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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 11 APRIL 2016

**SWEARING IN OF HIS HONOUR JOHN PICKERING OF THE DISTRICT
COURT OF NEW SOUTH WALES**

**SWEARING IN OF HER HONOUR SIOBHAN HERBERT AS A JUDGE OF
THE DISTRICT COURT OF NEW SOUTH WALES**

The Honourable G Upton, Attorney General, on behalf of the
New South Wales Bar
Mr Gary Ulman, President, Law Society of New South Wales,
on behalf of solicitors

(Commission read)

(Oaths of office taken)

PRICE CJ: Judge Pickering, Judge Herbert, on behalf of all the Judges of this Court, I very warmly welcome you and wish you, each of you, the very best in your judicial careers.

JUDGE PICKERING: Thank you, Chief Judge.

JUDGE HERBERT: Thank you, Chief Judge.

PRICE CJ: Attorney.

ATTORNEY GENERAL: Your Honour, it is my privilege today to appear not only as the Attorney General of New South Wales but also on behalf of the New South Wales Bar.

We gather today to swear in two outstanding lawyers to the Bench of the District Court of New South Wales. On behalf of the State of New South Wales it is my great pleasure to congratulate his Honour Judge Pickering and her Honour Judge Herbert on your respective appointments.

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I extend my congratulations to Judge Pickering's family, to your wife, Georgia, and to your daughter, Scarlett, and I also congratulate Judge Herbert's family, to your husband, Anton, your son, Declan, to your mother, Vicki, and your sister, Catherine and Elizabeth, I gather Catherine cannot be here with us today.

Judge Pickering, your service to this bench comes after a remarkable period of service with the New South Wales Office of the Director of Public Prosecutions. It is with pleasure that I appear today to take part in your swearing in. It is with great honour that I also share with the Court some of your achievements that have brought you to this moment today.

Your Honour was born in Sydney, the youngest child of Peter and Joan and you grew up in Cheltenham. You completed your schooling at Epping Boys' High School before enrolling in the Bachelor of Economics course and Bachelor of Laws course combined degrees at Macquarie University. You graduated from Macquarie University in 1992 and completed the College of Law in 1993 and then took up a role with the Office of the Director of Public Prosecutions as a solicitor.

Your Honour went on to spend 11 years as a solicitor with the DPP until 2001 when you received your calling to the Bar. Your years of service were recognised by the Government when in 1997, you were the joint recipient of the New South Wales Government's Award for Excellence in Government Legal Services.

In 1998, you were appointed a Trial Advocate and that same year you were seconded for a time to the Police Integrity Commission. In 1999, your Honour took up an opportunity to go on exchange with the Department of Justice in Canada, where you appeared in hearings before the Provincial

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Courts of Vancouver and instructed in matters before the Supreme Court of Canada.

In 2001, after your admission to the New South Wales Bar, you became a New South Wales Crown Prosecutor and a decade later your Honour was appointed Deputy Senior Crown Prosecutor. Your experience and achievements in that role led to your appointment as the Deputy Director of Public Prosecutions in 2012, the same year that your Honour took silk. On a number of occasions, you have acted in the position of the Director of Public Prosecutions as well.

During your long career as a prosecutor, your Honour has acted in a wide range of legal proceedings, from the Local Court to the Court of Criminal Appeal and the High Court of Australia where you appeared in Special Leave Applications almost on a monthly basis over the past four years.

Your Honour's dedication extended beyond your legal practice with the DPP to mentor young practitioners. In 2012, you created a program to support junior practitioners appearing in their first trials and you have been instrumental in developing this program at the DPP.

Indeed, your colleagues have told me that you are a great believer in fostering young talent and that you were always available for help. Your Honour's commitment to the law, your fine legal mind and your analytical skills are well acknowledged and it is no doubt that the junior practitioners benefited from your support of them.

I know, your Honour, that the ODPP are truly going to miss you and not just for your brilliant legal advice, they will now be down a member of their basketball team and your elevation to the bench today, of course, takes on a whole new meaning. Basketball is not our only sporting interest. I am

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informed that your Honour is a keen golfer and a member of several cricket and soccer clubs including 15 years as a soccer referee.

Your peers describe your Honour as a loyal person with a great sense of humour and the love of a good joke. Your friends have commented that you are a man of compassion and a man of integrity and it is these attributes together with your substantial career in the law that will make you a fine judge of this Court. Your Honour, my congratulations on your appointment.

Judge Herbert, your Honour's path to your appointment to this bench is one of more than 30 years' experience in the law with 29 years as a criminal prosecutor. It also my great pleasure that I appear today to take part in your swearing in and also to share with this Court some of your achievements which have brought you to this moment.

Your Honour was born in London, the youngest of John and Vicki's three daughters, following Catherine and Elizabeth. You attended La Re traite Girls' School in London before your family moved to Australia settling in Coogee. Your Honour studied at my alma mater Brigidine College at Randwick where you received your high school certificate in 1979 before enrolling at the University of Sydney in a Bachelor of Laws degree graduating in 1983.

Upon your admission as a solicitor in 1984, your Honour began your first role as a solicitor with McCaw Johnson before taking up a role as a legal officer with the Office of the Director of Public Prosecutions in 1986. Your career with the ODPP has been one of dedication and of service.

In 1991, your Honour was one of three solicitors appointed to form the Short Matters Unit. This Unit was a daily list of sentences, appeals and mentions listed in the District Court. Your Honour moved through the ranks of the ODPP as a legal officer being appointed as a Trial Advocate in 1994,

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becoming one of the first solicitor advocates to conduct jury trials. You became a Crown Prosecutor in 2002 and held that position until this day.

You have appeared on behalf of the Crown in appeals before the Court of Criminal Appeal and indeed the High Court. You have prosecuted trials in the District Court and the Supreme Court and you have appeared in more complex and high profile matters in the Local Court.

Your Honour was one of the select group of Crown Prosecutors with the delegation to terminate all matters that have a maximum penalty of 25 years in gaol that do not involve a death. The entrusting of you with such a discretionary responsibility is the testament to your fine judgment and your ability to analyse and apply legal principle.

In 2013 and 2014, your Honour spent a year appearing before the Court of Criminal Appeal on behalf of the Crown in conviction and sentence appeals. You were briefed in 45 matters, 43 of which proceeded to hearing.

Your Honour's extensive involvement in the law outside your advocacy work provides a good picture of your dedication to the law and to your colleagues. As early in your career as 1991, and for the following eight years, you were one of three solicitors who wrote and updated the ODPP Sentencing Manual (the guide for use by Crown Prosecutors and lawyers throughout New South Wales).

Since 2012, you co-authored the LexisNexis publication 'Sentencing Law in New South Wales' a role your Honour was invited to fulfil. You have also, on a number of occasions and for lengthy periods, coordinated the Continuing Professional Development Program for Crown Prosecutors, a role held to this very day as well.

And your Honour's commitment to the mentoring, development and

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education of your colleagues is a strength for which you are respected.

Throughout your career you have been a mentor to many junior lawyers and your colleagues have sought your sage advice on the law, on trial procedure and on sentencing matters.

You have served in many teaching and advisory roles, roles that have drawn on your expertise and demonstrated the high standing with which you are held in the legal profession. It is not just the broader aspects of the law that you dedicate some of your spare time to, but you too, also have many interests outside the law.

Amongst those interests it has been shared with me that you are a committed swimmer and you swim regularly several hundred laps of your local pool each week. I am told that you are devoted to your family and that your son, Declan, has also embarked on legal studies. I expect many in this room will keep a watching brief in Declan's direction in coming years as he completes those studies at Macquarie University.

Your Honour, over three decades you have demonstrated a love for and a dedication to criminal practice that has earned you a reputation as a skilful considered advocate possessing a fine legal mind. Congratulations on your appointment.

Judge Pickering, Judge Herbert, your appointments to the bench of the District Court is a tribute to your professional skill and your personal character and integrity. Your appointments acknowledge your exemplary careers in the law, the hard work and personal sacrifices you have had make. Your dedication to the people of New South Wales will be of the utmost value to the District Court, to our community and to the law of this State. May it please the Court.

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PRICE CJ: Thank you, Attorney. Mr Ulman.

ULMAN: May it please the Court. May I first direct my comments to your Honour Judge Pickering.

Your Honour, it gives me great pleasure to appear this morning and to convey to you the congratulations and well wishes of the solicitors of New South Wales upon your appointment to this Court. As we have heard, your Honour is the son of Dr Peter Pickering and Joan Pickering, your Honour grew up in Cheltenham and was educated at Epping Boys High School. That school I note is on a bit of a role at present when it comes to judicial appointments with fellow alumnus Justice Anthony Payne being sworn in as a Judge of the Court of Appeal a few days ago.

After your Honour completed your studies at Macquarie University, you joined the Office of the DPP soon after admission as a solicitor in 1993. Your Honour's superb legal mind and brilliant advocacy along with the great skill you possess as a leader saw you rise through the DPP ranks holding a number of positions including Trial Advocate, Crown Prosecutor, Deputy Senior Crown Prosecutor, an appointment that occurred at the same time you took silk and finally Deputy Director of Public Prosecutions.

Your Honour as referred has had a busy practice in substantial and lengthy trials each year including many important cases in the Supreme Court, the Court of Criminal Appeal and the High Court. I note that one High Court case in which judgment is reserved, *Nguyen v The Queen*, has a special feature about it for the fact that the two senior counsel who appeared, your Honour and Ms Penelope Wass SC are being welcomed to this Court over the space of a week.

Your Honour's depth of knowledge and consummate skill as an advocate

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has seen you appear in a broad range of matters including the prosecution of *TCN Channel 9*, its producer and reporter for breaches of the *Listening Devices Act* as a result of a broadcast on *A Current Affair*.

It is also to be noted that in 2013, your Honour appeared for the Crown in *R v McLeod*, an appeal against the suspension of a sentence. The sentencing judge found that the offender deserved to go to gaol for the offence of making a collusive agreement with a member of the police force but because of the impact incarceration would have on his family and employees decided to suspend the sentence.

The Court of Criminal Appeal accepted your submission that hardship to third parties was only available as a reason to suspend a sentence in exceptional circumstances, there were no exceptional circumstances in the respondent's case resulting in the appeal being allowed and a term of imprisonment imposed.

I am told that at the DPP, your Honour brought to your role as Deputy Director an effective communication style that is underpinned by your reputation as a plain speaker who is not fond at all of legalese. Known as the go-to-man with an excellent memory for all manner of topics, but particularly criminal procedure, your Honour is sometimes called "the Oracle." It is indeed impressive that this nickname is not only used at work but also at home.

In the courtroom, your Honour has been described as a charismatic counsel with an entertaining style of advocacy which gets to the point and, at times, cuts through with a sarcastic edge - a style that is said works particularly well with juries.

One senior counsel has said that your Honour has "always been prepared to take on difficult points and be creative with the law" and that you

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are “not frightened of an unpopular argument which you believe to be true.”

Among your colleagues at the Office of the DPP, your Honour was seen as a natural leader who genuinely cared about those with whom you worked. Your Honour’s encouragement and practice of work-life balance has engendered a strong sense of loyalty within the Office of the DPP.

While working with instructing solicitors, your Honour was considered a role model team player, encouraging real input in trial preparations, valuing their opinions and making them feel that they were very much part of the process.

On a personal level, your Honour has been described as a loyal friend with a wicked sense of humour and a great sense of fun. I am informed that the first impression you leave is more often than not your distinctive and infectious laugh.

Your Honour’s family, I am told, is very important to you and you are a conscientious and dedicated father to Scarlett, in grade three and a loving husband to your wife, Crown Prosecutor Georgia Turner. I am informed that portraits of three very important people in your life dominated your Honour’s chambers, your wife Georgia, your daughter Scarlett and Homer Simpson.

This fascination with American popular culture does not end there. You have been known to comb the street of Las Vegas hoping against hope of glimpsing two particular turn-of-the-millennium pop stars. Your Honour, I hesitate to out you as a little-known fan of Paris Hilton and Britney Spears, but found your ability to get verified “selfies” taken with both start too impressive not to mention.

I am reliably informed that your Honour has already served your time for

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such exploits in the form of enduring multiple Celine Dion concerts alongside with your wife. Your Honour is an avid watcher, player and aficionado of all kinds of sport as we have heard but especially Masters Golf, American football, NBA Basketball and Major League Baseball.

I am told that your Honour once turned up at a Crown Prosecutors Conference wearing an oversized basketball singlet and a backwards-facing baseball cap. The other attendees thought it was hilarious. I gather you had not intended it as a joke. One of your lifetime sporting highlights was attending the Masters in Augusta, United States - something your Honour calls "the equivalent of Disneyland for adults."

On the bench, your colleagues and mentors predict that your Honour will excel in the same way you have in everything in which you have put your hand to thus far. By your loss to the Office of the DPP will leave what has been described as a gaping hole, your appointment will make for a powerful addition that will truly enhance the work of this Court and make inroads into the current backlog of criminal cases.

Your Honour, I offer my congratulations on behalf of the solicitors of New South Wales on the occasion of your well-deserved appointment and wish you the very best for what I am sure will be a long and distinguished career on the bench.

To your Honour Judge Herbert, on behalf of the solicitors of New South Wales it also gives me great pleasure to congratulate you on this wonderful occasion and on your well-deserved appointment to this Court.

I will not go over the background of your education but I will say that following your graduation in 1984, and immediately after your admission as a solicitor, you undertook a research role at the Bureau of Crimes Statistics and

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Research. Here, quite prophetically when looking at the direction of your career, you gathered data for study evaluation the impact of the recent *Crimes (Sexual Assault) Amendment Act 1981*.

In the process, your Honour read briefs of evidence, committal transcripts and trial transcripts of sexual assault prosecutions with the study period both before and after the Act was passed, which created new offences for sexual assaults and impacted both conviction rates and sentencing patterns.

Your Honour then worked as, as we have heard, as a solicitor at McCaw, Johnson and Company: the Sydney firm which was begun by the solicitor, barrister and politician Sir Kenneth McCaw, who was New South Wales Attorney-General at the time of the creation of the Court of Appeal in 1966.

In 1986, your Honour joined as a junior solicitor of the Office of what was then called the Solicitor for Public Prosecutions and Clerk of the Peace, the forerunner of the Office of the DPP. This is where you practiced until your appointment to this Court. In the interim you were appointed a Solicitor Advocate in 1994, in fact, one of the first Trial Advocates and in 2002, you were appointed a Crown Prosecutor.

As a young solicitor, your Honour came into contact with what could be described as the coalface of the justice system, appearing in the Local Court in many summary hearings and committal proceedings. As a Trial Advocate, your Honour appeared on behalf of the DPP in many jury trials between 1994 and 2001.

Most of these trials were conducted in Western Sydney between Parramatta, Penrith and Campbelltown and many of them involved charges of child sexual assault. Your Honour has appeared many times for the Crown in the Court of Appeal in both conviction and sentencing appeals.

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One case of some note was when you prosecuted the father of a 12 year old child who, with the father's approval, had married a 26 year old male. In this complex case, in which the child had refused to give evidence against her father, he was found guilty and a custodial sentence imposed.

The work you have done with the DPP has no doubt been stressful and difficult although at times it does have a somewhat lighter side. I understand that the last time you and Doug Humphries, a Vice President of the Law Society of New South Wales were in court together was for a murder trial. Apparently, you were both left waiting in court for some little time as a result of Doug's client deciding to strip naked. You both agreed that it was better not to rush the trial until Doug's client was suitably attired.

Your Honour has been a prolific author and contributor to many publications, conferences and courses. As a Solicitor Advocate, your Honour helped produce the DPP's Sentencing Manual.

Between 1995 and 1998, your Honour served on the Law Society's Specialist Accreditation Committee for Advocacy that established the criteria for specialist accreditation in the advocacy for the Society and participated in the granting of accreditation. It was through this work that you started teaching with the Australian Advocacy Institute and worked as a teacher with many government and non-government lawyers.

The significant level of expertise that your Honour exhibits in the highly sensitive area of child sexual assault prosecutions, as well as your capability for meeting complainants' needs has seen your Honour regularly briefed by the DPP in cases of this nature.

In the courtroom, your Honour has been described as composed and measured in your approach. I am also informed that your Honour appreciates

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and practices concise cross-examination. David Ross QC in his book on Advocacy even referred to a transcript of your Honour's cross-examination as an example of what he called "sweet brevity."

Your Honour, I am told, was always fully prepared for a trial in keeping with your reputation within the Office of the DPP as an exceptionally hard worker. Indeed, although you live nearly 30 kilometres from the CBD, your Honour is usually one of the first people in the Office on weekdays and often one of the last to leave.

As you do live some distance away, I am told that your Honour has made your morning commute on the bus as productive as possible, not wasting a single minute in attempting to advance to the next level of "Candy Crush," a game to which I gather your Honour is thoroughly addicted.

In the Office, your Honour has always stepped up as a mentor to newcomers. Junior solicitors always felt welcome and encouraged to knock on your door - cheered as they were by the sight of the Office brimming with orchids, a great passion of your Honours and your Honour's friendly calming advice.

Your Honour, I understand, is also focused on helping those who cannot always help themselves something that is very much in evidence with the work that you are now doing with radio 2RPH, a community radio station for the print handicapped that is run almost entirely by volunteers. I understand that your Honour debuted a few days ago reading articles from the newspaper on air and, if things go well, you could be a regular on-air reader.

Your Honour's husband, Anton, and son, Declan, are very important to you and have been supportive and understanding anchors throughout your Honour's busy court schedules and lengthy trials. You have enjoyed travelling

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together as a family, especially, to Europe.

Your colleagues say that on the Bench, your Honour will be a knowledgeable, fair and compassionate judge. The wealth of trial experience, particularly in the area of child sexual assault, your expertise with that very technical area of the law and your status as one of the most experienced Crown Prosecutors in the area will stand you in very good stead for the work ahead of you.

Your Honour, on behalf of the solicitors of New South Wales, I congratulate you on the occasion of your well-deserved appointment and wish you the very best for a long and distinguished career on the Bench. As the Court pleases.

PRICE CJ: Thank you, Mr Ulman. Judge Pickering.

JUDGE PICKERING: Chief Judge, my fellow judges, Attorney General, Georgia and Scarlett, my mates, ladies and gentlemen. I have to say first off that it is fantastic for the first time that I am able to address you in the District Court without worrying about some barrister getting up at the end of my address and applying for a jury discharge on the basis of an inflammatory address or that I was too sarcastic. I would like to thank Hammett for that application in my last trial, I was really glad to see that I had not lost it.

I have to also say that there is something quite strange about entering the room here today and having my wife, Georgia, stand upon my entrance and bow to me. Generally, when I enter the lounge room at home after a long day apparently rejecting pleas in the State, Georgia is sprawled out on the lounge, often in the onesie and she never rises to her feet and she certainly does not bow to me. You certainly look nicer in the robes than the onesie.

I want to clear up a few rumours and misconceptions about myself. The

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first rumour or misconception I want to clear up is that there has been a rumour going around that the reason I was appointed to the District Court is to help clear up the backlog but not in the work I will do as a judge but so that I will not be in the DPP any more rejecting every plea offer in the State and refusing to no bill everything. Apparently, now the gates will be wide open for every plea to be accepted and the backlog will just come to an end. Well, let me tell you something about that myth that it was never me who rejected the pleas in the Director's chambers, you may all think it was me but it was really Mr Keith Alder. He may seem like a mild manner reporter from the Daily Planet but in his chest beats the heart of a non-pleader. Actually, despite the myth, I did approve plenty of appropriate pleas in my time and the hope that my absence will lead to some increase in the plea rate will be sadly, I should say, prove to be fruitless and your chances of appropriate no bill will be the same today as it was last week.

Another issue that I am aware of is that over the last four plus years I know that many District Court judges have gone to their pigeon holes only to find a Crown notice of appeal signed by a person called John Hunter Pickering. I can also assure you that was not me. Keith Alder became very good at forging my signature over the last few years, it is highly likely that many of those appeal notices were actually signed by Keith as me. If you do not accept that then all I can say is that Lloyd made me do it, he likes me being the bad cop and so it is his fault.

I also know that on many CCA judgments in which the absolutely wonderful judges of the District Court were criticised by a person appearing on behalf of the Crown that it is recorded a name on the CCA judgment to be Mr J Pickering SC, that also was not me. I mean, they make mistakes on the

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appearance on those CCA judgments all the time. Of course, I do not expect anyone to believe that but I can assure you that every time I wrote very conservative boring submissions that had no sarcasm or humour in them whatsoever just like many of my directions over the last four years.

Actually, when I was playing golf yesterday, it started to become clear to me that, how could I have been so wrong for so long? How did I not realise that all District Court judges were perfect and those in the DPP actually have no idea what they are doing. With that realisation I am reborn, I am now Team District Court. Perhaps now I can write offensive judgments that refer to the 20 years of incompetence of people in the DPP. Actually, I have more respect for myself and others to endorse such comments.

Anyway, as part of my cleansing, it is more important that I come clean to the Chief Judge about something else. I have a really bad history of first appearances in courts. My first appearance was in the District Court and I was yelled at by the judge all day, actually, the last time I was yelled at was also in the District Court, and the judge eventually stormed off the bench and rang the then Director, Justice Reg Blanch, to complain. A great beginning, I thought.

My first all ground appeal in the District Court was a parking ticket matter against an unrepresented appellant who wore a non-prescription monocle on one eye, could not speak English very well. Somehow I still managed to lose that parking ticket and had costs awarded against me. I was on a roll.

In one of my first trials in the District Court as a solicitor, I set a legal precedent for impermissibly referring to television shows in a closing address to the jury. I guess the CCA simply did not my Seinfeld and X-Files references. In fairness to the CCA, they may have understood my X-Files reference that being that Mulder and Scully need to come out to Campbelltown

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to investigate the defence case because clearly there was something alien related to it, if they had ever seen that the accused in the trial wore a leather eye patch on one eye which actually changed to a different eye each day and that he dressed and spoke like a pirate. I guess it was possible that his then girlfriend stabbed herself because she could not live without him, such was his claim, but I think it was a stretch.

My bad run of firsts continued in the CCA when I appeared in a matter with instructions to concede a conviction appeal, an easy task you might think to run dead on appeal. Unfortunately, two out of the three judges would not accept my concession and refused to acquit the accused. Embarrassingly, I had to argue against the Crown case and they would not have a bar of it, I could not even succeed in trying to lose a case deliberately.

My run of firsts continued in the High Court in Canberra when my first appearance I set back for decades, the highly legitimate and clearly greatly respected field of experts who have special magic powers to identify accused people in CCTV. At some stage during the hearing in Canberra which to me is a blur very much not unlike the last few seconds of a car accident, I can remember Justice Kiefel demanding to know in her icy tone where my notice of contention was. I turned to Naz Bruni, the brilliant and only irreplaceable lawyer in the whole of the DPP and he simply shrugged at me. I still lay awake now at night wondering where that notice of contention was, it haunts me. Ultimately, the lesson, Chief Judge, is that perhaps for my first trial should be a deemed supply of a very small quantity of drugs.

There is something quite surreal about being sworn in as a judge today. When I started as a young lawyer in 1993 I never thought I would run murder trials, appear in the CCA and never dreamt that I would appear in the

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High Court. I feel blessed to have achieved these goals. I would never have achieved any of these without tremendous support from a huge range of people and huge doses of luck along the way.

My first big dose of luck was being sent to Campbelltown DPP in late 1993 where I met some of the most extraordinary talented people. In some ways it was perhaps dangerous for a young Jedi like myself who the dark side of the Force already ran strongly through to come under the apprenticeship of two masters of the dark side of the Force in David, now Judge Frearson, and Helen, now Justice Wilson. I was in awe of David and Helen when I first started working with them. David was an extraordinary talented trial lawyer and to instruct him in trials was like going to a comedy show. I soaked up everything I could from David. It was not always plain sailing though, often about lunchtime on the first day of the trial that I thought was very exciting, David would turn to me and go, "I'm so bored, John," and if you hassled David to ask a question of a witness he would often start the question of saying, "My instructing solicitor thinks this is an important question." David, like so many people in my professional life always supported me and pushed me to be the best I could be, he taught me the right way to do the job. I was very lucky to have Helen Wilson's support throughout my career. She looked after me in the early part of my career and always had my back and I learned so much from her, we had tremendous fun working together. When I became a Deputy Direction, terrifyingly I had to disagree with Helen on a direction and felt the balance of life had gone astray. I am glad to see the world has been restored its rightful order and now Helen will have the chance to have the final word over me again.

I was also fortunate in my early days to meet the very naughty Paul, now

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Judge Conlon. He really was like the naughty boy at school you know you should not play with but you cannot help yourself because it is so much fun. He is still that naughty school boy, I am sure he is probably wanting to watch the Masters under the table here. I quickly learned though that there was another side to Paul. When I ran into some problems early in my trial career in that CCA judgment, a mean spirited email was sent around by a Crown Prosecutor to the other Crowns focusing on my mistake and essentially saying, "This is not how you do it." Paul was down in a flash to my office to boost me up, let me know I would be better for it and he supported me. That little gesture typified him to me and was greatly appreciated.

I should note that David Frearson also tried to help me at that time as he tried to forward me the email saying that the Crown who sent it was a word beginning with "F" and ending in "wit" unfortunately, David not being technologically gifted pressed the reply button rather than the forward button. As I said, having a Dark Lord of the Sith as a mentor has had its issues. Anyway, I know how much David loves these swearing-ins, I have no doubt he is making faces behind me. Thankfully, I am confident that he is probably just concentrating on where his future Ford mustang is currently on the Detroit production line and whether he made the right choice of Old Man Grey colour.

In 2001, I had my luckiest break of all and, no, it was not being made a Crown Prosecutor that year which did happen. On Valentine's Day 2001, I met Georgia Turner at a dinner for Losers Without a Date. I was there as a decoy, I failed miserably on my assignment on that night, but a few weeks later I ran into Georgia again on a night out and after a few too many drinks she approached me and said that she liked my laugh as it sounded like Dr Evil. Who would have thought that was - sadly, it has translated to my daughter.

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Who would have thought that was an attractive quality. Fifteen years later, she is still hanging in there. People often say to me, "What's it like to have another lawyer at home, do you just talk law all day?" Well, what it is actually like to live with Georgia is to have your number one fan with you at all times. She has always been there to support me, pick me up, encourage me and look after me. She has accepted almost all my quirks without question, in particular, she has accepted that all holidays must be in North America and Georgia has at times sacrificed her own career for myself and for our daughter and I am blessed beyond belief to have made that decision to go to the Valentine's Day 2001 dinner.

A short time after meeting Georgia, I met two other important people in my life. I was fortunate enough to meet Jennie, now Judge Girdham and Kara, future Judge Shead. People who know me know how important my friendships are to me. My friendships with Kara and Jennie have been two of the most important friendships in my life. It is rare that people come into your life who can make you both a better person professionally and personally and both have achieved that in me. I am thrilled to be working with Jennie again and I am tremendously proud of Kara's amazing career.

Throughout my entire time as a Crown and Deputy Director I have had support from many fantastic friends, I cannot mention all of them but I would like to acknowledge the friendships of Huw Baker, Tanya Smith, Gina O'Rourke and Natalie now Justice Adams to name just a few. They have made my life so enjoyable.

Consistent with the importance of luck in my life, in late 2005 and early 2006, I had the luck I had been looking for, I was allocated to be a junior in what was going to be the long running *Darwiche* murder trials before Justice

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Bell. On the first day of the first of the three trials that ran, my senior Crown Prosecutor did not arrive at court. I waited for a while before Justice Bell came into the ante room to say that my Crown would not be coming at all, he was sick and that I would now be running the trial and we would start in 20 minutes. Thankfully, as that trial ran they realised that the next two larger trials, another Crown would be needed to take charge, that Crown was Lloyd Babb. Over the next eight months I worked in the team with Lloyd on the *Darwiche* trials before the insanely brilliant and inspirational Justice Bell. Working with Lloyd during that time was the best professional experience I had in my career. Lloyd, he probably wondered how he got stuck with me, was particularly gifted in realising my strengths and using them while not judging me on my weaknesses. It is something he still does today.

In 2012, when Lloyd became the Director he showed the most enormous faith in me in appointing me as an Deputy Director, a position I had dreamed of obtaining. In the four plus years since I have done everything in my power to justify Lloyd's faith in me, it has been an enormous privilege again, to work with Lloyd. Being the Director is an incredibly hard job, far harder I am sure than most people realise. Lloyd has had to deal with some incredibly difficult issues in his time. He has had to deal with too many personal tragedies with our staff, difficult inquests, commissions, complaints, controversial pleas and decisions. He has also had to put up with being called a "Pelican" on the radio . He has been on the front page of the paper when he set out to never be on any page. For the entire time he has worked incredibly hard to support an overworked staff with better resources and it is fantastic to see that that is starting to occur for better resourcing of the Office.

What I am most proud about working with Lloyd is the work he has done

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with mental illness and work balance in our office. Depression is sadly prevalent amongst so many lawyers, the stigma of mental illness remains but within our office, Lloyd has worked so hard to break down that stigma and have the staff focus on work life balance. I am very conscious of the role that judges can play in impacting the emotional and mental health of lawyers who appear before them. I have had staff from the Office from all levels of experience crying and distressed in my office over the last few years about the way they are being treated in courts. For people suffering depression this is even worse. I will be very conscious that my courtroom is people's workplace and they should be treated with respect.

My time in the Director's chambers was an extremely rewarding time. I worked with extremely talented lawyers and had wonderful executive assistants I have a particular debt of gratitude to the director's EA, Fiona Parsonage and my long term EA, Renee Armstrong. Both Fiona and Renee looked after me and they made me look good, both of them made coming work to fun and I will miss them tremendously.

That leaves me to a particularly important person now, Miss Scarlett Pickering. Scarlett is closely aligned with today's events. In 2007, I ran a five month, five accused trial before Justice Buddin, better known as the Gypsy Trial. After Justice Buddin had to put up with me making many crazy legal arguments for five months at the end of the trial he had us all in for morning tea. At that morning tea I announced that I had just learned my wife was pregnant. Quick as a flash, Justice Buddin said to me, "Geez John, I thought all that you had been doing for the last five months was reading law books," judicial humour. I am thrilled that Justice Buddin is here today and for all of the support he has given me since.

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When Georgia was eight and a half months pregnant, much to her astonishment, I agreed to do a Supreme Court trial. The trial was the alleged murder of a young girl by her mother which probably was not the best trial to do at the time but hey, who turns a Supreme Court trial? The trial was before the current Chief Judge of the District Court, Justice Price. Justice Price, of course, is known as an extremely efficient judge who never likes to waste time. When the trial continued past Georgia's due date, I began to worry. When it was time for Scarlett to be born I nervously asked the ever efficient Justice Price for the day off to witness Scarlett's birth, of course, the day was granted for that day off to witness Scarlett's birth. Of course, Scarlett decided she would not be born until about 9.10pm that day and I think I left the hospital about 3.30am. A few hours later I was back leading evidence from a forensic pathologist so I am under no illusions about how hard I am expected to work in my current role in the District Court if one day off for the birth of your first child is enough. I am so thrilled to have Scarlett here today. Usually when I get home from work after court she asks me, "Did you speak to the judge today, were they nice to you?" I think the answer will be different now. Scarlett makes coming home a great feeling every single day.

I would like to thank my family and Georgia's family for being here today. Like so many people the support of your family growing up shapes who you are as an adult. I would also like to thank Georgia's family for their continued love and support of everything that I do. I would also like to thank everyone else who attended today, all my legal colleagues and my non-legal friends for attending, I am really touched you have all come. I would like to thank everyone both from the defence and from the DPP for their amazing support and friendship that so many people have shown me right throughout my

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career.

There is some nice symmetry being sworn in with Judge Herbert here today, I have worked with Siobhan for 23 years. She has always looked out and supported me but most importantly, she put in a good word for me when I first asked Georgia out on a date. Undoubtedly, her best contribution so far. Thank you, everyone.

PRICE CJ: Thank you, judge. Judge Herbert.

JUDGE HERBERT: Thank you. Chief Judge, Madam Attorney, your Honours, distinguished guests, family and friends, I am so thrilled and humbled by your presence here today. I thank the Attorney and Mr Ulman for your very kindly words. I have often been told that a good speech is a short speech, this will not be a good speech.

In 1966, there was an event that my mother has never forgotten. She invited a guest to morning tea, it was all very lovely. The guest brought a small dog and it was not so lovely when the dog bit me. Much worse was when I quick as lightning went on all fours and bit the dog back.

In 1976, as a family we migrated to Australia, I started at a new school and I made a friend called, Ann.

In 1986, I started a new job; I got engaged; I became a Godmother for the first time; with my then fiancé we bought a block of land. This is all chronological and as any instructing solicitor who has ever been near me knows chronological is my way.

In 1996, I had my much beloved and delightful Declan.

I have yet to identify what was significant about 2006 and if we became friends that year, I am truly sorry I did not notice and that brings me to 2016.

My friend Ann from 1976 is still one of my closest friends and the school

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we attended is one the Attorney attended some time later.

I can now say that the choices that I made in 1986 were truly inspired. The employer I joined in 1986 is the one that I left last week. The fiancé is my wonderful husband, Anton. My Goddaughter, Jenny, who joins us from Melbourne is somebody I often laugh with and the block of land that we bought is where we built our house and where we still live.

If I remained for another six weeks, I would have made it to 30 years with my employer, an indication of how highly I value the work of the Office and the opportunities it gives to its staff and just as importantly, the people who make up the Office of the Director of Public Prosecutions.

I joined when it was the Office of the Solicitor for Public Prosecutions and Clerk of the Peace. I have worked with all three Directors and I am so honoured that all of you are here today, Reg Blanch, Nicholas Cowdery and Lloyd Babb, who each brought their own style to the Office. I learned a great deal from each Director and I was honoured to work for each of them. With the greatest respect to our present Attorney and respecting her presence here I can say that the Office was not always properly funded and the gap was filled only through the level of dedication and goodwill of the staff.

I will be forever grateful for being with an employer who allowed me to work part time after Declan was born, something that was only feasible through having an incredibly supportive family, who would step in when trials did not quite run to schedule which was, of course, very often.

As I thought of the people I would like acknowledge, my list started to sound like an Oscar winner and Judge Frearson had given me some advice already about my speech so I do not name those people. however I would like to make a couple of special acknowledgments. Tom Grew was my Senior

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Crown when I started appearing in trials and Tom could solve every single problem and the solution came with a smile and a cup of tea. As my Deputy Senior Crowns of Sydney West, I thank Greg Smith, David Frearson and Jim Bennett, each were so generous with their time and sage advice that they were great role models. Roy Ellis and Brian Knox, I counted as wonderful mentors, each giving me the benefit of their wisdom despite the fact that they were of the belief that I was not listening.

Jennie Girdham and Donna Woodburne were inspirational CCA Crowns, highly valued in the CCA today and I was most fortunate, Jennie Girdham was still with the Office as I moved into Appellate Advocacy. She gave me all the time I needed despite her enormous workload. Craig Patrick was a great sounding board who would often give me the definitive No to whatever I was considering doing. I missed talking over issues with Sarah Huggett when she came here and I am so pleased we will be working together again.

Mark Tedeschi and I have worked together since the 1980s, he as the young Crown and me as the young instructing solicitor through to him being my Senior Crown and my leader to his junior in more recent years. As a young solicitor he took me on a view to Mulawa Gaol, which was accessed by walking through the men's gaol. The Corrective Services officers found it most amusing to allow the young solicitor in the hot pink dress, it was the 1980s, to walk unaccompanied through the men's gaol, Mark was not so amused.

The next time Mark took me on a view it was pre-trial to a national park, it was a rainy day and I got leeches. Contrary to my advice, he described going on the view to the jury as a pleasant two hour walk. I thought we were going to lose that trial when we heard repeated cries coming through the bush of, "The jury has got a leech, we've got to stop." Particularly, when through the bush

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I heard from one of the rather refined looking lady jurors, who had been so elegant during the trial with a shrill voice saying, "A pleasant two hour walk my arse." It has been my pleasure to work with Mark Tedeschi but if he ever comes before me and suggests we are going on a view, I will lock him up immediately because that is clearly a threat to the life and wellbeing of a judicial officer.

What I will miss is the camaraderie of working with an instructing solicitor as I have been so fortunate over the years to work with many wonderful solicitors. I am happy to say some of whom have gone on to become my friends. Having appeared in trials for 22 years the list I would love to acknowledge is enormous so I will not insult any by omission and therefore I name none.

Apart from the great work and career opportunities, I also take from the Office great friendships none more important to me than my often breakfast, morning coffee, and lunch companion, Frank Veltro. I feel like his third sister having become a welcomed addition to his family. I consider myself as a non-drinker but Frank has finally persuaded me the therapeutic value of a very small Sambuca and Baci at the end of a big day in court. It is a salute to a good day and it is a salve after a bad day and it is possible there will be a superior bottle of Sambuca in my chambers tomorrow.

I turn now to what is and has always been most important to me and that is my family. Mother, I hope you have forgiven me for biting that dog which rather than describing me as a wilful child, as you often did, we now recast that as demonstrating a keen sense of justice. I was brought up in a loving and supportive family even if occasionally tortured by my two older sisters possibly to redress the balance of being the youngest child and it definitely taught me

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resilience. It was only when I started work as a solicitor that I realised that my family was not normal and my life was not average. Only then did I discover that to be born into a family where I was loved unconditionally, encouraged and nurtured I was incredibly lucky and for so many that was just not the case. The sense of self-worth and values instilled in me, of course, influenced my choice of friends and of my husband, Anton, I would not be sitting here without you. A fact that you will never acknowledge but I do. You have supported me and encouraged me at every stage of our life together. Not once have you resented the time that I have taken away from being together to pursue my career or go shoe shopping. Together we have brought up our son, Declan, often seen by us as our greatest work, who is a source of joy and happiness to us and to all who know him. I hope that being raised with the family values that we were given by our parents has put you in good stead. Being here today may restore my credibility which was not assisted by helping my son with his assignment for Legal Studies. It was a Criminal Law assignment and he got the worst result he got in his whole HSC. I do not say that he is following in my footsteps but I am very proud that he is now studying his second year of Law and Psychology at Macquarie University, he is taking his own path.

I would love my father to have been here today, from my early days at Law School he would often greet me with a rendition of "Here Comes the Judge" as I would come down the corridor. He was dismayed at my choice of Criminal Law as a profession and he kept on saying to my mother, "We sent her to a good school, she went to Sydney University, why won't she do conveyancing?" I would come home from work to find little job advertisements neatly clipped and left for me on my pillow. Knowing my love of travel, he was

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absolutely certain he was onto a winner when he found in-house counsel for Qantas. Luckily, I did not listen to him and I think that was the only time I did not follow his advice.

I thank you all for attending and I am so pleased that John Pickering and I are joining this Court together, a Court which has already extended such a warm welcome and I hope that I can be an asset to this Court.

PRICE CJ: Thank you, Judge.