

**Land and Environment Court of New South Wales**  
**Thursday 6 February 1997**

The Chief Judge The Honourable Justice M Pearlman and the Judges and Assessors of the Court  
Mr D Bennett QC, President, New South Wales Bar Association  
Mr R Gully, New South Wales Law Society

(Commission read)  
(Oaths of office taken)

**LLOYD J:** President of the Court of Appeal, Judges of the Supreme Court, Judges of other jurisdictions. Thank you for the honour you do both me and this Court by your presence here this morning. Thank you Mr Bennett and Mr Gully for your generous remarks.

I have always thought that the best lawyers are those who do not confine their practices too narrowly. I always admired those able to argue and apply general principles in a range of jurisdictions. For my part I always accepted work in other jurisdictions as well as in this Court. Nevertheless, I enjoyed a steady stream of work in this Court.

I particularly enjoyed appearing before the three Chief Judges of this Court, including the unpredictable Mr Gerald Cripps who I see here today, and of him Mr Justice Meagher in one of his judgments in the Court of Appeal I recall said, "Mr Justice Cripps was correct in his judgment, although having regard to his Honour's reasons, possibly unwittingly so."

When I was appointed a Queens Counsel, two people whose views I respect gave me some advice. One was and is a Judge of the Supreme Court, and the other, a Judge of the High Court and they gave me this advice on separate days and I am sure without the knowledge of each other. I was told "Whatever you do now don't accept a judicial appointment, at least not yet. Spend a few years preparing, presenting and arguing cases before the superior courts as a silk. only after then, if the opportunity arises should you accept an appointment. You will forever regret it if you don't and you will be much better for having done so if you do."

Well I took that advice and the experience has been invaluable. It is I think the best training ground for the Bench. My only regret is that I did not get as much appellant work as I would have liked.

During my twenty-six years at the Bar, my only other regret is that I never had the ideal client, defined as "the extremely wealthy person in a great deal of trouble". However, I did have the privilege of working with or against some outstanding lawyers. They include Mr Trevor Morling, Mr Dennis Mahoney, Mr Bill Priestley, Mr Ken Handley, Mr Rod Meagher, Mr Tom Hughes and Sir Maurice Byers amongst others too numerous to mention. Indeed I found that the experience of working with Sir Maurice Byers, and in particular observing his approach to questions of statutory interpretation to be a revelation.

It is customary on occasions such as this to acknowledge those to whom one owes a particular debt of gratitude. I gratefully accept that opportunity.

Firstly, Mr Richard Barbour QC, with whom I read on coming to the Bar. In those days Mr Barbour had what seemed to be the busiest practice of a senior junior in Sydney, covering a wide range of jurisdictions. Despite not having previously met me he graciously agreed to accept me as his pupil. I learned much from Mr Barbour, particularly the need for precision and accuracy in the drafting of pleadings. Indeed, it was during my period of reading with Mr Barbour that I first met the immediate past President of the Law Society, Mr Norman Lyall who I see here today, and I recall going up with Mr Barbour and our then learned leader the late Bill Ash QC to the High Court to argue a case for an insurance company called the Stedfast Insurance Company and the case which is now reported in 125CLR and it was as one would expect an insurance company endeavouring to avoid a policy of insurance. We lost five-nil. I hope it wasn't your advice Mr Lyall that persuaded the client to appeal.

Next, and perhaps most importantly, my family who have had to put up with the often extraordinary hours which barristers work. Their understanding of patience has been much appreciated.

Next, the Solicitor's Branch of the profession which supplied me with work, particularly those who did so consistently and repeatedly. I refrain from mentioning any of them by name but they know who they are. They enabled me to enjoy the lifestyle to which I have become accustomed despite the attempts of the various legal publishing houses to ensure that this was not so.

Next, my colleagues at the Bar, and in particular those in my chambers whose doors were always open and on whose advice and knowledge I frequently drew, particularly when I ventured into unfamiliar territory.

Next, my various clerks over the last twenty-six years and in particular my clerk for the last eight years Mr Barry Doorey. Surely a Bradman amongst clerks.

Finally, my secretary for the past twenty-three years, Mrs Wilma Long. I am the fourth person for whom Mrs Long, has worked to be appointed to the Bench. The first of those was Sir Nigel Bowen. In those twenty-three years I have come to rely heavily on Mrs Long's expert knowledge of the correct use of English grammar. Many a time I have been saved from embarrassment in the drafting of opinions and other written work by Mrs Long's gentle corrections, thereby avoiding errors such as the use of a singular verb with a plural noun and breaches of the other myriad of other rules of expression.

As can be expected with such a long association, I have enjoyed a valuable friendship with both Mrs Long and her husband and her wider family, all of whom have become firm friends of my own family. It is a friendship which I and my family not only value but will continue to enjoy.

I am mindful of the fact that the oath which I have just taken serve a twofold purpose referred to by Sir Gerard Brennan on the occasion of his swearing in as Chief Justice of the High Court. Firstly, it is a commitment to the Head of State and thus to our form of government, including the separation of powers and the rule of law. I fell honoured to take office in the judicial branch of government.

Secondly, it is a commitment to do justice according to law, that is, not according to abstract notions of what is right but in accordance with judicial method.

In this Court judicial method is mainly concerned with the powers entrusted to the State, to State, instrumentalities and to Local Government and the manner in which those powers are exercised. Judicial method also includes, I think, an obligation to ensure that each step in one's reasons for decision are clearly exposed not only for public examination but also for the most important party in litigation, the party who loses.

In accordance with the precedent established by the President of the Court of Appeal, I will hear my first case later this morning. I look forward to the work in this Court. It is a jurisdiction of increasing importance as instanced by the remark of the President on the occasion of his swearing in two days ago, that in his capacity as Solicitor General he spent about one third of this time on planning and environmental matters. It is a jurisdiction which interests me not only because its work frequently involves the application of administrative law principles which are themselves interesting, but because the decisions themselves affect more often than not, not just the parties to the litigation but a far wider range of interests.

I am honoured by the presence of you all this morning and am encouraged by your friendship and support.

**PEARLMAN CJ:** The Court will adjourn.

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