

**Speech delivered by Anna Katzmann SC
at the swearing-in of Jayne Jagot as a judge
of the Federal Court of Australia**

3 September 2008

On behalf of the Law Council of Australia, the Australian and the NSW Bar Associations, it is my great pleasure to congratulate your Honour on your appointment to this Court.

Sadly, the games of the 29th Olympiad have now come to an end. Upon their return to Sydney politicians and the media praised our triumphant athletes. Television moguls fought for their allegiance. As a keen swimmer yourself, no doubt your Honour watched with envy as Stephanie Rice and Eamon Sullivan were whisked away to a department store to sell underwear.

In contemporary Australian society, with its adulation for confident young sports men and women, every detail of whose private lives is common knowledge, it is no easy task to celebrate the outstanding achievements of a brilliant but exceedingly private person like your Honour.

For someone like your Honour (and with apologies to Oscar Wilde) it might be said that to be the focus of adulation at one swearing in ceremony is a misfortune. To be feted at two looks like carelessness.

But spare a thought for those of us who have to speak at them. Jayne Jagot, people say. "She's nice." "She's very clever." "Tough gig!" "I don't envy you. She's so shy. She's such a private person." Indeed, your Honour guards your privacy so tightly that even your closest friends don't know who you are. This got me thinking that your Honour was part of an elaborate witness protection program. My suspicion was all but confirmed when I tried 3 times to search Jagot on the Lexis Nexis website and 3 times Safari unexpectedly crashed.

I now propose to blow your Honour's cover. I think it only fair. I can inform the Court that your Honour is really "Lorelei", the author of "The Mistress Manual: The Good Girls Guide to Female Dominance", available on line through Amazon.com at the special price of \$11.53 US. As one reviewer put it, Mistress Lorelei's "instructions" are "intelligent, well-thought out and easy to follow." Similarly, your Honour's written submissions when at the Bar and your Honour's reasons for judgment on the bench were and are intelligent, well-thought out and easy to follow.

During your all too brief career at the Bar your Honour was a highly sought after junior.

You had the rare gift of drafting submissions that required no intervention - none at all - from senior counsel. Not even a comma in your Honour's written submissions was misplaced. All that was necessary was to place one's signature on them and then bask in their glory.

Your Honour's gift for written expression has served you well on the bench. One illustration of it can be seen in your opening words of a decision you handed down earlier this year while serving as an acting justice in the equity division of the NSW Supreme Court. They were: "*These proceedings concern an investment that has not turned out as the plaintiffs hoped.*" With that sentence the fate of the proceedings was sealed.

As a solicitor you were also highly praised. Two serving members of the Supreme Court Bench - neither given to flattery - have commented privately that you were the best instructing solicitor they had encountered during their many years of practice at the bar.

Your Honour was called to the bar in 2002. As a junior barrister you read with Richard McHugh and Robert Newlinds, both now senior counsel. Your reputation in environmental law was so high that it was sufficient to get your tutors into work even after you had gone to the bench. In one case the solicitor who had instructed your Honour at trial needed a replacement for the appeal. The solicitor suggested a much more senior junior, but the client was not so sure. "*He is very good,*" said the client, "*but what does he know about planning law?*" Quick as a flash, the solicitor answered, "*Jayne Jagot was his pupil.*" That was good enough for the client. The tutor got the brief and he and his leader, using the submissions your Honour had written before your appointment, naturally enough won the appeal.

At your swearing in to the other place Bob Debus, the then Attorney General for NSW representing the bar on that occasion, noted that you inherited a number of Justice McClellan's retainers upon his appointment to the bench. Mr Debus commented that "*the fact that major companies were willing to retain such a relatively junior barrister reflected the high regard in which your expertise was held and the formidable reputation you had built while working as a solicitor*". Of this there could be no doubt. But there is, of course, another factor. As a junior barrister, clients were able to secure your Honour's services at less than half the price they had to pay for them while your Honour was a solicitor at Mallesons.

In your short career at the Bar your Honour managed to practise at all levels including the Land and Environment Court, the Supreme Court, the Court of Appeal and the High Court.

Your Honour's early practice at the bar was not all plain sailing, however. During your first venture into circuit work, your Honour managed to lose your trousers somewhere between Sydney and Bathurst. Witnesses in an un-named town in regional New South Wales reported seeing an anxious visitor loitering outside the door of a frock shop on a Monday morning, then bursting in the door at 9.00am. Of course, a frock shop was a most unlikely place for a woman like your Honour who has never been seen in a frock.

The attire on display was perhaps more appropriate for a Country Women's Association afternoon tea than an appearance in court and grey suits were in short supply. Your Honour is reported to have grabbed the only dark suit available, although it was rather ill-fitting and had to be taken in with pins. So it was that your Honour appeared that morning at court doing a passable imitation of a voodoo doll. Capitalising on Malcolm Fraser's memorable embarrassment in Memphis in 1986, Roy and HG created "*the Memphis trouser half hour*". Perhaps we can now look forward to "*the Bathurst trouser sessions*".

At the Bar your Honour had the privilege of working with a number of outstanding silks and they with you. Not infrequently your Honour was junior to Murray Tobias QC, now Justice Tobias of the NSW Court of Appeal. As your leader, naturally enough he always had the last word. And therein, I suspect, lies the real reason why your Honour left the bar so early - to get away from him. Of course, it didn't take long to realise that you were in fact still only a heartbeat away, as it only took just one disaffected litigant to bring your Honour to his attention. Only an appointment

to a court in the federal jurisdiction could remove you from his supervision. And so here we are.

It was your Honour's preference for administrative law that drew you to the Land and Environment Court in the first place. So perhaps your Honour has found your natural home.

There is perhaps another explanation. As a practitioner in, and a judge on, the Land and Environment Court it is on occasions necessary to get out into the environment and onto the land. Shortly before your Honour joined the L & E Court you had to travel to Byron Bay. When you arrived at terminal 54 in the early hours of the morning and realised that only single propeller jets flew from terminal 54 your face turned the colour of your suit (grey of course), you nearly fainted and none of the reassuring words of your instructing solicitor made any impression on you. When torrential storms broke during the flight you found yourself reaching for each other's hand, in itself a worrying experience for both of you.

Work aside, your Honour is interested in English literature and military history. The interest in English literature is understandable. On the other hand, military history is an odd subject to excite the interest of a woman but, of course, your Honour is no ordinary woman.

Many of us learned to read through the series of reading primers starting with "Read with Dick and Jane" and "Fun with Dick and Jane". I am inclined to think that whereas we all read "run, Jane, run", your Honour read "achieve Jayne, achieve" and achieve you did.

Winston Churchill said of Clement Atlee that he was a very modest man with a lot to be modest about. As a leading member of the judiciary said to me of your Honour, you are a modest woman with nothing to be modest about.

Your Honour's professional achievements are dazzling, your rise in the profession meteoric. It only seems like yesterday that I was praising your Honour's advocacy during the moot in the Bar readers' program. Your Honour's rapid progress through the ranks of the profession is a tribute to the quality of the public education system in this country, the ambition of your migrant parents for a better life for their children, your formidable intellect and, perhaps above all, your capacity for hard work. Your Honour has always been a prodigious worker, keeping hours that only Michael Kirby could match.

At the last ceremonial sitting of this court I spoke of the Hon Justice Perram's prowess in mathematics. Perhaps we may call upon Justice Perram to extrapolate the mathematical progression implied by your Honour's rise through the legal profession: six years from admission to partnership, five years from partnership to the bar, three years from the bar until your first judicial appointment, two years before your appointment to this court. One year until...?

Your Honour will be a great loss to the Land and Environment Court as you were to the Bar when you left us. And I am sure that the NSW Chief Justice is smarting that the Feds snaffled you before he could.

On behalf of those I represent and for my own part, I wish your Honour well in this new phase of your brilliant career.