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DRAFT

IN THE DISTRICT COURT  
OF NEW SOUTH WALES

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

MONDAY 18 APRIL 2016

**SWEARING IN OF HER HONOUR PENELOPE MARGOT WASS SC AS A  
JUDGE OF THE DISTRICT COURT OF NEW SOUTH WALES**

Mr Arthur Moses SC, Senior Vice-President New South Wales Bar Association  
on behalf of the New South Wales Bar  
Ms P Wright, Senior Vice-President, Law Society of New South Wales, on  
behalf of solicitors

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(Commission read)

(Oaths of office taken)

PRICE CJ: The affirmations will be placed in the Court archives.

On behalf of all the judges of the District Court, I very warmly welcome  
you and wish you all the very best in your judicial career.

MR MOSES: I wish to begin by acknowledging the Gadigal people of the Eora  
nation, the traditional custodians of the land on which this Court stands and I  
pay my respects to their elders both past and present.

I am delighted to speak on behalf of the New South Wales Bar to  
welcome the appointment of her Honour Judge Wass SC. To adapt a phrase  
used by our current prime minister, I would like to say there has never been a  
more exciting time to be a judge of the New South Wales District Court,  
however, that would not be a true statement. The fact is Judge Wass, you  
have joined a court with a heavy workload that remains chronically  
underfunded and under staffed despite repeated demands by the bar that this  
be rectified. Your brother and sister judges who sit in its criminal jurisdiction in

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particular have a crushing workload.

Some ministers of the Crown and media personalities comment about the need to remove or punish judges, including judges of this Court, who deliver judgments that are not harsh enough. It is against this backdrop that citizens of New South Wales are fortunate this Court has judicial officers of the highest skill, integrity, common sense and strength, who are able to withstand such pressure and appeals to prejudice. You are a worthy addition to this Court.

There was a painting in your chambers featuring a young girl with a looking glass entitled "Looking for Clues". It is an appropriate metaphor for one of our bar's most diligent, thorough and investigative female practitioners, one who readily accepted the most challenging cases in search of the truth. No detail was too small to escape your Honour's attention, even if that annoyed your opponents from time to time. Nowhere was this more evident than during the second coronial inquest in 2013 into the death of 33 year old Nadine Haag, in which your Honour obtained an open finding on behalf of the Haag family rather than one of suicide, and that was despite resistance from the police investigators.

There were many more cases which were equally hard fought on behalf of many disadvantaged clients. But for today it is suffice to say your Honour brings to the bench of the District Court, compassion, fairness, practicality and a wealth of experience before this Court, the Court of Appeal and the Court of Criminal Appeal.

Your Honour was born in Tamworth, together with your sisters Phillipa and Alexandra, you were raised by your parents, Andrew, affectionately known as Chubby and your mother Helen, on a sheep farming property just south of Uralla in the northern tablelands of New South Wales. Sadly, your father

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passed away shortly before your Honour was informed you were to be appointed to this Court. Your Honour was the proud dux of the Uralla Primary School and went on to spend five interesting years at the New England Girls' School before completing your schooling at the Armidale High School. We won't go there. Your Honour didn't care much for study at high school, but I am informed your Honour excelled at everything else, in particular hockey. You graduated from the University of Sydney in 1987 with a Bachelor of Arts degree. At university your Honour resided at Wesley College and played yet more hockey, rode and engaged in the past time of drinking. Again, we won't go there.

Your Honour subsequently undertook a Diploma of Law from the Solicitor's Admission Board, during which time you worked with various mid-tier law firms like the then Moore & Bevins. Your Honour also worked as a researcher for the Blackburn Royal Commission in 1989 where you observed Chester Porter QC in action as counsel assisting and I am sure aspects of your Honour's advocacy style were inspired by him.

Your Honour completed the SAB diploma in 1991 and was admitted as a solicitor of the Supreme Court in August of that year. For the next nine years you practised at the Commonwealth DPP in a remarkable cohort that included among others, Tony Payne, Michael Wigney, Mark Buscombe, Robert Bromwich, Terry Buddin and Liz Fullerton as their Honours were then. If Macquarie Bank is sometimes dubbed the millionaire factory, surely the Commonwealth DPP of that era ought to be given the title of the judicial factory. There you are responsible for the prosecution of a diverse range of cases.

Your Honour's precious children, Hugh, born in 1997 and Daisy born in

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1999 join us here today to celebrate your Honour's appointment and it was with newborn Daisy and toddler Hugh on the scene that your Honour came to the bar in February 2000. You read with Lucy McCallum and Ian McClintock, as they were then. Her Honour Justice McCallum is present this morning and his Honour Judge McClintock joins you on the bench.

Finding the right chambers is one of the more difficult tasks for a junior barrister, but your Honour found a room on Sixth Floor Selborne Chambers, where you remained until the time of your appointment. Tom Bathurst, as he was then, was the head of chambers for most of that period until he was appointed chief justice, and he also joins us this morning.

You have been heard to say how fortunate you were that your first chambers turned out to be your true home at the bar. I am sure your colleagues on the Sixth Floor would be delighted to hear that, by all accounts your Honour's room was the hub from which the spokes of social and professional ties radiated outwards through the floor and to the wider bar. You became a much sort after mentor to many women barristers, particularly in respect of advice in conducting criminal cases. Lunches were organised and dinners were had, but perhaps the most well-known were the skiing weekends in the snowy mountains, during which your sister Alexandra would occasionally join you. Your Honour has even run 50 kilometres in the Sydney Coastrek with Justice McCallum, simply because she asked. As one junior barrister said of your Honour, she sings, she dances, rides motorbikes and skis. There's nothing she doesn't do. Show-off. I should say your Honour is not that good a dancer, the first time I saw your Honour dance I could not figure out if you were having a fit or impersonating the dance moves of Elaine from Seinfeld.

With your well known sporting attributes I am told Judge Levy will be

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sending you a membership card for the gym he set up in John Maddison Tower. However, you should consult some of your new colleagues as to when is the best time to attend that gym to avoid the sight of some of your heavier brother judges wearing Lycra while doing some of their workouts or practising yoga. Seeing some of them undertake a downward dog could cause trauma.

Now returning to more serious matters, I should note that through diligence and determination you have built up a diverse civil and criminal practice, civil appeal practice and Court of Appeal practice. Your Honour's hard work and dedication was rewarded in 2013 when you were appointed senior counsel. As senior counsel you were regarded as an all-rounder. You were happy to appear in all jurisdictions, ranging from the Local Court to the High Court. No case was small enough to detract your Honour from focussing on it. You have served on a variety Bar Association committees, among them the Criminal Law Committee, the Equal Opportunity Committee and a Professional Conduct Committee. Your Honour has presented and chaired numerous CPD seminars, assisted with the Bar Practice Course and bar exams. Since 2014 your Honour has sat as a senior member of the New South Wales NCAT in both its appeal and its occupational division. There you ran the revenue list and heard legal profession disciplinary cases.

Your Honour's appointment to this bench will deprive the bar of a respected silk and mentor to so many barristers. In the finest traditions of the New South Wales Bar, a replacement will step into your shoes no doubt, but the sense of sadness at your departure for the bench is great nonetheless. The bar congratulates you and wishes you well your Honour.

MS WRIGHT: It is a privilege to be able to address you on the occasion of your much deserved appointment as a judge of this Court and to be able to

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convey to you the sincere congratulations of the solicitors of New South Wales, in the absence of our president Barry Orman, who gives his warm congratulations to you also. He is unable to be here himself.

At the time of your Honour's birth, your father, Andrew Wass, was an overseer of the Congi sheep Station at Walgett in the New England tablelands. When you were three years of age your Honour's family moved to Kentucky where your father worked at a sheep property called Standbye and your mother Helen, worked at a pharmacy in the Armidale area for many years. Your Honour's father was a complete man of the land and breathed life on the western plains. He was famously called the oldest jackaroo in Australia. One of those people who never really retired, he regularly worked at Womboin Station until as recently as 2015 at the age of 83, before he sadly passed away earlier this year. Although your Honour's judicial appointment is the first in the Wass line, this is not to say you are without notable lineage. Your Honour's grandfather, John Seaton Wass, was a grazier and wool classer in Warren, and his father before him was David Wass, a well-known pioneer of the Warren area, whose sheep were descended from the first sheep ever brought to Australia.

Growing up in Kentucky near Armidale, your Honour and sisters, Pip and Alexandra, became thoroughly versed in the arts of posthole digging, fencing, lambing, pressing and rolling wool and catching stray lambs. No doubt that led you to your active interest in animal welfare over the years.

Now we have heard about your Honour's early education and your early career, but after your Honour commenced as a legal officer at the Commonwealth DPP in 1991, you quickly progressed from paralegal to an accomplished and well-rounded prosecutor by the time you left the office in

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1999. Of course, after you went to the bar in 2000 you appeared in many complex criminal matters which have been referred to by my colleague, common law matters including torts, insurance, contempt, defamation. As well as your commercial and equity matters, disciplinary hearings, Royal Commissions, inquests and of course after your Honour took silk in 2013 you took up your role as senior member of the New South Wales Civil and Administrative Tribunal in 2014. As a barrister you have always demonstrated great attention to detail, consummate professionalism and above all a deep concern for the rule of law. Well versed in Rules of Evidence your Honour's excellent understanding of both criminal and civil trial process translated into your very successful practice in both fields.

Your Honour is known for your ability to remain at arm's length from any problem at hand, not one to take a positive or negative outcome personally, but always remaining deeply interested in the people before you, the people you deal with. Utterly unafraid of hard work. I am told your Honour has a remarkable sense of focus and you've regularly gone above and beyond the call of duty to your clients and instructing solicitors, in particular, always understanding the value of others' time. Your Honour is gifted with a terrific, and I am told, sometimes wicked sense of humour, always making people laugh. Your Honour loves to entertain others. Also an avid social media user, your Honour has even been known to share the occasional meme; friendly, forthright and vivacious. I am told your Honour is all air and light and warm wit at any social gathering and always in the thick of things at any party. This is to the extent that your companions often mistakenly believe your workload must have been light and relaxing that week, only to find out not only have you been in the midst of an incredibly demanding trial in say the Court of Appeal,

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but the very next day you're due to plunge headlong into another trial, a criminal matter in the Court of Criminal Appeal.

Whether it is competing in the ski racer titles at the annual LAWSKI at Thredbo, spending many hours mustering and sheering sheep on the farm while growing up or enthusiastically taking up ownership of a classic Triumph motorcycle in recent years, your Honour embraces everything the world has to offer and never does anything by halves. I am told your Honour won, with your father, the first ever Father and Offspring golfing competition at Bowral near Mittagong, where your parents had retired. It was even suspected your Honour and your father had orchestrated the change of the competition's name from Father and Son golfing competition, just so the two of you could compete, and of course win.

At the Sydney bar your Honour has been immensely supportive of juniors, showing genuine interest in their experiences and personal backgrounds, giving you a belief this is the most notable asset which they bring to the bar.

Of course your Honour's children have played a leading role in your life and your profound commitment to them, I am told, has been a rock in their own lives. Hugh attended Knox Grammar School and he is in his first year at the University of Sydney studying his Arts degree, while Daisy is attending Barker College where she is finishing her HSC.

In the courtroom your Honour has been described as well prepared, confident and in control. You've always operated on the basis of a case theory around which you structured your entire argument. The gift of being able to understand both the trial process and the way in which evidence could be elicited made your Honour particularly dazzling in cross-examination. I am told



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observers would commonly be unsure at first from where your Honour was coming, as you smiled while lobbing a slew of questions in the witness' direction. As the process wore on, the witness' face would suddenly be seized with an expression of silent exclamation - I really didn't want to say that - and at that moment the observer would know exactly from where your Honour was coming.

Your Honour of course had judged no more than seven moots at your alma mater for the Sydney University Law Society. The mooting community write that they were privileged to be judged by your Honour, who went out of your way to offer career and development advice and was particularly supportive in the development of young female students. Although we have heard of some of the notable cases in which your Honour has appeared, I would like to give a mention to your representation of the Duke of Edinburgh Scheme during the inquest into the death of schoolboy David Iredale in 2009 and your representation of the Haag family at the inquest into the death of suspected homicide victim Nadine Haag in 2013.

Your Honour there is no doubt you will use your vivid experiences of life and the deep knowledge you have accumulated in the course of such a developed and diverse practice to be a wonderful judge. Your colleagues predict your Honour will display great humility and humanity in your courtroom, always cognisant of the fact there are real human beings in front of you with complex lives, bearing weighty issues and embroiled in situations in real need of resolution.

The practice your Honour has maintained has been unusual in that you have practised at a very high level in both civil and criminal matters in this age of hyper specialisation. This had made your Honour a true barrister's barrister,

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your Honour's deep and broad understanding of civil and criminal matters equally as well as your experience as a senior member of the NCAT, endows you with an invaluable judicial quality that will stand the District Court and all those who come before it in very good stead.

I would like to conclude by observing what a joy it must be that so many of your relations are here today, reflecting a pride in you that runs deep, not only within your family but also through the whole Warren community. So proud are they of your appointment, the staff at the Warren Weekly have particularly requested somebody provide them with a nice photograph of your Honour in judge's robes to run in the paper next week.

On behalf of the solicitors of New South Wales, again let me wish your Honour the very best for what we are sure will be a long and distinguished career at the bench.

JUDGE WASS: Chief Judge, Chief Justices Bathurst and Allsop, President Beazley, distinguished guests and ladies and gentlemen, I should say at the outset I plan to breach the rules and name some names, so in the event I overlook anyone, and I know that is a risk, please accept my apologies. For those of you who are squirming in your seats hoping not to be mentioned, at least you will know how I feel and we can enjoy this experience together.

Thank you to Pauline Wright for your kind words. I tend to think that what is said at a time like this is a little like criminal sentencing submissions, much less about truth and much more about tendering suitable material. For example, by way of a small contribution to truth in sentencing, I left the New England Girls' School in Armidale in 1982 in a cloud of threatened expulsion for infractions too multiple and too unsuitable to mention at this time. With the prophetic words of my then head mistress, "you'll never make

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anything of your life”, ringing in my ears. It is a sign of my relatively recent maturity I feel, that I did not personally invite her here today, but she’s often in my thoughts and I thank her for her foresight and encouragement.

Thank you Arthur Moses SC for your kind words of congratulations and support. Not only are you a wonderful friend, but you epitomise all that’s good about the New South Wales bar and a worthy representative of its independence, its intelligence, its decency and its thoughtfulness. It was an honour for me to be addressed for the first time by you. Whenever I had serious ethical concerns whilst at the bar, and there had been one or two, you were always available with precisely the right answer. Your searing analysis and your stinging humour is also greatly cherished.

My love of this profession came quite late, it’s true, and as the Supreme Court’s first common law division researcher I was lucky enough to come to the Court at a time of the Blackburn Royal Commission. It is a fact that I was greatly inspired by the work of Chester Porter QC and I thank the late Justice Mervyn Finlay for pointing me in that direction.

Even before I was admitted as a legal practitioner, former judge of the Supreme Court, Brian Sully, told me, if I seriously wanted to practice in crime, the only place for me to go was to the Commonwealth DPP and work with the young and even then formidable advocate Elizabeth Fullerton, now her Honour Justice Fullerton. Thankfully I took that advice and once I got over her terrifyingly forthright demeanour, I learnt much from her, particularly on our trip to sunny Hermidale, a mere 50 kilometres from Nyngan - or for the more rurally challenged, 615 kilometres northwest of Sydney via Dubbo. We had been engaged to track down and speak to a key witness in a drug importation trial who was then in hiding and living with her partner - I use that term loosely

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- and her six or so children. We were greeted by all that Hermidale then had to offer, that is to say two tumbleweeds, a general store, pub and post office, all resplendently accommodated in one building. I should say too, Elizabeth and I were also resplendent in our frocks, hats and sunglasses, it was after all 45 degrees.

We were greeted soon after at our witness' house by the aforementioned partner. Despite our forthright appearance like Thelma and Louise, fresh from Dubbo in our Commonwealth car, the partner seemed to be expecting us. Inexplicably we had telegraphed our arrival perhaps by our attendance just moments before at the general store. The partner looked for all the world like a giant spider, top to bottom with tattoos and clinging to the gauze of the front door, not wanting to let us in. Undeterred and safe in the knowledge I was with Ms Fullerton, we conducted our witness conference at the kitchen table, with the spider looking on. Elizabeth and I returned in the evening to the relative joys and sophistication of the Dubbo motel restaurant that had been our base, where she duly, and I thought quite loudly, insisted the manager seek out a long lost set of keys to specially open the cellar to release the one bottle of French champagne they had from its imprisonment. It is experiences like that that money can't buy. Justice Fullerton continues to this time, to not only be a valuable source of friendship and mirth, but also a treasure chest of experience and wisdom. I should say we lost the case with a verdict by direction, but as I say, you live and learn.

As has been mentioned, the Commonwealth DPP in 1990 was a very bright and shiny new thing, and I was indeed lucky to work in close proximity with and learn much from, in particular Tony Payne, Michael Wigney, Robert Bromwich, Mike Buscombe and Hugh Dillon, all of whom have moved

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on to bigger things.

It gives me great pleasure to come to the Court at this time when the Chief Judge is the same man who was then the only magistrate regularly exercising Federal jurisdiction in the State from a courthouse within the St James Centre in Elizabeth Street. Justice Payne remarked recently, and it is true, the Chief Judge taught us much about how to effectively conduct our cases. In particular, I learned from him that when a witness asserts after a long and tedious cross-examination that “in Chinese no means yes”, that is the time I am supposed to frustratedly remove my glasses and toss them onto the bench. The Commonwealth DPP was an excellent training ground, it was at that time well-funded and most of us within its walls carried out the functions with high levels of integrity, thorough preparation and above all, fairness. The vast majority of my years at the Commonwealth were happy ones and I learned a lot.

When I came to the bar in 2000, again well timed and sensible advice came in the form of James Renwick SC. He told me there was no doubt I should read with a woman on the Sixth Floor Selborne Chambers, Lucy McCallum, and as James assured me, we would be the best of friends. Never a truer word has been spoken. Justice McCallum has remained a voice of reason, a strong ally and a wonderful friend. I am grateful for her attendance this morning and for the attendance of her partner Jed, who has also become a treasured friend, although I fear our altogether, already infrequent golf days will now disappear altogether. I know they cancelled a well-earned holiday to be here today, and I thank them wholeheartedly.

I had thought receiving notification of my appointment to the Court whilst in my car at a car park at a courthouse, was surreal and unexpected.

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However, Justice McCallum tells me this was how she was informed of her impending appointment. So for those of you who aspire to judicial life, can I recommend you spend as much time in the car park, sitting in your car with the phone on as you can.

My choice for my other tutor was one Ian McClintock, SC. He frankly informed me he would make a terrible tutor and that he would teach me nothing. Again, never has a truer word been said. Although I blame myself for that, because for some years I did very little by way of crime. I am now in a position to insist Judge McClintock carry out his obligation of at least one year of tutoring duties, so my fellow judges can rest easy for now, knowing that at least for 12 months I will direct all ignorant questions, of which I am sure there will be many, to him.

I want in particular to acknowledge the friendship of Sylvia Piedade, who started with me in the bar course in February 2000 and who remains one of my dearest friends. Sylvia, I miss our regular cups of tea and gossip and most of all your hilarious stories and dry wit. I am overjoyed by your attendance today, but I am sad our regular chick's lunch may no longer occur, at least not on a Friday.

My entire life as a barrister was spent as a member of the Sixth Floor Selborne Chambers. It was for all that time a huge resource for intellectual endeavour, a playground of joy and frivolity and even at times a safe haven. I am particularly grateful to Chief Justice Bathurst and to Justices Sackar, McCallum and Payne, and I particularly thank them for their attendance.

I also wish to thank Mark McCulloch SC, Todd Alexis SC and John Marshall SC for taking a punt on a then unknown and for their professional and personal support during the last decade and a half. I thank

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the bar generally for its support today and for the past 16 years. I am overwhelmed by the presence of my colleagues. And what a fantastic 16 years it has been, every day has been different. I have made many solid and enduring friendships, which I hope will remain, despite my change in position. In particular can I thank my wonderful readers, many of whom have become such lovely friends.

In more recent times I had the very great joy of working closely with bright and beautiful members of the junior bar from my floor and from elsewhere, and I wish to thank them for their impeccable submissions and for their great assistance, often wise beyond their years. I would like to acknowledge the great friendships of James Hmelnitsky, Rob Hollo, Naomi Sharp, Julie Roy, Georgia Huxley, also the two Kates, Morgan and Barrett, Catherine Gleeson, Verity McWilliam, Callan O'Neil and Matthew Lewis, for making my life at the bar a sheer joy. I assure you I will do my best to carry out my duties with honour and integrity, and most of all good humour, and look forward to seeing you often, if not in court, then elsewhere.

I wish to thank my clerk, Lisa Stewart, for her work, and particularly to the administrative staff on the floor, many of whom have become close friends.

I am grateful to those instructing solicitors who have supported me over the last decade and a half, both in my civil practice and in crime. No barrister can properly perform her duties without the professional hard work from you, and I am grateful for that, and particularly for the friendships that have come with those relationships.

I would in particular like to thank the wonderful people from the Indictable Appeals section of Legal Aid, who trusted me to run difficult and engaging cases in the CCA and most recently in the High Court. I would also like to

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thank the solicitors of the Crown Solicitor's Office. There must be something in the water over there because they provide an endless stream of diligent, smart and delightful people.

In the last couple of years I have been performing part time duties at NCAT, and I wish to publicly acknowledge Justice Robertson Wright for giving me many opportunities that the Tribunal offers. I am honoured by his attendance today. The work in the professional discipline area has been particularly engaging. I wish also to publicly thank Jennifer Boland, Nancy Hennessy and Anne Britton for their guidance, friendship and support. I particularly enjoyed my time conducting the Revenue List and thank the practitioners and support staff at NCAT for their professional approach to that work. I also thank Justice Wright for introducing me to Geoffrey Winters, his then associate, who has become a fierce friend, and I am disappointed not to be able to move his admission to practice.

I am grateful to my close family and friends for the parts they have played in getting me to this point. In particular, can I express my profound gratitude to Nicky and Geoff Drummond, Alison Renwick, Kate Hodges, Pierrette Mizzi, Anne Fenwick and Tanya Rahme, who are all thankfully in attendance, and who shepherded me through some difficult times, enjoyed the good ones and who have been unswerving in their support for me both professionally and personally?

To my two children, Hugh and Daisy, what wonderful inspiring humans you both are. Not once have you questioned my desire to work in the law and the untold sacrifices that has involved. I am indebted to you for your love and humour, for your ability to put things in perspective and for the fact neither of you want to work in the law.



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I also want to publicly acknowledge the role Jan Valentine has played in my professional and personal life. I am so pleased you are here today. Jan became part of my family in 1999 when she began caring for Hugh and Daisy. She has continued to be an absolute rock and the vault of discretion, but most of all a loving and wonderful constant in my life and the life of my children.

I also wish to publicly acknowledge the great care and love given to me and to Hugh and Daisy by their grandparents Syed and Nancy, who are also here, care that enabled me not only to do and enjoy the work knowing the kids were in good hands in those early years particularly, but have also been an unwaivering source of support for me personally.

To my two sisters Pip and Ali. There are few words to express what they mean to me, they are a constant source of love, strength, compassion, mirth, delight and of sensible advice. I love you both very dearly, and am delighted that Ali is here today. I am also thrilled to see my niece and nephew, Leila and Gus, my aunt and uncle, Sue and Frere Green, who travelled to be here from Warren, not quite via Hermidale, but almost. And my Aunt Ruth, who has been the cradle of love and a rock of support to me.

Neither of my parents is here. Sadly, my father died quite recently and suddenly, and so I am deeply disappointed he is not able to share with me in the happiness of today. He was a constant source of love and loyalty, whilst at the same time, being a great leveller. When I failed to take silk in 2012 he nonetheless called me SC, although he was referring to my very great skills as shearers' cook.

I wish to thank Peter Whitford, not only for his love, but also for his professional and personal guidance. If Judge McClintock gives up on me, as I expect he might, you can expect many calls for assistance.

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The main personal reason I wish to be a judge of this Court was because of the very great collegiality between its judges, that I have observed at close quarters in the last few years, forged no doubt from the relentless challenges this jurisdiction imposes.

I am looking forward to making new friendships in the Court, I have already been made to feel extremely welcome. My only regret is that there are no sittings in Hermidale.

I am humbled by, and thank you all for honouring me by your attendance.