

## The Hon Justice Stewart Austin

On 13 July 2009 Stewart Greg Austin was sworn in as a judge of the Family Court of Australia at a ceremonial sitting held in the District Court at Newcastle. Chief Justice Bryant referred to the need to occupy a District Court room, because the Family Court Building in Newcastle was inadequate to hold the numbers attending.

His Honour attended Kurri Kurri High School and studied law at the University of New South Wales, graduating with a Bachelor of Jurisprudence and a Bachelor of Law. He was admitted as a solicitor in 1984, and worked with Baker Love and Geddes Solicitors. In 1989 he commenced work with Damian Burgess, developing into the partnership Burgess Austin Solicitors that continued for eight years, where his Honour worked on a range of legal matters including criminal trials, commercial litigation and family law.

In 1997 his Honour commenced practice at the bar, reading with Ralph Coolahan, now Coolahan DCJ, and Kingsford Dodd SC, now a leading member of the Common Law Bar. His Honour's practice encompassed criminal, family and some commercial law.

His Honour was for over a decade the Bar Council's contact point for the Newcastle Bar, in which role his Honour attended numerous awards ceremonies at the University of Newcastle and helped to organise continuing professional development mini conferences.

Solicitor-General Stephen Gageler SC spoke on behalf of the Australian Government. Mark Sullivan spoke on behalf of the National Family Law Section of the Law Council of Australia. The president of the Bar Association, Anna Katzmann SC, spoke on behalf of the Australian Bar Association and the NSW Bar. Joe Catanzariti spoke for the solicitors of NSW. Austin J responded to the speeches.

The solicitor-general referred to his Honour having become known as:

one of Newcastle's most able and versatile barristers known to be as comfortable running a criminal matter in a District Court as ... running an equity or a commercial matter in the Supreme Court or ... running any matter in the Family Court. You would become known and respected not only for your sharp mind and your high level of personal integrity, but for your considerable communication skills that have allowed people dealing with you, clients and others, to know that they have been heard.

Possibly the greatest measure of a barrister is how he is known by his peers. Your Honour's peers have praised your diligence, your even temperament and your fair dealings. Indeed your Honour has been referred to by another barrister as a role model for the profession. The characteristics that have led to your Honour's success in a profession will ensure your Honour's success in the court. There is no doubt that you will continue to inspire respect and confidence as a judicial officer.

Your Honour has a life outside the law and your Honour will continue to have a life off the bench. Your Honour is known as a



dedicated family man who has managed to achieve something extremely rare in the law, something that I am told is called a work life balance. May it continue and may you find time for those frequent family ski trips that your Honour is fond of taking in Canada.

Justice Mullane referred in his recent retirement speech to the many challenges that were facing the Family Court, particularly here in Newcastle where he identified those challenges as perhaps more acute than in any other areas of Australia. Your Honour, by reason of your experience, by reason of your temperament and by reason of your affinity for the local community, is particularly well equipped to take on those challenges and to address them.

Referring to Austin J's local practice and connections, Mr Sullivan said:

It's a privilege to have the opportunity as one of Justice Austin's contemporaries in the Hunter region to welcome him to the bench of the Family Court. It's a credit both to his Honour and to the attorney-general that his appointment has been so warmly received by the legal profession and is regarded widely as a quality choice. Today is a day of optimism for his Honour and for all those associated with the Family Court in Newcastle, whether as lawyers, judicial officers, employees or the punters.

I am happy to greet your Honour today at the start of your judicial career with the words emblazoned on Kurri Kurri High School's emblem 'Courage Honour Service'.

In Newcastle, Sydney and Parramatta interest was widespread about who might be selected for the new position of Family Court judge. In conversations I heard speculation of the rich talent being considered and your name was referred to on occasion. If I knew then what I know now I would have collated a form guide, looked for a bookie and made an investment in Austin Futures. The attorney-general announced your appointment as the first for the Family Court made under the government's new transparent process for judicial appointments. My form guide would have lifted the veil even further on transparency.

...

Your Honour's past form is only a guide. I have confidence however that Justice Austin will enrich the reputation of the Family Court Bench and compliment the talent and hard work of Newcastle's judicial officers. He is highly regarded as a good lawyer amongst his peers, his knowledge of law and human nature is not blinkered and he has a positive and friendly demeanour. He is polite and he's local.

The president said that his Honour:

is a quiet, unassuming man. For that reason the bar might seem to have been an unlikely career move. However, a career at the bar was assured on one fateful Monday morning when the counsel your Honour had briefed in a criminal trial failed to turn up. Despite the reasonableness of your adjournment application, it was a request that the trial be stood over for one day. In the realisation of every solicitor's worst nightmare his Honour Judge Ducker no doubt fully confident in your Honour's ability to rise to the occasion refused the application and your Honour had to step into the breach.

Some suggested your Honour should retire then with a perfect score of one out of one. However, the excitement of such a win was too much to forsake particularly for a thrill seeker like your Honour.

His Honour's choice in motor vehicles attracted comment in the speeches, the president saying:

Your Honour's only discernable lapse in judgment appears to be your purchase of a four-wheel drive in what someone called an inappropriate and unnatural shade of purple. Another solicitor cognisant that he will inevitably appear before your Honour cautioned 'I think his Honour likes to call it blue'.

In responding to the speeches, his Honour said:

I have come to the view over time that the Family Court occupies an immensely important station in society's legal network. The court does not ordinarily deal with newsworthy and seductive concepts like criminal conduct and vast commercial interests which pique the public interest. Nor are the Rules of Evidence dissected and applied with the rigour found in other jurisdictions, but for me, having wondered where the real value in the justice system is to be found, realisation has come with the acquisition of experience and maturity.

What is more fundamental to the self-esteem of a society than stable and functional family units, however those family units may now be comprised in our pluralist society? What is more important than ensuring the safety and protection of children whose welfare and opportunities may be compromised by a dysfunctional family? How can individuals happily get on with their lives after matrimonial separation unless their worries about their children are sympathetically resolved and their property is fairly divided? That is the powerful unheralded work of the Family Court.

Notwithstanding nearly 25 years experience in litigation, I embark upon this new adventure with some trepidation. ...

Since my appointment I have endured a little worry about making sound and timely decisions. With that in mind I have drawn upon the wisdom of two European scholars and philosophers. Maimonides said 'The risk of a wrong decision is preferable to the terror of indecision' and Baltasar Gracian said 'Everything superlatively good has always been quantitatively small and scarce', therefore in reliance upon that sage advice I intend to write decisive, short judgments.