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REVISED

IN THE DISTRICT COURT
OF NEW SOUTH WALES

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

MONDAY 22 AUGUST 2016

**SWEARING IN OF HIS HONOUR JUDGE MCLENNAN SC AS A JUDGE OF
THE DISTRICT COURT OF NEW SOUTH WALES**

Ms C Loukas SC, on behalf of the New South Wales Bar Association
Mr Gary Ulman, President, Law Society of New South Wales, on behalf of
solicitors

(Commission read)

(Oath of office taken)

PRICE CJ: Judge on behalf of all the judges of this Court I very warmly
welcome you and wish you all the very best in your judicial career.

JUDGE MCLENNAN: Thank you Chief Judge.

PRICE CJ: Ms Loukas.

LOUKAS: May it please the Court. 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 pay my respects to their elders, both past and
present.

It is with great pleasure that I speak on behalf of the New South Wales
Bar at this morning's ceremonial welcome for his Honour Judge Jeffery
McLennan SC. Your Honour comes to this Court with a deserved reputation
as a learned and highly respected Crown Prosecutor with over 35 years of
experience in the practice of the law.

Your Honour will, of course, sit predominantly in this Court's formidably
busy criminal jurisdiction which deals with the majority of serious criminal

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offences in this state. It was stated by the Senior Vice President of the Bar, Arthur Moses, at the recent swearing-in of your fellow judges and it bears repeating here, that your Honour's appointment comes at a time of continued increase in the New South Wales gaol population and the fact that in 2016 indigenous Australians are 14 times more likely to find themselves behind bars than their fellow citizens.

Conversely your Honour's appointment also comes at a time when members of the judiciary, at all levels of the judiciary, are subject to unfair personal attacks because of the perceived leniency of their sentencing decisions. The Bar's position has always been and continues to be that the sentencing discretion of judges is essential to the fairness of the justice system.

Your Honour Judge McLennan, measured, sincere and humble. These are the adjectives most often used in connection with your Honour. You are by all accounts an intensely private person who rarely discusses his cases with friends and colleagues. Suitable anecdotes are correspondingly difficult to locate. One of the few to have gleaned useful intelligence is his Honour Justice Hamill who is present here today. His Honour Justice Hamill delivered a warm and glowing tribute at your senior counsel bows ceremony when the Supreme Court sat in Grafton in 2014.

It is the basis of speeches delivered from the bar table this morning. Suffice to say his Honour Justice Hamill presented a picture of a thorough, analytical, even-tempered Crown Prosecutor who greatly assisted the bench. To defence counsel you were always a tough, determined and efficient opponent. You were thoroughly well prepared and your use of laminated maps and photographs together with a rainbow of colour-coded tabs has taken

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on folkloric status amongst lawyers in northern New South Wales.

His Honour Justice Hamill did mention your move back to New South Wales fulfilled a long-term dream to live amongst the natural beauty of the Northern Rivers and the rainforest hinterland around Lismore. He also mentioned that he had been unable to confirm or deny a very strong rumour that Lismore had particular appeal to you owing to the fact that being “well dressed” involved an outfit wherein footwear of any kind was worn.

Some say your quietly persuasive yet dogged Court craft is due to a deep interest in Zen Buddhism and Taoism, in particular Tai Chi. It has been suggested that organisers of the Bar Practice Course might pay attention to the benefits of mindfulness, meditation and the sayings of Lao Tzu and the Tao Te Ching. For example, there is your favourite Tai Chi saying, “Be still as a mountain, move like a great river”. I do not know what it means but paradoxically, of course, I just know it is appropriate for both the art of judging and the art of advocacy.

The inspiration for your Honour’s career in the law appears to lie in your adolescent years in Queensland which at the time was governed by Premier Joh Bjelke-Peterson. I am told that your Honour was particularly galvanised by the work of Terry O’Gorman who, as we know, later went on to become president of the Australian Council of Civil Liberties.

Your Honour graduated from the University of Queensland with a Bachelors of Laws in 1980. Your first day in Court was in the Holland Park Magistrates Court, little of which you can recall except for the feeling of sheer terror and the strangest sensation of your knees shaking behind the Bar table. In the ensuing year you practised criminal law, first at the firm of Robertson O’Gorman and from 1991 to 1999 you were employed as a Crown Prosecutor

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in Queensland and headed the major crime section of the Brisbane Committals Project. During that time you were also seconded to the Parliamentary Criminal Justice Commissioner's Office as a principal legal officer.

Immediately before coming to New South Wales your Honour was Senior Counsel for the Queensland Legal Aid Commission.

Your Honour was admitted to the New South Wales Bar in 2002 when you were appointed as a Crown Prosecutor in Lismore. Since then your Honour has been a much respected feature of the justice system in the Northern Rivers area. Your colleagues in the Lismore office of the DPP credit you with being a great mentor to young up and coming solicitors and counsel. You have prosecuted many serious criminal trials before the District Court and the Supreme Courts and your Honour took silk in New South Wales in 2014.

Now I am given to understand that your Honour, in your spare time, is notorious for bad puns but also more importantly and more soothingly, in your spare time, your Honour has set about rehabilitating local rain forest on 5 hectares of former dairy farming land.

Your Honour's taste in music is eclectic to say the least. You have a deep and long-standing interest in medieval music interspersed with a passion for jazz. One unkind person has said that you grumbled somewhat because the Byron Bay Blues Fest clashed with a Crown Prosecutor's conference. You have a deep and detailed knowledge of old blues musicians and once travelled through the home of the Delta Blues, Louisiana and the Ground Zero Club in Clarksdale, Mississippi. Most surprising of all, according to our Bar researcher and speech writer Chris Winslow, your Honour is the first devotee of punk rock to be appointed to the District Court although the Bar Association enquiries are ongoing while the musical preferences of Equity Division judges are confirmed.

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Your Honour is also a keen cyclist but I am under instructions not to mention lycra. I understand that it was your practice to ride to work and that you comprised one-third of a triathlon team with her Honour Judge Julia Baly SC being another. This is commendable, both from an environmental and cardiovascular perspective. However, if your Honour will be spending the next several months in metropolitan Sydney I submit you will have to confine yourself to Centennial Park or the like.

Judge McLennan your appointment to this Court is thoroughly well deserved. You are an accomplished barrister who has appeared on both sides of the Bar table. You are deeply familiar with the cases that come before this Court. On behalf of the barristers of New South Wales I express our confidence that the people of this state will be well served by your appointment. We congratulate you. May it please the Court.

PRICE CJ: Mr Ulman.

ULMAN: May it please the Court. I would like to begin by acknowledging the Gadigal people of the Eora nation, the traditional custodians of the land on which we meet and to pay my respects to their elders both past and present.

Your Honour on behalf of the solicitors of New South Wales it is my pleasure to appear today to congratulate you on the occasion of your appointment as a judge of this Court and is indeed most pleased to know that from July of next year the people of New England will have a permanent judge sitting in that region.

As the leader of the Lismore Crown Prosecutor's team, as an important mentor to your colleagues, your Honour has worked tirelessly on Supreme Court criminal work in the Northern Rivers region and beyond.

Among the profession you are known as not only an excellent advocate

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whose articulate and knowledgeable approach to the law marked you out among your colleagues but one with a strong sense of humanity. Your calm, respectful advocacy that your Honour has exhibited at the Bar will, I am sure, mean that you will never lose sight of the oath of office which you have just taken.

Possessed of profound knowledge of the criminal law, your Honour is known as a deep thinker with a formidable intellect. Your ability to hone in on the relevant issues in matters with speed and clarity as well as the adaptable experience you have gained will equip you well for this high office.

In the courtroom your Honour has impressed instructing solicitors with your sense of unflappable calm. One would also be hard pressed to find a single “um” or “er” attributable to your Honour in a transcript of any Court proceeding in which you appeared.

Methodical in preparation and commanding in delivery, your Honour’s great familiarity with the material allowed you to focus on speaking the language of the person in front of you whether it was an intellectual legal exchange, summation of complex factual issues to a jury or in conference with the families as part of your work as Crown Prosecutor.

Your Honour’s ability to deal with factually and legally complex matters in a considered, fair and reasoned way made it a privilege for solicitors to instruct you. One fellow Crown has remarked that whenever his partner, a solicitor with the ODPP instructed you, all he would ever hear from her at the dinner table while the case was running was, “How great is Jeff?”, “how smart is he?” and exclamations that “He’s all over his brief”.

Your Honour when I was preparing my remarks for this speech I was also encouraged by a number of people to review Justice Hamill’s observations

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regarding your Honour on the occasion of taking ceremonial bows in Grafton. When I read the transcript I was intrigued by a list of catchwords which preceded his Honour's remarks. A random scramble of words which I understand purport to describe the career of such an eminent barrister.

The catchwords read, "Rainbow region, colours, where Crown Prosecutor insists of colour coding exhibits, fuchsia, lime green, Tuscan orange, fashionable Italian lycra, contradiction in terms, bad puns, ride-on lawnmower, deft touch". An interesting summation about your career.

The remarks of Justice Hamill attempt to shed light on the true meaning of these words, well almost. His Honour said this and I quote,

"I'm told that your instructing solicitors dread it when you say, 'ride-on lawnmower'. While I accept that I confess I have not the slightest idea what it means. I also note that your capacity to organise a brief and to colour-code it confounds even the most anal retentive of those who instruct you."

I am informed that anyone appearing before you would do well to come prepared with exhibits, assign everything to a folder, assign every folder with a coded colour, label every coloured folder with an appropriate label and most importantly laminate everything in sight but further your colleagues would like to tip off the profession that in future if a practice direction is ever made by the District Court that all exhibits must be laminated and all maps must be no less than A1 in size and in multiple copies, there will be no further need to investigate its source.

One element of your Honour's reputation is not just your intellect and demeanour in Court, but the way in which you have been generous in sharing your knowledge.

You are an approachable and generous mentor who has been supportive of more junior legal practitioners. Your open door policy has been much

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appreciated within the ODPP. Solicitors have said that the value you placed on their input and your encouragement of them in their work was unrivalled.

To these solicitors and to your colleagues, your Honour has always been “Jeff”, never one to come across as thinking yourself better than others or neglecting to thank those for the good work that they have done for you.

A kind and compassionate individual, your Honour is a person interested in the law and equally interested in those around you.

I am reliably informed that your dry sense of humour, quick wit and unique ability to summon a pun for all seasons are stand out qualities that made working with you a distinct pleasure.

Generous to a fault, your Honour is described as a loyal and dedicated friend and someone who is extremely fond of family. No doubt today you will be thinking of your mother, Nancy, and your grandmother, Florence, who raised you and who undoubtedly would have been extremely proud of this milestone.

Although much was made of your Queenslander roots when your Honour took silk, you spent the first 12 years of your life growing up in Bankstown where it is said that you received an insight into the experiences of ‘ordinary punters’, an insight that informs much of your work.

Your Honour’s partner of 25 years, Joanne Smith, is a Trial Advocate with the Office of the Director of Public Prosecutions. You are very close with Joanne’s family, with her mother famously flouting doctors’ orders when recovering from a serious stroke, she broke all the rules to cook your Honour a celebratory dinner on the news of your appointment and I understand she has travelled especially with Joanne’s sisters to be here today.

Aside from the law, your Honour loves all things to do with trees, indie

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music and cycling. Your passion for trees as we have heard or more particularly your passion for planting them, has inspired you to plant many rainforest species since moving to the Northern Rivers. This is a region you and Joanne consider your own little slice of paradise, enjoying gardening, riding your bike and caring for chickens and cats.

As with folders, indices and highlighters, your Honour has a full set of bicycles, racing, commuter, mountain and stationary.

When going on circuit, your Honour has had to master the art of packing briefs around your bike, your yoga mat and your wetsuit. I am told that that this is a compulsory skill set for MAMILs, aka Middled Aged Men In Lycra.

I am reliably informed that on a typical circuit morning, you would rise in the early hours of the morning, prepare cross-examination and closing address and then ride a cool 50 kilometres before gliding into Court.

Your passion for the outdoors while on circuit has only landed you in trouble once. This is when you emerged from an icy morning ride and went straight into the Courtroom, only for your Honour's colleagues and opponents to note with laughter that owing to the unforeseen briskness of the Armidale weather, your beard had been completely frozen.

Your Honour, a group of your instructing solicitors has asked that I thank you on behalf of all those who have been privileged to instruct you over the years, describing themselves as "those of us who are lucky enough to be colleagues and friends".

Your colleagues are more than confident that your humour, humanity and intellect will be evident in all that you do and to all who appear before you.

Once again, on behalf of the solicitors of New South Wales, it is my honour to wish you all the very best for your future role as a judge of this

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Court.

As the Court pleases.

JUDGE MCLENNAN: Chief Judge, judicial colleagues, particularly those who have come from the Supreme Court this morning, distinguished guests and friends, thank you all for coming here today.

Just over 50 years ago, January 1966 to be precise, Ken Kesey and the Merry Pranksters put on a three day music festival in San Francisco. The bands included Big Brother and the Holding Company, the Jefferson Airplane and the Grateful Dead. The crowd was invited to wear ecstatic dress. Now, whether purple robes or black gowns would have qualified is anybody's guess but the reason for this foray into hippie history, apart from the fact that I am from the Northern Rivers is because Jerry Garcia who was the lead guitarist with the Grateful Dead, once said about his time with the band, "It's been a long strange trip". That's sums up how I feel about the last 36 years in the law.

The last 14 of them have been spent in Lismore where I imagined that I was largely invisible. It is therefore both flattering and humbling to hear such kind remarks from you, Ms Loukas and from you, Mr Ulman, thank you.

There are many people who should be thanked along the way. If I were to thank all of them, it would require a three week special fixture of this Court and while adjourning to the Byron Bay District Court for that purpose might seem to be an attractive proposition, I am not sure that it would meet with universal approval. There are some people though who must be named.

My interview panel for the job as Crown Prosecutor consisted of then Deputy Directors Martin Blackmore, Roy Ellis, her Honour Judge Ainslie-Wallace of this Court at that time and Senior Crown Prosecutor Mark Tedeschi. I describe it as a leap of faith on their part to have propelled

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me on to Lismore because I knew nothing at all of the law in this jurisdiction. Without them and their faith in me, I would not be here today.

When I arrived at Lismore, the resident judge was Tom Ducker and the mere mention of his name struck terror into the hearts of seasoned counsel I was told. Funnily enough, all I saw was a compassionate man who had forgotten more about the law at that time than I could ever hope to know, a man with a wicked sense of humour. He more than once caused a jury to laugh its way to a not guilty verdict. I bear him no malice, he was very forgiving of my Queensland peculiarities.

Tom also loved chooks and he was instrumental in the acquisition of my first flock of four who I promptly named the Supremes. Thereafter we had the Shangri-Las, The Ronettes, Martha and the Vandellas and finally the Dixie Chicks. After a while I stopped naming them when I realised a great truth about life in the country which is if you have livestock, you have dead stock and I assume it is that knowledge and not my love of alternative country music that has rendered me suitable as the New England's first permanent District Court judge.

Since Tom Ducker, Lismore has had two resident judges, his Honour Judge Black and her Honour Judge Wells. We have been very lucky and I hope her Honour will not mind if I say that, if I turn out to be half the judge that her Honour is, I will have achieved a lot in this role.

Two Directors of Public Prosecutions have given me their trust and their support, Nick Cowdery and Lloyd Babb, different directors with different styles. They both have a deep commitment to the criminal justice system in New South Wales and a deep commitment to public service and that deep commitment has been an inspiration.

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On a day to day basis, I worked with three outstanding Deputy Senior Crown Prosecutors for the country, Magistrate Peter Barnett as he is now, her Honour Judge Baly and Lee Carr. I can tell you from having observed their work, it is one of the most relentless and thankless jobs in New South Wales and the fact that so little of what happens in the country is known to people in Sydney is a tribute to how well they have kept the lid on that particular pressure cooker.

If I can just say something else about Judge Baly, her Honour was my colleague and confidante in Lismore for ten years. How much I had come to depend on her knowledge, wisdom and sense of humour was only apparent when she left so I am very much looking forward to once again standing in her doorway and saying, hey, what do you think about this?

The Crown Prosecutor is, of course, nothing without a defence counsel to oppose and I think I have been fortunate to oppose some of the best defence counsel in New South Wales many of whom were or are public defenders. Some of my most rewarding professional and personal encounters have been with those cases where they have been involved and I hope that I have always risen to the challenge that you always presented to me.

I have had the benefit over the last 14 years of being instructed by some of the finest solicitors in this State, many of whom are here today, all of whom have been with the DPP. Their dedication has been frankly awe inspiring. Along with the witness assistance officers, they have done their best to make me look good in Court. Contrary to the reports, it isn't easy and in spite of their heroic efforts, they were not always successful.

The most important person in my life the last 25 years has been my partner, Joanne and she is here today with her mother, Lorna and sisters Judy

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and Tricia, all of whom have travelled from Brisbane to be here today and our very dear goddaughter Emili is also here as well.

For those who know the circumstances, Lorna's presence is remarkable. In April we thought we had lost her. They breed them tough on the Darling Downs.

Although Joanne will deny this, none of what I have done could have been done without her. After 25 years you hit the limits of language in trying to describe how you feel so inevitably I have stolen some lyrics from the band called, The Chills. Their album Submarine Bells was the soundtrack to our early Byron Bay days:

"I think of words to tell you, I find nothing fine enough to say, nothing left in this lump of grey that even vaguely says I love you in a way that pleases me so I'll let the oncoming day say it for me."

Now, I should perhaps say something about how I stumbled into the law. In 1975 when I was in grade 12 trying to work out what I was going to do with the rest of my life, my mother fell in love with Tony Petrocelli. He was an Italian-American Harvard educated lawyer who grew up in South Boston and gave up the big money and frenetic pace of city life to practice in a sleepy city in Arizona called San Remo. He was of course completely fictional and he was a character in a TV series that ran from 1974 to 1976. Petrocelli ran around Arizona doing good, uncovering truths and getting his clients off serious criminal charges. Now, this apparently was my mother's image of me because as we walked along the beach at Sawtell south of Coffs Harbour in my last year of high school, I mentioned that I would like to be an historian, she merely laughed and started talking about Petrocelli. The rest as they is history.

I could say more about myself but as you have all heard, I have been

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relieved of that burden by Justice Hamill who in an immensely kind gesture allowed me to take my bows when I was appointed Senior Counsel in front of him. On that occasion as you have heard, the published remarks will tell the reader everything they need to know about me and a lot of things that you don't need to know about me, and if after reading those remarks anyone does feel tempted to come into my Court dressed in fashionable Italian lycra, please don't, it won't work and won't help either of us.

Sitting here wearing purple for the first time, I am acutely aware of what an immense honour this is. It also feels a bit weird. However, as Hunter S Thompson famously said, "When the going gets weird, the weird turn professional".

I promise then to do my professional best to serve the people of New South Wales and to do justice according to law. Thank you.

PRICE CJ: Thank you, Judge. The Court will now adjourn.