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SWEARING-IN CEREMONY OF
THE HONOURABLE ROBERT NEVILLE TALBOT
AS A JUDGE OF THE
LAND AND ENVIRONMENT COURT
OF NEW SOUTH WALES
BANCO COURT, WEDNESDAY 22 APRIL 1992

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KIRBY P: This ceremony is convened for the public administration of the oaths of office and of the oath of allegiance to the Honourable Justice Talbot, the new judge of the Land and Environment Court.

I welcome to this bench the Chief Judge of the Court and the other Judges of the Court who are in Sydney, Justice Stein being in the Northern Territory. I also welcome the visitors to the Court and the family of the new judge.

The Chief Justice has asked me to apologise for his absence. He is in Western Australia on official duties but his absence affords me the privilege of administering the oaths. I will ask Justice Talbot to present his commission.

(Commissions presented and read by the Registrar)

(Oaths of office taken)

KIRBY P: Justice Talbot, I welcome you to the company of Judges. You see about you in this Courtroom the symbols of a tradition which is six hundred years old. The mantle of that tradition has now fallen upon you. I

congratulate you and, on behalf of the judiciary of this State, I wish you well in your new endeavours.

THE HONOURABLE P E J COLLINS MP ATTORNEY GENERAL OF NEW SOUTH WALES: May it please the Court. Just over two weeks ago it was my great honour to attend the swearing-in of the new Chief Judge of this Court, Chief Judge Pearlman, who is, of course, present on the bench this morning.

Your Honour, I now have the privilege to extend my personal congratulations to you on your appointment as a Judge of this Court on behalf of the members of the New South Wales Bar Association.

Your Honour has enjoyed a long and distinguished legal career. You graduated in law from the University of Sydney in 1959 and took up practice as a solicitor. For many years you were a partner at the Muswellbrook firm of Fitzgerald White Talbot & Co. During your twenty years as a partner with that firm your work as a solicitor encompassed a tremendously wide range of areas. Significantly, your practice in these years included a great deal of local government and resource development work.

Your abiding interest and considerable expertise in these areas are recognised throughout the profession.

In 1982 your Honour sought a fresh challenge and applied for admission to the New South Wales Bar. In the following decade you have established a considerable

reputation as an advocate in the challenging areas of local government and environmental law.

I am informed that your devotion to your practice is such that you have not, on occasion, been able to spare the time to fully attend to some of the mundane practicalities of life. I understand that your Honour's recollection of the whereabouts of his motor vehicle steadily declines as his workload increases.

Although I can make no promises about your workload at the Court, I can assure you that the car parking facilities are both adequate and reasonably close at hand.

Your Honour's commitment to practice has not prevented your involvement in the legal profession.

The true mark of a great lawyer is not only to provide a service to clients but to maintain the standing and integrity of the law and to participate in its development.

You are a past President of the Hunter Valley Law Association, and your involvement with that organisation and many years of practice in the Hunter Valley region have heightened your Honour's awareness of environmental law and rural issues.

Your great contributions to environmental law have been recognised by your election as Vice-President of the Environmental Law Association, a position you have continued to hold.

I understand that you come to this Court with not only a keenly developed sense of justice, but the wisdom to recognise when a swift decision is required.

I am informed that on one occasion in the course of a pre-wedding function you took decisive quasi-judicial action by ordering the dumping of a prominent community member in iced water at four o'clock in the morning. My sources have, however, been unable to confirm the exact nature of the offence that had been committed to warrant that particular sentence.

I can, however, assure everyone here today that your Honour's past experience in the decisive administration of justice, although impressive, has played no part in the Governor's decision to appoint you to this Court.

Your Honour, environmental, local government and planning law are areas of increasing significance today. You bring to this Court not only exceptional legal ability but considerable experience in the types of matters which are dealt with in this forum.

I am in no doubt that your judicial career will display the same commitment and excellence which have characterised your career up until this point.

I extend to you my best personal wishes, the good wishes of the government and the people of New South Wales and, in particular, the New South Wales Bar.

N D LYALL ESQ COUNCILLOR LAW SOCIETY OF NEW SOUTH WALES:
The President, Mr John Marsden, has asked me to apologise to you for his inability to attend this morning's

ceremony. He is in Canberra appearing before a Senate Select Committee as a representative of the profession in this State.

Congratulations to your Honour on your elevation to the bench of the Land and Environment Court this morning. Your Honour is very well known to many solicitors. You commenced your legal career as an articled clerk in Fisher & Macansh, which is where I first met you through my old friend Tony Clark who was also articled in that firm. After completing articles you and your solicitor wife journeyed near, if not like, Lochinvar into the north-west to follow a legal career. As Mr Collins has said you practised for something like a quarter of a century with Fitzgerald White & Talbot in Muswellbrook. There you had a deep involvement in local government as a Councillor, Shire President and as a member of a firm which acted for the Council. Since you were called to the Bar some ten years ago you have practised extensively in the Land and Environment Court and have become recognised as one well versed in its practices and procedures. It is very pleasing to know your talents in the area will be put at the disposal of the public in an even more responsible position.

In a jurisdiction where parks play some part it is refreshing to know that your Honour has had a lifelong interest in sport, particularly in cricket and tennis. At Sydney University you were an enthusiastic bowler who was wont to bowl all day, although some attributed this to the desire of your captain to exact appropriate

revenge for pre-match indiscretions. For well over twenty years you sponsored a cricket match at Muswellbrook to which so many of those who studied law with you at Sydney University made contributions.

It would be no disrespect to your Honour to describe you as extroverted with a frank and open disposition capable of winning the trust and confidence of most of those with whom you had associated. In the case of clients and your professional colleagues, that has been enhanced by the knowledge that you are an extremely proficient lawyer. The solicitors of New South Wales, on whose behalf I speak, wish you a satisfying and successful term of office.

TALBOT J: Mr President, may I shortly acknowledge what has been said from the Bar table on behalf of the solicitors and the Bar.

I am honoured and relieved that the Attorney General has seen fit to find time at such a busy time to attend this ceremony. Honoured, Sir, by what you have said. Relieved, because Tobias, standing in for Coombs, has been forced to keep his foreshadowed slanders unpublished.

I have enjoyed the camaraderie of the Bar and particularly the friendship and assistance rendered to me from the members of each of the three floors of which I have been privileged to be a member.

To Les O'Brien, my latest clerk and friend, I extend my thanks for his loyalty and guidance. It is not true,

as rumoured, that Les was solely responsible for persuading the Attorney General to make this appointment. Nor was my former clerk from 9 Selborne, notwithstanding his boastful claims to the contrary.

I am particularly mindful of the large numbers of solicitors here today and that brings me to recognise what important relationships I have had with that branch of the profession - firstly as one of them in partnership with those in the Upper Hunter who remain amongst my dearest friends - secondly it was a privilege to be instructed by such a wide range of gallant and brave solicitors with whom it has been a pleasure to work, usually under pressure and for very long hours, but always with abundant good humour.

Almost ten years ago my wife Ellen and I decided that we would leave our friends and colleagues in the Upper Hunter to more properly provide for the then current requirements of our family in Sydney.

After making that decision, I consulted an old school friend, a well known sporting personality and barrister, about a means of future gainful employment in the law. My friend, with characteristic directness, informed me and I quote, "*Angus, you are unemployable, you will have to go to the Bar*". With that statement, Gyles (the rounder and shorter of the two), rose and escorted me into the next room where, after a short consultation with Beaumont, I was taken by the latter down to the sixth floor of Selborne where I was introduced to a wide-eyed young man who appeared to me to

be about the age of one of my children. Beaumont, never one to mince words, merely said, "McClellan, this is *Walbot* and he is reading with you". I could not work out what it was I was to teach this young fellow, much less how I was to support my family in this way.

However, twenty years of practice as a solicitor in country New South Wales had left me with great powers of perception and comprehension so that it was not long before I realised the arrangement was that the boy was meant to teach the man. Thank goodness that he did.

Before going to the Bar, I believed that I had a reasonable capability in litigation procedures, and in the conduct of a case. The next five years of my life demonstrated to me just how different the levels of practice are. That is not to say that one is any easier or less important than the other, but merely to emphasise that there is a vast chasm between the two.

I can confidently say that if I had not been so fortunate as to experience nine and a half years practice at the Bar, coupled with twenty-two years practice as a solicitor before today, my apprehension about my appointment to the Land and Environment Court would have been far greater. Maybe I could have done it but the learning curve would have been much steeper. Having practised both for an extended period I approach the bench with confidence.

It is now eleven and a half years since the Land and Environment Court was established. In my opinion it has worked and is working well by providing within the one

management framework for the efficient disposal of most cases that fall within the jurisdiction. There is now no doubt that the Court does not have accrued or pendent jurisdiction in the same way as the Federal Court. If it can be shown that the limited statutory jurisdiction of this Court repeatedly causes frustration and occasions multiplicity of actions, delays and apparent unnecessary costs, then the question obviously needs to be addressed.

The solution to the perceived problem is not obvious as some commentators have ventured. A proper reasoned, balanced, unemotional debate upon this fundamental question is imperative.

An occasion like this should not pass without a special mention of my family. My longest serving supporter is my father and I am delighted that he is here today. None of my children have chosen law as a career path and I believe that is a reflection of their powers of observation and symptomatic of the demands that the practice of law places upon family life and personal freedom. We have managed to round up the five of them today and it is very gratifying for Ellen and me to have them all here on this occasion.

The first Chief Judge of the Land and Environment Court quoted a statement in his book *"Stirring the Possum"* which is worth repeating: *What every barrister needs is a critical wife*. He then went on to say: *"What every man needs is a critical wife"*.

My greatest critic and my most ardent supporter over thirty-one years of marriage has been my wife Ellen.

Trained as a lawyer and admitted to practice as a solicitor, she has maintained her interest in the law. However, she elected to concentrate on making sure that there was at all times a strong and stable family background upon which we could all rely. For that we are all, but I in particular, am eternally grateful. Without her we would each as individuals and all collectively be much less.

Justice Pearlman graduated from the Sydney University Law School in the same year as my wife and I did. Her achievements are well known and I look forward to continuing our association on the Court.

I am disappointed that I will not have the privilege of serving with the immediately former Chief Judge Cripps. I was once described in a schoolboy magazine as *"the boy who acts more like Groucho Marx than Groucho himself"*. He, that is Justice Cripps, and I would have had a lot in common.

As an advocate the other Judges of the Court have always had my greatest respect for their work in contributing to the important role this Court has assumed in its comparatively short life.

I am looking forward to joining them in a different context in the future.

KIRBY P: With laughter and words of praise and promise the Court will now adjourn.