

## The Hon Justice Biscoe

Peter Meldrum Biscoe QC was sworn in as a judge of the Land and Environment Court of New South Wales on Monday, 13 March 2006.

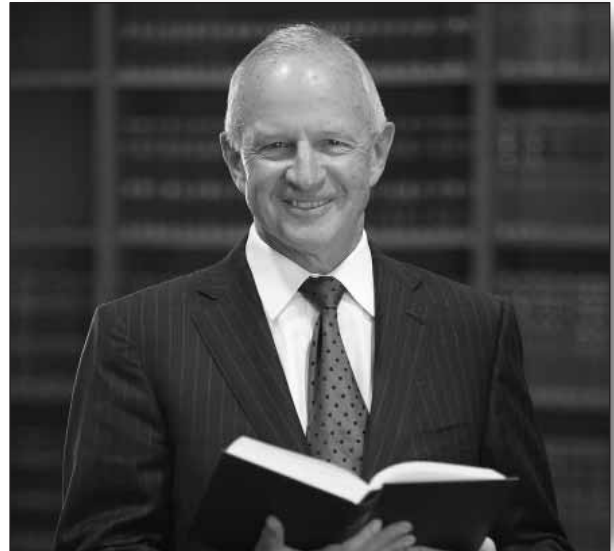
The Hon R J Debus MP, Attorney General, spoke on behalf of the Bar, noting from the outset that '[a]t the present rate of Land and Environment Court swearings-in we should have a completely new Bench by October. The court is presently undergoing more change than the Victorian branch of the Labor Party'. On a more serious note, the attorney expressed confidence that the professional and personal qualities that Justice Biscoe was known for at the Bar – extensive legal knowledge, calm temperament, an inquiring mind and a strong work ethic – would ensure that he would serve the people of New South Wales as well as a judge of the Land and Environment Court.

Justice Biscoe grew up in Tasmania, represented that state in water polo and won several state swimming titles. He also represented the University of Tasmania in rugby union, in debating and mooting, in which latter pursuit he won the trophy for the best individual speaker at the 1966 intervarsity competition beating Justice Roger Giles of the Court of Appeal and Chief Judge Blanch of the District Court. He studied under the late Professors Nygh and Higgins and Dean Atkinson at the University of Tasmania. After completing his law degree, his Honour won a scholarship to Tulane University in New Orleans where he studied civil law and completed a masters degree. He then spent a number of years working in London as a commercial solicitor and in New York in an international bank. At this time his Honour also published a book on the *Law and Practice of Credit Factoring*. His Honour was admitted to the Bar in 1974 and took silk in 1991.

In his remarks, the attorney observed that Justice Biscoe had brought:

energy, determination and fondness for a good argument to your work in your thirty years as a barrister, acting in a wide range of cases and earning a reputation as a great all rounder. Those who know you professionally admire your inventive mind and your great determination. That said there may have been times when your juniors have had cause to rue your steely determination to master the material in a case. On one occasion at least you invited an unsuspecting junior to come in when he had a moment and the junior duly did so, expecting a brief chat only to be released very late that night with strict instructions to be back by seven in the morning. Other juniors could only pat him on the back, advise him to telephone his best regards to his children and whisper that he'd been 'Biscoed'.

Your proficiency at administrative law and your expertise in commercial practice are well known and you bring a great breadth of experience to your new post. As a barrister you prepared extensively for cases which you could master in a short time even if it was a brief that one of your colleagues had had to drop. You are known as a great trial advocate, unflappable in court, with a dignity matched by few. Last year you published a book on Mareva orders and Anton Piller orders which you called 'the law's two nuclear weapons'. You



have brought your extensive knowledge of these topics to bear when you assisted a committee of Australian and New Zealand judges investigating the harmonisation of court rules, practice notes and forms of order in the Mareva and Anton Piller areas and you have also shared your extensive knowledge of this topic with other practitioners through presentations and lectures.'

Speaking in reply, Justice Biscoe made a number of observations about the Land and Environment Court of New South Wales:

Established a little over a quarter of a century ago, it has come to be viewed nationally and internationally as a model which other jurisdictions have adopted or have considered adopting for a specialist court or division of its type. I join the court as it faces and deals with the challenges of the twenty-first century. One of the challenges is to develop the jurisprudence concerning the concept of ecologically sustainable development. Since the early stirring of the germ of this idea some forty years ago, it has become entrenched in the law. Its elements are now to be found in the object sections and sometimes in other sections of numerous Australian environmental statutes. A body of case law has begun to emerge in this and other countries. The content and application of the emerging principles will be important to present and to future generations.'

His Honour spoke with great fondness of his 30 years at the Bar and of his colleagues in chambers:

Those who went from my floor to the Bench in my time were among the leading Australian barristers of their generation and I was fortunate to have worked with virtually all of them. They included the likes of justices Sheller, Giles, Lindgren, Hulme and Conti, the last of whom who could charm opponents into a settlement. Another who influenced me was the 'Dancing Man', Frank McAlary QC, who enriched the Bar for over fifty years between the time of his famous VE Day news clip appearance and his recent retirement. In 1984 he was responsible for renaming the building where the Land and Environment Court is now located as Windeyer Chambers.

There was a group who joined my floor at around the same time as myself: my friends Poulos, Maconachie, Hoeben, MacFarlan, Sullivan, Collins, Gray, Holmes and the late Paul Donohoe. We have spent innumerable hours in and out of each other's chambers developing professionally and in other convivial ways. The late Justice Dennis Needham of the Equity Division and Theo Simos QC, later a judge of the Equity Division, who unfortunately is too unwell to be here today, took a particular interest in me as a young equity junior. They were exemplars. Both possessed the grand judicial qualities of great learning, sound judgment and invariable courtesy and patience. Justice Needham would get the best out of an advocate by raising an eyebrow but never his voice.'

His Honour also acknowledged the influence of a former chief judge of the Equity Division, the Hon Malcolm McLelland QC, describing him as having had 'an enduring influence on my generation because of the elegance, wisdom and conciseness of

his judgments and the atmosphere of calm he generated in his court, an atmosphere which I believe to be in the best interests of the participating public as well as practitioners.' He also paid tribute to Justice Andrew Rogers as one who 'had a significant influence on the administration of justice by pioneering in the 1980s in the cauldron of the Commercial List of the Supreme Court, where I practised, a standard of efficient case management that has been widely influential.'

After acknowledging his love and support of members of his family, his Honour concluded:

The oath of judicial office taken this morning 'to do right to all manner of people according to law without fear or favour, affection or ill will' has been sworn by judges for almost seven centuries. It gives me as a new judge a powerful focus as well as a sense of humility about the tasks that lie ahead.

## In memory of the late Justice Peter Hely

An appeal to raise funds

At the instigation of an eminent group of close friends of the late Justice Peter Hely, there has been launched an appeal to raise funds to honour his memory.

In early May 2006, their Honours Justices Heydon, Jacobson and Allsop, together with T F Bathurst QC, J N West QC and Messrs Besson and Sinclair issued the following statement:

The professional skills of the late Justice Peter Hely attracted much admiration and his personal qualities much affection. Those skills and qualities will long live in the memories of those who experienced them at firsthand. They include the lay clients whose affairs he brought into order and whose interests he advanced; the many solicitors who relied on his lucid and shrewd advice; the barristers who, whether they led him, or were led by him, or opposed him, never failed to appreciate his talents as an advocate; the judges who appreciated the flawless economy of his work as an advocate and, later, when he joined the Federal Court of Australia, as a judge; the friends, within and beyond the above categories, who appreciated his wit, cheerfulness and companionship.

We have thought it desirable, however, to seek to ensure a more permanent memorial to Peter Hely. Peter Hely was one of the finest products of the University of Sydney Law School. It is therefore fitting that the Dean has agreed to the University of Sydney receiving contributions with a view to the furthering of any of the following purposes:

- ◆ a Justice P G Hely Visiting Distinguished Scholar Scheme, to support visits to Australia of overseas experts in commercial law and equity;
- ◆ a Justice P G Hely Scholarship to be held either by undergraduates who would not otherwise be able to attend the University of Sydney Law School for financial reasons, or graduates of that law school seeking to engage in postgraduate studies at an overseas university and requiring financial assistance;



The late Justice Peter Hely.

- ◆ prizes or scholarships in commercial law and equity.

Questions as to the precise manner in which the university would apply the funds raised, which of these purposes would be carried out, and the frequency with which payments in furtherance of these purposes would be made, would be questions for the university. The answers would depend in part on the amounts raised.

Any members of the Bar wishing to honour the late judge's memory in this way may do so by completing a form which may be downloaded at [www.nswbar.asn.au/circulars/giftform.pdf](http://www.nswbar.asn.au/circulars/giftform.pdf)