

Welcome Justice Southwood

Announcement to the bench etc excerpts from media releases, etc, welcome sittings, speeches.

Attorney-General Dr Peter Toyne:

His Honour was raised in Temora and Wagga Wagga in rural New South Wales. He lived and worked in Darwin for more than 20 years and continues to do so. He was the President of the Law Society from 1997 to 1999, the Society's representative to the Law Council from 1998 until your election to the Law Council Executive in the year 2000.

Your Honour is the past Vice President of the Northern Territory Bar Association and President of the Law Council of Australia 2004 to 2005, a role in which he barely took up before we pinched him to go on our Bench, and we're not at all ashamed to do that.

This was an honour which cannot be overestimated in terms of a member of the legal community in the Territory achieving such a prominent role within the Law Council and I certainly congratulate you on that achievement.

His Honour began at the Bar in Darwin in 1990 after working for several years as a solicitor with two of Darwin's largest law firms. He was appointed Queen's Counsel on 30 November 2000. He founded the Myilly Point Chambers with Jon Tippett QC on 1 July 2003.

His Honour has described his practice, in the past, as a general practice with strong emphasis on efficacy and appellant work. His experience ranges from commercial litigation to statutory interpretation to insurance and the common law.

His Honour has also been a strong and intelligent voice on justice issues such as mandatory sentencing, human rights violation and constitutional matters and I want, on a personal note, to pay tribute to the number of times that his Honour came to me with positions on these very important matters and I think that

that's very much appreciated as part of our democratic processes in the Northern Territory.

On the personal front, his Honour is married to Denise and has two children and I pay special tribute to them because it's well known you are an extremely hard worker who has spent many a weekend and after hours working on cases.

It's said that his Honour is a keen follower of Aussie Rules, although I'm not quite sure which team his Honour follows, so I'll be making very close inquiries, and enjoys an occasional fishing trip and is known to be very capable on a tennis court, and in fact one of your tennis students was one Claire Martin. So I think with that sporting history, we've got an excellent new Justice, who can span all parts of our community and I presume can embrace the popular obsession with sport, which many people share up here.

Once again, your Honour, I offer my congratulations and I look forward to hearing your wisdom from the Bench.

President of the NT Bar Associations, Mr John Reeves QC:

On behalf of the members of the Northern Territory Bar Association, may I congratulate your Honour on your appointment as a judge of the Supreme Court of the Northern Territory. I should add that whilst he will not speaking today, Mr David Ross QC, of the Victorian Bar, is here representing the Victorian Bar and both he and that Bar join with me in offering congratulations to your Honour.

Some may wonder why the Victorian Bar is represented here. Your Honour of course, became a member of that Bar some years back when you acted as a junior to Mr Ross in a long running criminal matter in that jurisdiction. It must have been an unusual case because Mr Ross tells me that whilst the nolle prosequi was eventually entered against your client, the first solicitor involved in the matter, on your side, was later convicted of

blackmail and served time in prison and your subsequent instructing solicitor has since been charged with conspiracy to murder. With that trail of misery among your instructing solicitors, I imagine that the solicitors of Victoria will be very happy to learn that your Honour will not be practicing again in that jurisdiction.

But I digress. We of the Northern Territory Bar believe that your Honour's appointment to the Supreme Court on the Northern Territory is a significant one in very many ways. First, I will indulge in a little reflective glory and say that we at the Bar believe your appointment is significant because it has come from among our ranks. Of course, in that respect, your Honour's appointment is not unique, there have been appointments from the Northern Territory Bar in the past. However, such appointments are surprisingly rare. In almost 27 years, since self-government, when this Court was re-established as the Supreme Court of the Northern Territory under Northern Territory legislation, there has been only three appointments direct from the local Bar and they were Maurice, Mildren and Riley JJ. So your Honour joins a very select group with that shared history I'm sure that the two remaining local Bar members of this Court will take an extra special interest in showing you the ropes.

Secondly, I have little doubt that your Honour's appointment will be significant for this Court. That is so because your Honour brings a very special blend of knowledge and experience to this Court. Naturally your Honour is learned in the law. That is almost a given for a judge. But in addition your Honour brings to the Court a special knowledge of the Northern Territory community. You've gained that, in part, from more than 20 years of practice here, where you've acted for many Territorians coming from different walks of life, business people, injured workers, Aboriginal people, and even on occasions Territory lawyers to mention but a few.

Welcome to Justice Southwood **cont...**

As well, your Honour has been active in the local community and sporting groups. You have for example, served as a member of the Board of Tennis NT and you've also served on the committee of your local school council. So that experience allows you to bring to this Court a special appreciation of the community of the Northern Territory.

The third reason why we believe your Honour's appointment is significant is a negative one. Having in September last year, become the first Northern Territory lawyer to achieve the office of President of the Law Council of Australia, and having served in that position for just four months, your Honour had to resign from the position last Friday to take up your appointment to this Bench.

As well, your Honour will no longer be available to the Bar Association and the Law Society of the Northern Territory as a source of sound advice. Of course, you have in the recent past served as our Vice President and before that the President of the Law Society of the Northern Territory. So all those bodies will be the worse for losing access to your Honour's valuable advice and assistance.

Fourthly, your Honour's appointment will obviously be significant to you and your family. On the personal side, your Honour has already spoken in the media about the

loneliness that you expect to experience on the Bench. During that interview, you equated life on the Bench to the life of a priest. I must say I was a little bemused by that analogy. I compared the lifestyle of most judges that I know with the priests I know and I could not spot the common factor. It certainly wasn't chastity, and I'm fairly sure it wasn't poverty, and whilst some judges are quite devout, most that I know are not devoted to a life of prayer.

It then occurred to me that your Honour might have been equating obedience to the word of God, with obedience to the law as laid down by superior courts of appeal. I thought about that for a while and I thought about the many successful appeals your Honour has been involved in before the Court of Appeal, and well, it would be risky for me I think to stray too much farther down that path, so I will simply say this, that on a day like this, I think your Honour can be forgiven one little bad analogy.

I have already mentioned your Honour's very busy practice and the time you've devoted to local community and sporting groups, to the Law Council, to the Law Society and of course, to the Bar Association. With all that to keep you busy as the Attorney just mentioned, your Honour had very little time left

for much else and in particular, I suspect, for your family. I therefore suspect that they are going to see a great deal more of you in the next few years. They will undoubtedly be able to help overcome the loneliness that you expect to experience on the Bench. I'm sure that Denise will be very pleased at that prospect, and I hope that your children will not be disappointed when they find out that that vertically challenged, bespectacled fellow, with the very fast walk, who occasionally visited their home between midnight and dawn, really is their father.

So for all those reasons and many more I do not have the time to go through today, I believe your Honour's appointment is a very significant one.

In conclusion I want to say just three things, firstly to assure your Honour that the support and assistance of the members of the local Bar, secondly to express our absolute confidence in your ability to discharge this new role as a Supreme Court Judge, and finally to wish you well on behalf of the Northern Territory Bar for your years on the Supreme Court Bench.

President of the Law Society NT, Ms Merran Short

It is with great pleasure I appear before this Court today to welcome his Honour, Justice Stephen Southwood.

As mentioned, we are joined by his Honour's family, Denise, Amy and Ben, your parents, Roger and June who have travelled from their home in Wagga to be here today, as well as your sister and brother-in-law and nieces.

As mentioned by my learned friend, Mr Reeves, in addition to your legal career, your Honour has had a long and close association with the Law Society of the Northern Territory.

It may be forgotten, but you in fact first joined the ranks to the Law Society Council in 1987. You served as Vice President in 1988 and again, as a councillor in 1989. It was nearly



There was a full court room for Justice Southwood's ceremonial sittings.

Welcome to Justice Southwood **cont...**

a decade later in 1997 when, for one reason or another, there were no nominations for President. I know a number of people, including myself, approached you and asked you to stand.

My recollection is that you took some persuading, because at the time you were a barrister with your own very busy practice. Traditionally of course, the position of President is held by a solicitor who can rely on support from their work colleagues. You had no such fall-back position. Nonetheless, you agreed to stand and after your election my observation is that you took the role, as you do with so much, with great gusto.

Over the two year period of your term as President, the Law Society experienced substantial change. Councillors, somewhat to their horror I might add, were expected to work hard. Committees were established and were expected to report back to Council, members of the profession were called upon to assist in respect of various submissions or for appointments to various positions.

As a result of your enthusiasm, combined with a hardworking Council and the Secretariat, member services improved, interest in the Law Society was enhanced, our local profile improved and our reputation at a national level increased.

Your contribution to the Law Council of Australia has continued. Such that I think it fair to say that our Law Society is now acknowledged as one of the hardest working law societies in the country. The contribution the Law Society has made and continues to make is well in excess of what could be expected of such a small society.

I will leave it to my friend, Mr Bugg, to detail your involvement with the Law Council of Australia. Suffice it to say, it is a testament to your achievements that you are required to stand down as President of that organisation to accept your appointment to this Honourable Court. Your invaluable contribution

to the Law Society cannot be overstated and it will be sorely missed.

You are, understandably, well-known and recognised for your public contribution, but I seek the Court's indulgence to speak more personally. Over the years that I have known your Honour I have observed your Honour providing leadership, guidance and friendship to the local profession. Certainly, as a newly admitted solicitor 11 years ago, I appreciated your attention and interest in my career. At the time I confess I was just grateful for any acknowledgement, but to have a barrister genuinely interested in the work I was doing and in my career was a real thrill.

Over time I became aware that there were one or two others who also had the good fortune to lay a similar claim to your attentions. However, all these years later, in what can only be described as a overwhelming evidence, I am finally forced to accept my connection with you is not in fact unique.

Your Honour's consistent and constant attention to junior members of the profession, is in my humble opinion, one of the qualities for which you are most admired. I am confident there are numerous colleagues in this courtroom today who feel such a connection.

The fact that you elicit such a response from so many is a tribute to your consistent and constant support. It is a trait that I have no doubt will serve you well as a judge of this Honourable Court. I know that reactions to your appointment were mixed, not that the appointment is not deserved, but rather for our own selfish reasons, we felt we were losing a friend and mentor with whom we had enjoyed many professional and social situations.

Despite our genuine best wishes, the relationship previously enjoyed must change with your appointment. However, to quote your children, Amy and Ben, we trust that you will not

become Judge Dread and we ask in advance for your patience while we adjust.

Perhaps it would be best to focus on the benefits. You will bring a new, but familiar dimension to this Court. You will be around more, so despite what my friend Mr Reeves says, we will be at least able to call on you to give CLEs for the Law Society.

Denise will get to see you more often, although I think the jury may still be out whether she will think necessarily that is a good thing, and Amy and Ben's friends will over time, accept that you are indeed the father of Amy and Ben and not just some bloke who drops in occasionally.

Since its establishment in 1911, the Supreme Court of the Northern Territory has had a long history of a strong, independent judiciary, which diligently strives to administer justice honestly and without fear or favour. On behalf of the profession, I congratulate your Honour on your appointment and have complete faith that you will continue this proud tradition.

President-Elect of the Law Council of Australia, Mr Tim Bugg QC

When the Chief Justice spoke to me about the order of speakers in today's ceremonial sitting, he alluded sympathetically the difficulty I might face in being the fourth speaker and finding that those before me might leave little for me to speak about. Initially, the more I thought about that, the more anxious I became, primarily because of the glaring paucity of worthwhile material about the person for whom the ceremonial sitting is being held.

It occurred to me that I had a particular advantage over other speakers. As someone from outside the Territory, I would be unlikely to appear before the courts and this Judge in the reasonably foreseeable future, if at all, I can speak with impunity.

continued next page...

Welcome to Justice Southwood **cont...**

Before testing that proposition however, I wish to say some good things about his Honour in respect to his significant involvement with and contribution through the Law Council of Australia, the peak body for Australia's approximately 43,000 practising lawyers.

His Honour led the Law Council until last Friday after becoming its president in September last year. For someone from a smaller jurisdiction to achieve that is no small feat. After surviving the highly competitive and potentially Nicene annual Law Council electioneering, his Honour was first elected to the Law Council's five-member Executive in 2000. Since then, he has been at the forefront of both advancing and defending issues of law and order and access to justice.

In his short term as president, his Honour established an indefinite detention working group to examine the tragic circumstances surrounding the ongoing detention of unsuccessful asylum seekers. This group is currently examining how laws can be enhanced to improve the plight of affected detainees. It's playing a leading role in advocating the preservation of the rule of law and the treatment of Australian Guantanamo Bay detainees. In doing so, you became an outspoken critic of the Commonwealth Government's approach to this particular issue.

You oversaw the Law Council's response to new national security legislation and in doing so, you met with both government and opposition representatives to have proposed legislation approved and you successfully argued for the government to meet the Law Council's requests, for the inclusion of amendments to ensure legislation would remain subject to a defendant's over-riding right to receive a fair trial.

You chaired the law reform working party which was established to advance the protection and

restoration of the rights of injured people. You also chaired the committee which formulated the Law Council's response to the James Hardie issues. You continued to press for the completion for the national profession project, which is designed to ensure that lawyers can practice throughout Australia, regardless of where in Australia they are admitted. Legislation in the form of the model bill which resulted from that project has already been passed in New South Wales and Victoria.

In addition to all of that, his Honour has, not surprisingly, and despite some things I'll say shortly, shown high level diplomatic skills in representing Australia's lawyers internationally. His international forays have resulted in extremely positive comment, not just from his Honour. They even led to his being feted in the Great Hall in Beijing.

All these achievements suggest that there are no chinks in his Honour's armour. It's in relation to that that I now propose to test my proposition about impunity. It's become the flavour of the month in some jurisdictions to seek expressions of interest from potential judicial appointees. Mercifully I understand it doesn't happen in the Territory. Had that been the case, I suspect that an application from his Honour, might have included the following proposition. I might add that what I am about to read comes from a document headed, 'Not for Distribution'. It arrived at my hotel this morning by facsimile.

It was a CV that his Honour prepared, as a joke, for distribution following his appointment as the Law Council President. It ended in the following terms:

'An enthusiastic boot scooter, line dancer, loves a big mal, or mall depending where you come from and barefoot mud crab tier. He enjoys hunting and fishing in the remote rivers of the Northern Territory. When he is not trying to keep himself in shape by drinking beer in the cage

bar at Lim's Hotel, he enjoys chasing swamp hens out of his big suburban backyard, with his two mongrel dogs'.

Your Honour, I trust that your judgment writing will be more effective than your CV writing.

When your Honour first told me of your imminent appointment, you will recall that you made the now common plea from newly appointed members of the judiciary to the effect that you did not wish to become remote in chambers, but decide to stay in touch with friends and colleagues, that presupposes you have friends.

Clearly you have some social skills, but they've not always been regarded highly by some at Law Council. On one occasion, I commented to Merran Short in positive terms about having your Honour's companionship during the lengthy flight between Darwin and Canberra. Merran responded in terms more florid than I'm prepared to use this morning. The gist of them was that your Honour was slightly boring and that on almost every occasion you fell asleep once seated in the aircraft and remained unresponsive for the entirety of the journey.

I hope that your Honour will also recall you informed me that Denise, your exceedingly patient wife, was at first less than enthusiastic about your appointment, because she considered you to be too young, despite your appearances. As they say, your Honour, 'In your dreams'. I subscribe to the theory that your wife's initial lack of enthusiasm was caused entirely by her concern that your appointment will result in you not regaining your long lost greyhound like figure of your active tennis playing days. The road to recovery had begun you might recall, with hourly morning walks around Lake Burley Griffin. In that context you might recall, so your Honour at the end of the last meeting of Directors of Law Council which you chaired last Friday, the new President

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commented that, 'When the Presidents leave Law Council it is important that we stay in touch and don't fade right away'. Unless you maintain a special exercise regime, you have no prospect of doing that.

The advantage of me coming to Darwin on Saturday rather than very close to the sitting, enabled me to get some more material about your Honour and I digress from my prepared speech to say that initially I have been very upset that you have not purchased for the Law Council secretariat a coffee machine about which you have spoken so much. Thankfully, I am relieved you did not. Before arriving here I was going to comment adversely on your lack of purchase, until I saw, when invited to your house on Saturday night, that first was an industrial fan and second a birdbath. I believe the Law Council is entitled to rejoice because of fear for what you might have purchased by way of a coffee machine. Your fan I consider replicates both the noise and effect of a jet aircraft. Your birdbath rivals a place of Inca worship. It has the capacity to attract pterodactyls rather than small garden birds.

Your Honour, on behalf of the Law Council I congratulate you on your well deserved appointment. I extend to both you and your family very best wishes for the future, you will be sorely missed particularly at Executive level. Be assured we shall stay in touch to prevent you from becoming a social cripple.

Justice Stephen Southwood

I thank you all for doing me the great honour of attending Court today to celebrate this occasion with me.

Thank you, Mr Attorney, Mr Reeves, Ms Short and Mr Bugg, for your generous remarks, expressions of goodwill and such wonderful hyperbole. I also thank, Mr Bugg and Mrs Bugg, Mr Ross QC and Mr Williams SC for taking the time to travel to Darwin from Hobart, Melbourne and Sydney.

One of the great things about being a member of the legal profession is the friendship and generosity of your



The ceremonial sittings for Justice Southwood.

colleagues. It was a great privilege in my early career to have had the opportunity to brief Mr Williams.

Most experienced advocates say that good preparation creates luck. Without it you cannot see important opportunities as a case develops. Whilst that is true, there is also those delightful occasions of plain good luck. My coming to Darwin was such an occasion. By sheer good fortune in 1983, after Gordon Pelshade interviewed me for a job as solicitor with Mildren, Sylvester and Partners, I happen to be playing tennis with Mr Terry Cole OA QC in Pymble. When I told him that I had been interviewed for a job in Darwin, he kindly phoned Phil Tietzel, a partner in the firm who he knew. I believe he told him that I was of good character and not a bad tennis player. The job followed. I have been here ever since. It is a truly remarkable place and I will always be indebted to Mr Cole for his kindness.

I spent more than 14 years at the Bar. Over that time I really enjoyed the friendship and camaraderie of all my colleagues and the work that has come my way. Although Denise finds the statement somewhat incongruous because I am tone deaf, the law to me has been like music to a musician. I have enjoyed practising it every day that I have been a lawyer.

A highlight of my career at the junior Bar was appearing in a case of *TN v Walford* in this Court. I was briefed by Mr Dooley and Mr O'Connell, who

were then at KRALAS. The case concerned a challenge to certain parts of the Justices Act, pursuant to which children were being imprisoned in Katherine for not wearing bicycle helmets. The children were successful. After the decision of this Court was handed down I was preparing to go out for the evening meal (despite what has occurred over the years and what Mr Bugg has commented on) when I was telephoned by Mr O'Connell and told to turn on the radio. When I did so the presenter announced that she had been asked by Mr Southwood to play a song for all the boys and girls of the Territory and that after she did so, they were all to go to bed. She then played Chuck Berry's 'Great Balls of Fire'.

An important decision in my legal career was made in September 1990, when John Waters, Jon Tippett and I decided to become founding members of James Muirhead Chambers. Jon Tippett and I also subsequently established Myilly Point Chambers. Of the nine members of the legal profession who have been members of these chambers, John Waters, Jon Tippett and I took Silk, Mr Brown, Ms Blokland and I have been appointed to judicial office.

Both chambers placed great emphasis on human rights and the rule of law. Both chambers have been opposed to extreme legislation

continued next page...

Welcome to Justice Southwood **cont...**

that has had the tendency to erode judicial independence and judicial discretion. It has been a real privilege to have been a member of each set of chambers.

Two other significant decisions in my legal career were my decision to become President of the Law Society of the Northern Territory and then President of the Law Council of Australia. The opportunity to work, first with leaders of the local profession and then with leaders of the national profession, has been an invaluable experience. During each presidency I have had the good fortune to have executives of enormous talent and good humour.

I never imagined when I first came to Darwin during a very hot and humid April, and was collected at the airport in a beaten up Landrover with no brakes (it looked like a war relic) and then dropped off at the backpackers lodge, that one day I would be leading a delegation of Presidents of Law Associations of Asia in discussions with the Vice Chairman of the People's Standing Committee in the Great Hall in Beijing. Or leading discussions with the Attorney-General of Malaysia on behalf of the Australian Legal Profession about access to justice of Australian lawyers to the legal services market in Malaysia or advocating the value of the National Professional Model Bill before an international audience of the IBA in Auckland.

By the way, I believe the Landrover and the backpacker's lodge were tests used by my employer to test the resolve of their new recruits to live and work in Darwin.

Particular mention should be made of the work undertaken by the Law Council of Australia. The Law Council is the profession's peak national body. Its objects include the maintaining of the rule of law and advocating the interests of the profession at the national level. Importantly in recent times, the Law Council has worked with State and Commonwealth Attorneys-General in

developing the National Legal Profession Bill and in opposing trial by military commission of those persons incarcerated in Guantanamo Bay. The independent report of Mr Lazary QC that was commissioned by the Law Council is an extremely important document that demonstrates the fundamental flaws of military commission systems. They are the antithesis of the rule of law.

I have many people to thank for my success as a legal practitioner. I thank them for their assistance and their support and friendship. I am most grateful for the support I have received from all those solicitors who have briefed me. Since I have taken Silk, I have also been grateful for the hard work of my junior counsel. As a result of the enterprise of junior counsel I have had the opportunity in recent times to work in Queensland and in as exotic a place as Vanuatu.

I specifically mention Jon Tippet QC. He has been a great friend and companion in Chambers. We have spent many numerous hours together preparing cases, arguing about the law, discussing legal politics, sharing books and articles and as Magistrate Blokland reminded us last Friday, when time permitted, watching Australian Rules football.

I would also like to make particular mention of David Ross QC, whose support and encouragement and knowledge of the law have been of enormous value to me. We first met when he was briefed to lead me in a cannabis conspiracy case. We subsequently did a long running heroin trafficking matter in Melbourne, and I introduced him to a number of mining cases in the Territory. He was briefed because the party who instructed us wanted to see, in their words, "a meltdown" of a cross-examination.

I wish to record my thanks and appreciation to Janice Rowlands, who has been our clerk of Chambers for 14 years. Her loyalty, good humour, and hard work has lightened

immeasurably the load of a busy barrister's practice.

I need to record what is an incalculable debt to my family. First to my parents who brought me up to achieve whatever my capacity would allow and to understand the value of hard work. They are both here today. It is a great shame that Jack Coghlan, my father-in-law, could not be here today. At one time Jack was close to being the longest serving police officer in the Territory. His generosity to both Denise and I and his knowledge of the Territory has always been very much appreciated.

Most important of all are my wife, Denise, and our children, Amy and Ben. Their love and support has given me great joy at all times and I thank them for their support, although those words hardly convey what their support has meant to me.

I have a justifiable pride in being asked to join this Court. My new colleagues and their predecessors have delivered justice to the Territory and ensured respect for the rule of law for a long time. I am both honoured and humbled to be able to join them in discharging the responsibilities of judicial office. I am sure the challenges that face me, or I should say, I am aware of the challenges that face me and of the differences in the roles of advocate and judge and I look forward to meeting those challenges.

I know that in striving to deal with them, I will have the support and assistance of our great legal profession and the support and friendship of my colleagues on the Bench. I trust that with that assistance and my own efforts, I will discharge the duties of a Supreme Court judge and I will be a true servant of the law.^①