

**SPEECH FOR THE SWEARING IN OF ASHLEY BLACK TO THE  
SUPREME COURT OF NSW**

**4 July 2011**

Your Honour, on behalf of the State of New South Wales, and the New South Wales Bar, it is my great pleasure to congratulate you on your appointment to the bench of the Supreme Court.

You are rightly regarded as one of the nation's leading commercial lawyers and a scholar whose prolific output has benefitted the entire profession.

You gave the first hint of this promise in your years at the Sydney Church of England Grammar School, or Shore as it is better known.

You were selected in the GPS, NSW and Australian schoolboy debating teams for 1977. You were in good company the other person who made all three teams was Anthony Fisher, whom we now know as Bishop of the Catholic Diocese of Parramatta.

Yet law was not your first choice at university. You did a year of medicine before switching over and then teaming up again with the young Mr Fisher in the Sydney University debating team.

After winning the national championship, you travelled to Canada to compete and you swept the opposition at McGill University in Montreal.

The pair of you then set off on a two-week tour of North America, with a ticket that allowed for unlimited flights. It was partly to satisfy your interest in American history.

Bishop Fisher reports that even then you were a man who liked leaving little to chance. Indeed meticulous preparation has become a hall mark of your career.

Whenever there was flight to catch you ensured that both of you were three hours early. So there were no hiccups ... until you got to Mexico.

With the usual three hours to kill, your companion suggested you should use the time to spend your remaining Mexican money.

One can only imagine what you said to the then Mr Fisher when you realised one of those announcements in Spanish was a final call for your flight.

Next thing you were in an airport buggy, tearing down the tarmac after your plane.

I am told – and I have no cause to doubt a man of the cloth – that the pilot noticed the waving arms, brought the aircraft to halt on the tarmac.

The stairway was lowered and soon you were on board – vowing never to listen to that Fisher bloke again.

In 1983 you graduated from the University of Sydney with a Bachelor of Arts with First Class Honours. Three years later you earned a Bachelor of Laws, also with First Class Honours.

During 1988 you were an Associate to Justice Lockhart of the Federal Court of Australia before joining Mallesons Stephen Jaques as a solicitor in 1989.

In 1992 you received a Master of Laws, with First Class Honours - again. The University of Sydney also awarded you the Law Graduates Association Medal.

In 1995 you were made a partner of Mallesons and have remained with the firm since, specialising in commercial litigation with a particular interest in corporations law, financial services and regulatory matters.

Such is your expertise, that I understand the rules committee of the federal court effectively seconded you to rewrite the corporations rules.

And that was more than 20 years ago.

You have advised several major Australian corporations in significant dispute matters, acting for Telstra in proceedings to injunct the satellite joint venture between Australis Media Limited and Optus Vision; for AMP in relation to the GIO scheme of arrangement and for Hungry Jack's Pty Limited in substantial proceedings against Burger King Corporation in the Commercial Division.

You have extensive experience in the conduct of regulatory matters and have acted in numerous Australian Securities & Investments Commission (ASIC) regulatory inquiries. These include licensing matters and allegations of breach of the continuous disclosure provisions, market manipulation, insider trading and breach of the takeover provisions.

You have also conducted the defence of criminal proceedings brought by ASIC in Corporations Act matters.

And you are the litigator of choice for the big investment banks – having acted for Credit Suisse, Macquarie Group Limited, National Australia Bank and UBS among others.

In your spare time you are an Adjunct Professor in the Faculty of Law at the University of Sydney and a Visiting Fellow in the Faculty of Law at the University of New South Wales.

You lecture in postgraduate courses at both universities in the areas of financial services regulation and in fiduciary duties and conflicts of interest.

Demonstrating your enthusiastic interest in academia, you are also a prolific author of legal publications. You are the joint author of Austin & Black's *Annotations to the Corporations Act* and you are also joint author of *Securities and Financial Services Law*.

You have had published a long list articles on companies law and financial services law. And you

remain a history buff, with American history still getting top billing.

During 2002- 2005 you served as a member of the Legal Subcommittee of the Corporations and Markets Advisory Committee, which provides independent advice to the government on issues that arise in corporations and financial markets law and practice.

All this has contributed to your reputation as an outstanding commercial litigator with a tremendous capacity for working through detail, but never losing sight of the bigger picture.

You also renowned for hard work and discipline – and that meticulous preparation.

It is just as well there are others – aside from your debating team-mate – who can pierce that armour.

Many years ago you offered to drive a friend from Canberra to Sydney when you were both working over summer at the Australian National University.

The trip began badly when Your Honour filled the car up with diesel rather than unleaded.

Then the fan belt went just out of Marulan.

Alas, your comprehensive knowledge of the Corporations Act provided little assistance,

The total trip - 10 hours!

The story of your journey here would not be complete without mention of your wife, Leonie whom you married in 1993, with Bishop Fisher as best man. I am reliably informed he was three hours early.

Leonie is principal of Manly Village primary school and - I am told - works as hard as you do.

Though it's not all hard work; you enjoy good food and wine - and are excellent ballroom dancers.

You also share a love of colourfully named cats. The only problem being ..... that you are extremely allergic to them.

Despite this, your fondness for felines has seen you persevere, sneezing your way through almost two decades of cat ownership.

One can only hope you aren't also allergic to rabbit fur.

You are enthusiastic travelers and each year sees you heading off to exotic locations, taking a cruise, or flying to Europe to embark on a grand gourmet tour.

You worked at Mallesons with Justice Ward for many years and by all accounts you were a great team, not only in the firm, but as lunch companions with no shortage of good stories.

I suspect some of them have been passed to the young lawyers at the firm - along with some valuable tips on how to be someone who earns the respect of their peers and the admiration of their clients.

This capacity to foster and nurture talent is a quality you share with Justice Ward, a fellow alumnus of Mallesons.

You also meet one of the benchmarks for being a good boss. You inspire loyalty in those you work with – and those who work for you tend to stay or a long time.

Of course, it is also possible that this loyalty is otherwise inspired by the fact that you don't mind helping out even when you have a full plate.

You would have also passed on the importance of being calm, polite, courteous, and respectful. Can I suggest those qualities might be tested by some of the advocates that will appear before you.

Yet I suspect the bench will be more than a match for the bar – especially as you are invariably the best prepared lawyer in any room.

One leading silk discovered this to his cost when deciding to cross-examine him on an interlocutory application in the complex Ingot proceedings.

Those who were there report that each question was hit for six, with Your Honour having scored a century before lunch. It confirmed the view of many that you would have been a fine barrister; indeed you surprised many by resisting the move.

But you will now be in court every day – and the large gathering here today shows your friends and colleagues believe you will make an excellent judge.

Being regarded as perceptive, thoughtful, fair, objective and balanced in your judgment is a good start. The Bar, and all here today, believe you will make a great

contribution to the administration of justice in New South Wales.

I wish you all the best in your new role.

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