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IN THE DISTRICT COURT  
OF NEW SOUTH WALES

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

MONDAY 9 APRIL 2018

**SWEARING IN OF HIS HONOUR CHRISTOPHER GERARD O'BRIEN AS A  
JUDGE OF THE DISTRICT COURT OF NEW SOUTH WALES**

Mr M Speakman SC on behalf of the New South Wales Bar Association  
Mr D Humphreys, Law Society of New South Wales, on behalf of solicitors

(Commission read)

(Oath of office taken)

PRICE J: Judge O'Brien on behalf of all the judges of the District Court of New South Wales I very warmly welcome you. You have been a judicial officer now for some 11 years. This is a new step in your judicial career. I wish you all the very best.

JUDGE O'BRIEN: Thank you Chief Judge.

PRICE J: Mr Attorney.

ATTORNEY GENERAL: May it please the Court. I acknowledge the traditional custodians of the land on which we gather today, the Gadigal people of the Eora nation and pay my respects to their elders, past, present and emerging.

Chief Judge, your Honours and Judge O'Brien, on behalf of our State and the Bar it's my great pleasure to congratulate you on your appointment as a judge of the District Court of New South Wales. Congratulations too to your family, to your wife Jacki, to your daughters, Brooke and Samantha and their partners, Zac and Harry, to your grandchildren Frankie and Lenny and to your sister, Louise and her partner, Pat. Each of them shares this achievement in

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some measure today. The love, the support and the friendship that they have shown your Honour during lives together are part of this very special moment and they should be very proud.

Your Honour I also acknowledge your late son, Cameron whose sudden and unexpected passing six years ago at a time when the world was just opening to him has shaped Jacki, your daughters and you in more ways than anyone will ever truly understand.

Your Honour's mother, Margaret, passed away just last month. It is a great sadness that she is not here today to be part of this very special occasion. I am told that she was a loving mother, grandmother and great grandmother and was enormously proud of your Honour and all that you have achieved.

It is certainly an honour for me to share some remarks about you this morning. All of your Honour's colleagues were, of course, very forthcoming when asked a little about you. Some anecdotes were more colourful than others but please do not be alarmed. Beneath all the humour and jesting every colleague who shared their experiences and stories in preparation for today did so with great affection and with the highest praises for Chris O'Brien the judge and Chris O'Brien the man.

Your Honour began life in the Sutherland Shire, the son of Margaret and Tom in what my sources describe as a traditional Irish Catholic family household. It was this working class upbringing, watching your father work two jobs and your mother working hard raising Louise and you, while juggling several jobs herself in sandwich and cake shops that established and embedded the strong work ethic for which you are known.

It was also a period that cemented your deep love for the Sutherland

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Shire for which you have never strayed far notwithstanding the black mark of being a diehard supporter of the team across the river, the St George Dragons. It is a result of the stable and loving home created by your mother and father that your Honour has to this day a very strong and close relationship with your sister, Louise, whom I might add is a remarkable and accomplished individual, a credit to your parents indeed.

Your high school years were spent at Marist Brothers Penshurst and Kogarah where you have been described as a good student who made good friends and where you also established your strong Christian beliefs which are very much a part of whom you are today although many around you may not even be aware, such is your discreet manner and respect and acceptance of others.

After high school your Honour studied arts/law at Sydney University while taking on your first part-time job picking up glasses and pulling beers at St George Leagues Club, but when you were working at the stomping ground of your favourite footy team you probably did not consider that to be work at all.

After graduating from university in 1983 you dived straight in to practise working as a solicitor with Robbert J Fox and Associates in Jannali. You established yourself as a reliable, thorough and hardworking solicitor specialising in criminal law and five years later commenced the firm O'Brien, Lewers and Co, Sutherland. In 1990 you became a partner at Fox O'Brien Maker Sommerville and subsequently at Fox O'Brien in Sutherland.

Old colleagues say you set up your office right next door to Sutherland Court House so that you could go from your office desk to the courtroom within 30 seconds defending and representing people from all walks of life dealing

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with all manner of criminal matters. You had your finger on the pulse of the real world and an insight to the human condition which, while you did not know it at the time, set you up well to contend with the high profile and drama-filled world of reality television to which I will return later.

From 1998 to 2007 you were a member of the Law Society of New South Wales Criminal Law Committee and in 2002 co-chair of that committee. You were also appointed a cost assessor in 1999 and appointed as a cost assessment review panellist in 2002. You were also a former committee member and president of the St George/Sutherland regional law society.

During your years as a solicitor you made strong bonds with your colleagues and collected what one colleague has described as a close circle of very eclectic people in your life. People recall your passion during this time as a solicitor for the bread and butter criminal law work and your vision one day to become a local magistrate yourself.

You fulfilled that aspiration in 2007 when you were appointed as a magistrate of the Local Court of New South Wales and then in 2014 appointed Deputy Chief Magistrate. During this time you established yourself as an outstanding member of the judiciary and a much loved colleague for all who work at the Local Court. As Deputy Chief Magistrate you have been heavily involved in the orientation and pre-bench education of new magistrates. Some of the more recent recruits describe you as a valuable point of contact and always having a 24/7 open door policy.

Colleagues on the bench have described you as being the epitome of what a judicial officer should be. Calm but firm when required and with an innate sense of fairness and balance. You run a no-nonsense courtroom and go to great lengths to ensure that everyone has the opportunity to be heard.

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Since becoming Deputy Chief Magistrate you have formed a formidable partnership with your Co-Deputy Chief Magistrate, Jane Mottley who describes you as a warm, interesting, funny and highly intelligent person. Her Honour says she has always relied on your sensible voice of support particularly in times of crisis which invariably occurred when the Chief is away. While the two of you have come to be a great support to each other which her Honour will greatly miss, she will most miss the daily ritual where you deconstruct the morning's news and current affairs together before you go on to provide a personal review and rehash of the previous evening's reality television line-up, whether it be who dumped whom on Married at First Sight, which real housewife of Melbourne has had more plastic surgery or most importantly who said what about which program on your all-time favourite Goggle Box.

That brings me to your recent debut as a reality television star on the television program called "Court Justice Sydney". A good friend and fellow judicial officer says that during the broadcast of the series he would receive a phone call at the same time every Monday night with a eager voice on the other end asking, "Did you watch it, wasn't it great?" to which his response would be, "I hated it, it's the world's most boring show, although my wife liked it". Another colleague told you he would not watch it until the program was balanced out with the District Court appeal decisions but personal reviews from some of your closest friends would not dampen your enthusiasm for the program or your meticulous analysis of the TV ratings which you would share via email with some of these critics with a note that you are probably going to win a Logie and that if your friends have played their cards right you might just be able to swing them an invitation to Australian television's night of nights.

Perhaps it was a result of your above average consumption of reality TV

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and your subsequent insight into what makes great viewing but your wish came true and Court Justice appeared on Goggle Box cementing your position as a fully-fledged reality television star. Your EP, which you have explained to the uninitiated around you stands for Executive Producer, is said to be very disappointed that your Honour's appointment means you will be unable to repeat your starring role in the next series of Court Justice and you will be sadly missed.

Among your friends, your Honour is known for your love of a punt despite one former colleague describing you as the unluckiest punter he has ever met and that for the past 20 years he has called you "The Cooler", the term given to so-called unlucky people employed by Las Vegas casinos to stand next to someone on a winning streak to cool their luck.

May I pay tribute now to the late Judge Robert Toner SC. Judge Toner passed away earlier this year and it is the vacancy created by his passing that your Honour is so graciously filling. I acknowledge the enormous contribution that Judge Toner made to the District Court and to the legal profession generally. He earned the deep respects of his colleagues on the bench and will be sorely missed and while no-one can fill Judge Toner's shoes it provides some comfort that a similarly outstanding member of the profession will help to salve the great loss we felt.

Your Honour all those who shared some thoughtful remarks about you in the lead-up to today were truly delighted about your appointment as a Judge of the District Court and resounding in their endorsement of your appointment. I might add that one colleague did scoff and say this would be your third such swearing-in ceremony and saying you will do anything for a bit of an occasion but on a serious note your appointment to the District Court speaks volumes of

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your professional skill and your personal character. It also acknowledges your exemplary career to the service of the law and the hard work and the personal sacrifices that you have made.

Thank you for your years of service and excellence. Congratulations on your appointment and I extend my warmest wishes to you for your career on the bench of the District Court. May it please the Court.

PRICE J: Thank you Attorney. Mr Humphreys.

HUMPHREYS: May it please the Court. I too also acknowledge the traditional custodians of the land upon which we meet, the Gadigal people of the Eora nation and pay my respects to their elders, past, present and emerging.

It is truly an honour to come before the Court this morning to congratulate you Judge O'Brien on your elevation to this honourable Court. I do so on behalf of the solicitors of New South Wales, many of whom have worked closely with your Honour and indeed are present here today, either prior to your career as a magistrate or in the context of the many matters that have come before you on the Local Court bench.

Today we celebrate a new chapter in your Honour's sterling contribution to the administration of justice in this State. Now my remarks this morning will touch upon your Honour's background before your appointment as a respected solicitor and your valuable contribution to the life of the Law Society of New South Wales throughout your whole career.

Now your Honour's career as a solicitor has been long and varied. From your time as an employed solicitor with Robbert J Fox to a principal with O'Brien, Lewers and Co, principal with Fox O'Brien Maker Sommerville and ultimately more than ten years as a principal at Fox O'Brien, Solicitors, you gained much experience and you also gave an enormous amount to those

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who you worked with and around.

Your Honour was a real solicitor advocate even before solicitor advocates became an established category. Your Honour would run your own matters in the Local Court, only rarely briefing counsel. When your Honour did brief counsel, I am told your briefs were always meticulously prepared and informed by a thorough understanding of the issues.

Now your Honour made a meaningful contribution to any case which came your way and epitomised the role of the suburban general practitioner as a very well read and informed solicitor looking after the interests of your client.

Now in the early days of your partnership with Mr Fox, your Honour also gained an insight into the somewhat less glamorous aspects of suburban law practice and indeed the financial aspects of them. Mr Fox recounts that “during our long partnership Chris was always much more focused on the financial aspects of that practice than perhaps I was. Perhaps it all flowed from the legendary circumstance where very early in our partnership Chris effected a very, very successful plea on behalf of a client and then leaving the Court asked to be paid. Bad move. The client indicated that he actually was just short of funds at the moment but he would just slip down the road to the ATM and make a withdrawal and then come back and, of course, pay your Honour as he was bound to do. It was not that long before Chris realised the mistake. The client, of course, never returned”. Mr Fox recounts, however, “We gained value for many years teasing Chris in relation to this incident”.

I would like to place on record our appreciation of your Honour’s long association with and contributions to the Law Society of New South Wales. Now as a seasoned defence lawyer for many years, your Honour kept up Specialist Accreditation in criminal law. Your contribution to the Criminal Law



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Committee itself was and is worthy of a public expression of gratitude. I have spoken with Law Society policy officers and committee members who speak enthusiastically of your Honour's work as a committee member and later as a representative.

Now your Honour was a hardworking member on the committee as a private practitioner before becoming a magistrate. You first joined the Criminal Law Committee in 1998 and dedicated an enormous amount of time to that work. Now, of course, once your Honour became a magistrate in 2007 and Deputy Chief Magistrate in 2014, the committee was very fortunate to have your Honour choose to return to the committee as the Local Court representative in 2015 and that indeed just of itself, epitomises your Honour's contribution, not just as a magistrate but as a member of the profession, always wanting to contribute back to the life of the profession.

Now when your Honour's role shifted your Honour was very adept at looking at things from the Court's point of view as well as representing very ably your Chief Magistrate. You were familiar with most of the committee members and your contribution was greatly appreciated and an asset. Your Honour also contributed richly to the life of St George and Sutherland Law Society as a former president and indeed life member of that society. Current President of the Society, Mr Jonathan Prowse, records his gratitude thus:

"His Honour is a long-standing member of the St George Sutherland Regional Law Society. He served as President and on one occasion managed to attract the great man, (also known as Gough Whitlam to the uninitiated) to speak at the Annual General Meeting and was followed with life membership.

Following the tragic death of his son, Cameron, His Honour was instrumental in setting up and continues to adjudicate on the Cameron O'Brien Memorial Bursary, a grant given to eligible St George and Sutherland residents studying a combined law degree at the Wollongong University."

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Now many Presidents and committee members of the St George and Sutherland Regional Law Society are here this morning and your active involvement in the work of the Society well into your tenure as a magistrate reflects again on your honest commitment to the values of local representation and indeed grass roots philanthropy.

Now your Honour's farewell is always somewhat bitter sweet for another organisation, the Judicial Commission of New South Wales. You have played a pivotal role in its education program for Local Court magistrates and for judicial officers in general. As chair of the Judicial Commission's Local Court Education Committee for the past three and a half years, a significant number of conferences, programs and workshops for magistrates have been developed and undertaken and delivered under your immense leadership.

Your Honour has also been a member of the Local Court Bench Book Committee contributing to the vital publication used by magistrates every day in New South Wales. You have been a member of the Commission's Standing Advisory Committee overseeing the publication of The Judicial Review, The Civil Trials Bench Book Committee and of course giving regular presentations.

Now your Honour's contribution to continuing judicial education extends beyond New South Wales and in 2017 you were one of the faculty leaders for a week long orientation program for Papua New Guinea magistrates in Port Moresby offered in conjunction with the Magisterial Service of Papua New Guinea.

Now it has already been acknowledged that your Honour will be very much missed by your colleagues on the magistracy. Nowhere was this more evident than at the recent Northern Regional Magistrates Conference where

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your leave-taking was experienced as the loss of a mentor, a counsellor, a leader, a friend and not just simply as a workmate.

Outside the law as has been acknowledged you have a wonderful family and they are here to support you today and they are enormously proud of your achievements. On Saturday mornings I am told and indeed there is at least, I think, two of them here, you are part of the St George and Sutherland Shire Walking Group made up of fellow legal personalities with a much relished coffee to conclude and indeed I am told that you discuss the problems of the world, arrive at solutions and then go on to turn and defame numerous other people as to their incapacity to turn and see the bleeding obvious.

Now I am informed by more than one source that, of course, your Honour is a one-eyed St George supporter. I am even informed that your Honour was a ball boy for St George in that unfortunate time of its history when they lost the 1975 grand final 38 - nil. We are even sure that the finest of ball boys was unable to arrest the commission of such a great loss and are equally sure that at some point of time in the future, perhaps the distant future the St George Illawarra Dragons will attend great heights again.

Now as has been said your Honour has a reputation for unfailing courteousness, absolute fairness and you provide valuable feedback to young solicitors appearing before the Court and that is a trait that has been much, much appreciated by those in the profession. You have afforded every attention to the case that you have heard, always lending a polite ear to practitioners and litigants alike particularly litigants in person and I am sure that that will continue into your new role.

Now the solicitors of New South Wales have no doubt that your courtroom will be the place in which people continue to be treated with

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courtesy and fairness. Your Honour's background as a solicitor and then your work as a magistrate exemplifies the fine characteristics that solicitors can bring to this appointment and to this Court and we look forward through your Honour's example to the appointment of more solicitors to the bench of this Court.

I congratulate you once more on this outstanding and most fitting appointment. As the Court pleases.

PRICE J: Thank you Mr Humphreys. Judge O'Brien.

JUDGE O'BRIEN: Chief Judge, Judges of this Court, Judges of other Courts, Magistrates of the Local Court, members of the legal profession, family and friends, thank you for being here today to share with me this special occasion. I am deeply grateful to all of you. I particularly thank my new colleagues for their very warm welcome. I too acknowledge the traditional owners of the land on which we gather this morning and pay my respects to elders, past and present.

Thank you Mr Attorney and Mr Humphreys for what I think were your kind words. I am honoured that you have both taken time from your busy schedules to be present here this morning. I am fairly certain that I can identify the source or sources of much of the material that you have shared with us and I am hopeful that at some point in the future an opportunity may present which allows me to repay the favour to your respective informants.

You may not be aware Mr Attorney but you and I go back a long way. It is not just that you are my local member. It is 40 years since we each commenced a combined law degree at the University of Sydney and it is 35 years this year since we each graduated. We were not familiar with one another at that time and I think it fair to say that we moved in very different

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academic circles. You, of course, were the university medallist whereas I was a very pedestrian pass student. It is curious that we now find ourselves here this morning in this courtroom.

Of course an occasion such as today provides a short opportunity to reflect and publically acknowledge those people who have made a contribution to my career and without whom this event would not be taking place.

First and foremost I acknowledge two people who are not here, my parents, Tom and Margaret. Dad died suddenly in 2005, two years before my appointment to the Local Court bench. Mum passed away just over two months ago after a short illness. In fact, it was after returning home on the day of mum's funeral and while I was out for a walk on the magnificent esplanade at Cronulla, that I received a call from the Attorney offering me this new role. It was a tough day and I almost let the call go through to the keeper as I did not recognise the number that appeared on my screen. As it turned out I am pleased I decided to answer the phone.

Our parents worked tremendously hard and made enormous sacrifices so that my sister, Louise, and I could develop the skills we possess. Mum and Dad provided us with an outstanding education and a loving and nurturing environment. We had demonstrated to us daily the value of hard work, perseverance and fun. Ours was a happy home and I owe so much to them both. I will do my best to honour their memory by working hard, persevering when those tough days come along, as they surely will, and doing all I can to have at least some fun every day. Mum and Dad would both have been enormously pleased at this ceremony this morning.

Although my parents are not with me today I am grateful to be surrounded by other members of our family. My sister, Louise, is here along

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with one of my nephews, Billy. Unfortunately my brother-in-law, Pat, could not be present. My brother-in-law, Howard and sister-in-law, Dianne are also present and I thank you all for being here.

As has been noted I was educated by the Marist Brothers at Penshurst and Kogarah. While the Brothers have had real difficulties over recent years, I was provided by them with an education that was well rounded and focused on social justice and equity. Those values instilled into me all those years ago are of course the values required of any judicial officer and I hope to bring them with me to my work each day as a judge of this Court.

In 1983 as a recent graduate I was employed by Robbert Fox in his two solicitor firm in Jannali. I remained there for four and a half years until I took the plunge into sole practice. I learned a great deal from Robbert and I am grateful for his mentoring and guidance in those early years. After a short time on my own my practice merged with Robbert's and we remained in partnership under various guises until I joined the Local Court. I am pleased that Robbert and his son Hayden are here today.

The Local Court has been my professional home for the last 11 years. To be leaving has caused me real sadness. Where do I begin to tell you what a marvellous institution it is? It is inhabited by hard working, decent, clever and collegiate men and women who daily deliver more justice to the people of New South Wales than any other Court. They do so in often difficult and strained circumstances. The magistrates of the Local Court are the heroes of the criminal justice system and I am enormously privileged to have been a member of Australia's busiest, most efficient and most productive Court.

I hope that once appointed my successor as Deputy Chief Magistrate will likewise treasure this enormous privilege. I wish him or her the very best of

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luck traversing the responsibilities of the role and solidifying relationships with the hard working people of the Local Court. I will miss each and every member of the Court, some more than others it is fair to say. I will also miss all the staff who have been so generous and kind to me over many years. I will especially miss the amazing staff of the Chief Magistrate's Office, Jacinta, Phillip, Alison, Tess, Linda and Brooke, you guys are the best. I now look forward to making new friendships with members of the District Court, a Court that I am honoured to be joining.

Of course the Local Court does not just run itself. Under the leadership of my dear friends Judge Graeme Henson AM and Deputy Chief Magistrate Jane Mottley the Local Court continues to thrive and enhance its reputation for excellence. It really is the "rolled gold standard". My three and a half years as a Deputy Chief Magistrate has been, without doubt, the highlight of my professional life to date. To work so closely with two individuals who are both fine lawyers and wonderful people has been a gift. I have seen firsthand their dedication and hard work and it remains a source of inspiration. Comrades, I will miss our morning chats, discussing all things from State and Federal politics, where we would sometimes have widely divergent views, or at least some of us would, to the latest episode of Goggle Box to which I am delighted to say the Chief Magistrate is an enthusiastic convert, or the Real Housewives of Melbourne in respect of which only I could make any informed contribution. Working closely with you both has been a great privilege that I will never forget and you can each be assured that I will be unrelenting in our continuing contact.

It may be obvious both from what I have just said and what was said earlier that I am a fan of reality television, although I have drawn the line at

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Bachelor in Paradise. That show is too appalling even for me. So that it is abundantly clear I was a fan of the genre well before I acquired fans of my own. Just on that subject I am sure that you will all agree that "Court Justice Sydney" is an outstanding production. Anticipating that the program, and my participation in it, may attract some comment this morning I made some enquiries of my own from our Executive Producer and Creative Director, Michael Cordell. For the record the show had an average audience of 231,000 viewers on each night that it screened. This does not include subsequent reruns. I am told that the series will have a long life and that over time each episode is expected to reach around half a million viewers. It was Foxtel's Crime and Investigation channel's number 1 rated program in 2017. That having been said its opposition for the number 1 billing were programs such as "Murder Made Me Famous", "I Knew My Murderer" - I did not understand that one and "Happily Never After", so its resounding success is perhaps not surprising. Season 2 is about to go into production and despite the lack of its former male lead I am certain it will at least rate adequately.

Many long-standing friends are here today to share this happy occasion. I particularly acknowledge and thank for their friendship and support Kim and David Hurley, Wayne Pasterfield, Justice Geoffrey Bellew, David Giddy and Simon O'Toole.

Now comes the hard part. As happy as today is there is an abiding sadness in not being able to share it with our beautiful son, Cameron. Every happy event for our family is measured against his absence from our lives. My 11 years of judicial office have been both the best and worst of times. On 11 July 2012 Jacki and I lost our 21 year old son suddenly and without warning. Following two relatively minor seizures Cameron had been



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diagnosed with epilepsy in August 2011. He thereafter had diligently and carefully managed his condition.

He was in the fourth year of his Commerce/Law degree at the University of Wollongong and was about to embark on study overseas. He was otherwise in robust good health. He was a fine young man, universally loved and on the verge of doing great things. On 10 July 2012 he went to bed as usual and did not wake up. He was the victim of Sudden Unexpected Death in Epilepsy known by the acronym SUDEP. It is a condition not unlike Sudden Infant Death Syndrome or SIDS but is one that is barely known of, and in respect of which significant medical research is required. Rather than affecting babies it affects people who have been diagnosed with epilepsy and particularly young men with that condition. I hope that the necessary research to unravel this devastating outcome comes sooner rather than later so that other families can be spared the pain that we have had to endure.

The period since 11 July 2012 has been more challenging and impossibly difficult than I can describe. We miss Cameron every single minute of every single day but his loss is even more acute on days like today. There have been some dark times for me since July 2012 and all throughout the Chief Magistrate along with his deputies and my Local Court colleagues have shown me and my family a degree of care, concern and support that is difficult to describe.

When I was sworn in as a Deputy Chief Magistrate I took my oath of office on Cameron's bible. I have done so again this morning. Doing so allows me to feel a special connection to him and to pay appropriate tribute to his memory which is a source of constant and enduring pride. When I was sworn in as Deputy Chief Magistrate I commented that Cameron might have

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said words to the effect, "Don't get too excited, you're still not a judge". While he would not be able to say that today I expect he would have cheekily remarked in his own inimitable way with words to the effect, "Do these people know what they're doing?" and/or "The Court of Criminal Appeal is in for a massive increase in workload". I guess only time will tell on both scores.

When I told my friend, Wayne Pasterfield, of this appointment he simply remarked, "You have an angel sitting on your shoulder". He is of course right, and I could not have expressed it any better.

To our girls, Brooke and Samantha, Brooke's husband Zac and Sam's fiancé, Harry thank you for all you give me. Brooke and Sam, mum and I are proud of the women you have become and you both make me happier than you could know. To our grandchildren, Frankie and Lenny, you keep me in the real world and ensure that I do not fall into the trap of taking myself too seriously. To my wife, Jacki, your love, support and encouragement have always sustained me, thank you for all you have done for me and our family. Today is as much about you as it is about me. Without you by my side this day would not be happening.

And finally I am conscious that my appointment to this Court arises following the sad and unexpected passing of His Honour Judge Toner SC. His Honour was universally well regarded by the legal profession and was a fair and compassionate judge. Following the announcement of my appointment I received a message from a mutual friend of Judge Toner and I, Sam Macedone, a solicitor well known to all of you. Sam wrote, "Congratulations, you are replacing a good man and a great friend, do him proud". Judge Toner's shoes are big ones to fill but I will do the best I can. In doing so I hope to do just as Sam suggested meeting the challenges of my new role in a way

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that does nothing but credit to this Court.

I am flattered that so many of you have taken time to attend this morning. The presence of each and every one of you is greatly appreciated. Thank you Chief Judge.

PRICE: Thank you Judge.