

Speech Given at the Ceremonial Sitting for the Swearing In of Justice Taylor

25 August 2023

Supreme Court of the Australian Capital Territory

Justice Taylor

Thank you, Jude Barlow, for that welcome to your Country. Jude has had long association with my family, and so it is special for me to have her so generously extend to us this important cultural protocol. I recognise your ancestors, Jude, on behalf of my family and I honour your Elders, past and present. I recognise your ancestors as original custodians of this place and I recognise the ongoing connection of your people, the Ngunnawal people, to the land that we gather on this morning.

Like First Nations groups across the country, your people survived a brutal colonisation, and I am thrilled to see so many First Nations sisters and brothers here today. I pay tribute to our resilience as cultural peoples. Sovereignty has not been ceded. This always was, and always will be, Aboriginal land.

Distinguished guests, fellow judges, magistrates, practitioners, family and friends: I want to thank all of you for coming to this ceremony. I know many of you have travelled long distances to be here, from as far away as Western Australia and Queensland. For some of you I know there is a dual purpose in your attendance today, to share the occasion with me and also to honour my late father by bearing witness in his place.

Thank you, Mr Attorney, Mr Hassall and Ms Choudhury for the generosity of your words. I confess great relief that you all managed to finish without any of my children snorting loudly with derision or my mother leaping to her feet to add her own views about my suitability for this bench.

Ceremony is a feature of life in the law, beginning with the occasion of being admitted as a legal practitioner. That ceremony marks our arrival to the profession and signals our acceptance of the obligations we have as officers of the Court. I have, from time to time, mused on the professional indulgence reflected in ceremonies such as this. Ceremony, of course, has featured as a significant aspect of First Nations culture for thousands of years. My people have long understood the

importance of ceremony as a marker of significant events in our societies, and to communicate obligation and expectation.

So, while this ceremony might be viewed as an indulgence, I also see it as an important public declaration of the responsibility I have accepted. This ceremony expresses the solemn obligation I now have as a judge of this honourable Court and the expectation the community are entitled to have about the way I must discharge that obligation, doing right to all manner of people according to law – without fear or favour, affection or ill will. It is a responsibility I guard fiercely and a privilege I do not take for granted.

My fellow judges have warmly welcomed me. I am delighted to be part of a court referred to as “mighty”. In the lead-up to joining this bench, Loukas Karlsson J and Baker J were particularly generous to me in their non-existent spare time. It is an honour to be joining an energetic and productive bench of clever judges who possess a large bank of knowledge and experience, led by an indefatigable Chief Justice: a leader committed to exploring more effective ways to deliver justice in this territory. Our community is best served by a justice system prepared to reflect on itself and courageous leadership is central to that exercise.

I am a proud product of the ACT legal profession. If there is anyone disgruntled about my appointment, I invite you to direct your complaints to one or more of the following people: Ken Archer, Refshauge AJ, John White of Senior Counsel and/or Dr John Boersig. Each, in their own way, bears some responsibility for the development of my career.

Beginning with Mr Archer, who I harassed about a job in the fruit section while he was grocery shopping. He does not remember it (such was my impact), but I latched on to his typically dry response and set about becoming a prosecutor.

I was mentored in my early days by some generous lawyers who were also good people, John Lundy and Bernard Standish among them. Under the leadership of Directors Refshauge and White, I had great opportunity to develop as a lawyer and a ringside seat from which to observe the impact of participation in the criminal justice system.

I have career long friendships from both sides of the bar table, as well as with Court staff and sheriffs. There was one prosecutor who I did not want to be friends with at all – I thought him unbearable. He was oblivious to my distaste for him and, before I knew it, he was coming on family holidays with me. I speak of the former Mayor of Dubbo, Stephen Lawrence: a fearless lawyer and a great friend.

I ended my time as a practitioner at Legal Aid where Dr John Boersig and I cemented the most successful working relationship of my career based on a shared ideology about access to justice. John understands deeply the plight of the most vulnerable in our community and his long commitment to doing right by First Nations people is unimpeachable.

The pride in my appointment revealed by the local profession means a great deal to me. It is a profession made up of clever lawyers committed to justice. The appointment of Burns J and Mossop J to this Court from the Magistrates Court paved the way, I think, for my appointment. We are a grown-up city with a thriving profession, and it is essential for local practitioners to see a pathway to judicial appointment in their hometown.

There is something of a personal risk in my movement to this Court, and it is not just the increased risk that the Court of Appeal will be called upon to mark my work. It is the risk that accompanies leaving a job that you love. I have relished every aspect of being a magistrate. The work is relentless, and at times unforgiving. I am certain that I have not always got it right, but I have always tried my best to properly apply the law and to understand the complexities of the human condition.

The ACT community is well served by the collective of diligent magistrates who undertake work across a broad jurisdiction, keenly aware that justice delayed is justice denied. I will miss working directly with each one of them. They were often all that stood between a difficult day and a disastrous day.

Former Magistrates Fryar, Campbell, Morrison, Dingwall, Boss and Hunter were sources of wise counsel in my early days. I wish to note the support and kindness extended to me by the Chief Magistrate, in particular over recent months. Special Magistrate Hopkins is special by title and special by nature. I will not miss the unsolicited, unhelpful fashion advice and commentary from Magistrate Lawton, a man who wears squeaky shoes and enormous hats.

I have been managed by several young lawyers who served me faithfully as associates: Lauren, Rachel, Madeline, Lillian, Lydia and Serrina. My relationship with my associates has been one of the best things about judicial life. Clever and capable, one and all. They have consistently made me look good and I am indebted to them for their efforts.

I am, of course, a judge for all manner of people, just as my record will show I was a magistrate for all manner of people. I am also a Kamilaroi woman. That fact has, at times in my life, been the source of antagonism from non-Aboriginal folks, curiously invested in my cultural credentials. The only endorsement I seek in that regard is from the people to whom I proudly belong.

Through my father, the late, great Dr Russell Charles Taylor AM, the might of our ancestors is in my blood. His father was born to a 16-year old single mother on Kamilaroi country at Walhallow, known then as Caroona Aboriginal Reserve. My father, the first in his family to finish high school and attend university, went on to become the most senior Aboriginal person in the Commonwealth Public Service. It is no surprise then that I was raised to be nothing other than proud of my identity, with a strong sense of obligation to contribute to bettering the lives of our people.

That my appointment is a source of pride for First Nations people brings me real joy. Being the first Aboriginal woman appointed to a superior court brings with it a sense of responsibility that I must demonstrate the case for others like me. Of course, my appointment is not evidence of substantive progress for First Nations people more broadly as there is still much that must be done.

The justice system is asked to cure wicked problems that often have their origin, and indeed their solution, elsewhere and as part of that challenge we have some heavy lifting to do where First Nations people are concerned.

I did not inherit a pathway to the law. I am the granddaughter of a wharfie and a publican. My pathway to the law was driven by my experience of it as a girl growing up in inner city Sydney. My direct involvement in the systems incarcerating my people and removing our children at scandalous rates is difficult for some to reconcile. I understand that difficulty, and indeed have wrestled with it myself on occasion.

I maintain the view that the lived experience of Aboriginal people is an essentially contribution for the legal system to reflect the society it serves. The devastating, unique impact of the law on our people must be authentically represented in positions of influence within the system so that it can be properly addressed.

The statistics are not just numbers to us. They tell the stories of our families and our communities. It makes sense to me then that we must participate as more than just subjects in the legal system foisted upon us. Our participation as lawyers and as decision-makers enriches the understanding of our people in the eyes of the law and enhances the capacity for the delivery of individualised justice. After all, systems of law are entirely familiar to our people. As eminent Aboriginal scholar, Marcia Langton, in her work with Aaron Corn, observes:

The idea of law in Indigenous societies, while remaining a system of rules for social good, also includes the idea of the English word 'culture'. Beyond this, it also captures the idea of 'proper practice' – the correct way of living a good life, as passed down from ancestors over many generations – and the idea of 'the way': the path through life shown by ancestors who have gone before.

I say to First Nations lawyers – Tahlia, Lydia, Lillian, Serrina and Braedyn and other lawyers from diverse backgrounds – there is a place for you here. Even when you feel like a tourist in the profession, you must carry yourself as if you belong because you do. The hallways of judicial office must include us. For it to be otherwise, is to deny the modern make-up of Australian society.

A constant in my life has been the support and care I have received from other Aboriginal women performing tireless, thankless work at the coalface of community. A great many of them are seated in the public gallery today. Nation-building leaders, Professor Megan Davis and Auntie Pat Anderson, are dear friends unable to attend this ceremony. Their support of me is humbling. Megan and Auntie Pat have secured their place in history with their campaign to see a reckoning for our people. It is a reckoning that speaks to the redemptive power of law. Without the reckoning the Uluru Statement from the Heart seeks, I fear the torment of our powerlessness as a people will continue. I live in hope that the Australian people will give effect to the simple idea that nothing should be about us without us.

I want to make special mention of my friend, Narelle King. Our families share decades of connection. Narelle exemplifies a role that so many Aboriginal mothers

and grandmothers play in our communities. Narrelle is the mother of Steven Freeman who died at the Alexander Maconochie Centre in 2016. He was cherished by his family and his community. No one should die because they are refused bail or sentenced to a period of imprisonment. The experience of Narelle's family reflects a cost our people have consistently paid and it must stop. That Narelle sits in this courtroom today, a place that represents a system the cause of so much heartache and sorrow for her, to celebrate my appointment speaks volumes about her courage, her character and the resilience of our people.

I am acutely aware that the decisions made in these courtrooms with broad jurisdiction have a very real impact for those who come here seeking justice, those who are required to answer for their conduct and for the people who love and support them.

It is my long experience that behind every great woman juggling their professional and personal life is more great women juggling their professional and personal lives. I have been the beneficiary of a small band of those women for more than 20 years: Belinda Barnard, Penny McKay, Jane Campbell and Melanie Moss. Our ability to laugh in the face of utter chaos is a superpower, and our knowledge of each other could be dangerous in the wrong hands.

Finally, to my family. My relationship with my sister Rebecca and my brother Paul is precious, their loyalty to me unmatched. Their partners, Dean and Chris, are the brothers I did not ask for but I am very happy to have. So too my honorary sister, Cathie. My nephew Jake, niece Sarah and their families are a source of pride. Jake and Sarah were my first clumsy experiment with parenting, and Sarah has the scar to prove it.

When I was appointed as a magistrate, I referred to my mother Judith as the hero of my story. I said I knew my father agreed with that characterisation because she was the hero of his. When he died in April this year, my mother reaffirmed her status as a hero. Heartbroken, as we all are, I know how difficult it is for her especially to be here today without him. If that beautiful old man were sitting in that jury box he would be beaming with pride, just as my mother is. It is because of my parents, their sacrifices and their aspiration for me that I sit here today. With them, I won the parent lottery, a fact this work only ever reinforces.

My four children – Hannah, Miles, Gabriel and Lulu – sometimes see me at my worst when they deserve me at my best. They are my greatest achievements and a constant source of fascination. I know my work impacts their life when they would rather it did not and, after 23 years, my lunchbox game leaves a lot to be desired. I am so proud of them all: funny, kind, clever human beings. Lest anyone think I am able to take myself too seriously, my children love nothing more than a mocking reference to me as “your Honour”. They are a daily reminder that my capacity to give orders is limited.

My partner, Joe, is my great love. He is my sword and my shield against the rest of the world. He is enormously successful in his own professional life, yet only ever touts my accomplishments. Joe’s obligations consistently yield to mine, and I could not do what I do without him in my corner. We have known each other since we were children and I think the Bundjalung boy from Woolloomooloo and the Kamilaroi girl from Millers Point have done all right.

Thank you all so much for coming today. I am truly grateful.

The Court of Appeal awaits.