s the word, by telling me that the weight of history was against me, I was unlikely to succeed, he said, because I was unlikely to be accepted by those he referred to as, “they” or “them.” I was not so pessimistic, as I was drawing strength from the example of the Balmain-raised son of a painter and docker, that was the late Honourable Kenneth Carruthers KC, a jurist whose words I will refer to in concluding these remarks.

 A few years ago, I provided a buccal swab to one of those companies that use the swab’s DNA profile to assist in generating one’s ancestral family history. The results demonstrated the truth of what my father told me about my family history. Stan told me that my mother’s ancestors were mainly Catholic outlaws from the southwest of Ireland who rebelled against British rulers. Otherwise, my mother’s ancestors, Stan said, were Perthshire foot soldiers in the failed Scottish Jacobite revolts of the 17th and 18th centuries. Stan also told me, as my DNA story confirms, that his ancestors were unpopular Scandinavian seafarers. I unravelled his curious words and eventually grasped that he was referring to the Vikings that settled in the northeast of England. Stan promoted self-reliance to the very end. His final Norsemen-like words were to my mother, Clare, “You’re on your own now.”

 Characters like my father, whilst rare, were not unknown to me. From my first day as a solicitor at the Aboriginal Legal Service in Redfern, I worked with its then principal solicitor and advocate, the legendary Bruce Robert Miles. I am particularly grateful that he shared his perspective on courage.

 For those that don’t know, Bruce volunteered for the RAAF in World War II. He flew bombers in low level missions over Europe. He was shot down twice and hospitalised once being propelled through a windscreen and wounded by shrapnel in the leg which left him with that distinctive lifelong limp.

 Fresh from his latest application to discharge a jury to avoid a perceived miscarriage of justice, Bruce was asked at the 1993 annual conference of the Aboriginal Legal Service if he got scared in Court. His answer was, “No, flying over Nazi Germany with a rocket up your backside, that’s scary.”

 I thank: all my instructing solicitors; the unsung heroes of the ODPP’s Witness Assistance Service; and, the PSA delegates within the ODPP. I am very grateful for the support and lessons learnt from my colleagues and leaders at the Bar, both public and private. I make special mention of Paul Conlon SC and Chris Maxwell KC. I make very special mention of Anthony Bellanto KC. Tony has led me, been my floor leader and even opposed me in this Court.

 Creditors on my debt of gratitude list include the many Crown Prosecutors with whom I have ran with in the heavily scrutinised hamster wheel of demanding jury and bench trials. I applaud your efforts in being fair and independent Crown Prosecutors and give a special shout of thanks to our fallen comrades, Brad Hughes SC and Jose Crespo.

 I will defer further thanking family, friends and others until we speak in a more private setting. I will then continue the decades long process of explaining to my children and now grandchildren that ultimately, my debt of gratitude will be paid forward and that I am offloading it onto them.

 It is over 400 years since Sir Francis Bacon said, “An overspeaking judge is no well-tuned cymbal.” Like most such purported rules, its application is not easy. Indeed, it will be a challenge for me, for I too, take the point made by the late Ken Carruthers KC. Over 20 years ago, in a Court of Criminal Appeal judgment, his Honour citing a 1921 US Supreme Court judgment said:

“While an overspeaking judge is no well-tuned cymbal, neither is an amorphous dummy unspotted by human emotions becoming receptive or for judicial power.”

Thank you, Chief Judge, and again, I thank you one and all.