

support of causes. No doubt this explains why they are sometimes feared by politicians.

For judges, freedom and independence is quite a different thing. The essence of freedom and independence for a judge is freedom and independence from the executive and legislative arms of government, including economic independence.

When one assumes judicial office, one has to forego the freedom of expression that barristers enjoy and adopt a much more neutral position in society. For me this will mean no more letters to the editor of the *Sydney Morning Herald*, although I don't consider the last one I wrote to have been all that controversial. It was one sentence in length, and simply asked 'Is the water that has been leaking into the southbound carriageway of the Sydney Harbour Tunnel for the last couple of months fresh water or salt water?' I never

received a response but did notice that it was only a matter of days before the carriageway in the tunnel was dry once again.

Another freedom that I, personally, will now forego is the opportunity to attend meetings of listed public companies and express opinions as to how their standards of corporate governance might be improved. I fancy that a few company chairmen may breathe a sigh of relief.

I guess I must qualify as the most senior member of the legal profession ever to be appointed to this court, at least since its formation. I am most grateful for the honour and the privilege that has been afforded to me, and trust that I may bring a youthful enthusiasm to the tasks that lie ahead. Russell Fox QC, who moved my admission as a barrister, was, of course, one of the leading members of this court from its inception. He set a fine example for me to follow.

## The Hon Justice Richard Edmonds



The Hon Justice Richard Edmonds was sworn in as a judge of the Federal Court of Australia on 5 May 2005.

Edmonds J was educated at Trinity Grammar School in Sydney and at Sydney University, graduating from the latter with a Bachelor of Arts degree in 1967, a Bachelor of Laws degree in 1970 and a Master of Laws degree in 1979. His Honour was a solicitor at and later partner of Allen Allen & Hemsley between 1970 and 1985. He was admitted to the Bar in 1985 and was appointed senior counsel in 1995. As both solicitor and barrister, his Honour was one of Australia's leading taxation lawyers.

Attorney General Ruddock spoke on behalf of the Australian Government, John North for the Law Council of Australia, Tom Bathurst QC for the New South Wales Bar and the Australian Bar Association and John McIntyre for the solicitors of NSW. Edmonds J replied to these speeches.

Of two themes which dominated the addresses, one was His Honour's career as a rugby prop.

On this theme, Bathurst QC had the following to say:

Your Honour studied law at Sydney University where I am told you devoted 30 per cent of your time to your studies, 50 per cent to rugby and 20 per cent to miscellaneous activities which probably shouldn't be dealt with at the present time. Your Honour played first grade rugby for a period of eight years. That was despite an early setback when as a young

prop for St George you travelled to Manly Oval and came across the famous, or perhaps notorious, Manly prop forward Tony Miller. Mr Miller at least had the charity to tell you to look after yourself. I am told you didn't and you don't remember anything of the game after the first scrum.

The other dominant theme was his Honour's excellence as a legal practitioner, particularly in the area of revenue law.

On that theme, the attorney observed:

During your years as solicitor and then barrister your Honour established a reputation as one of this country's leading authorities in the area of taxation law. Described by colleagues as incredibly thorough and hard working you have been involved with a number of landmark taxation cases before the High Court. Your expertise in the field has earned you a large and varied client base. You have appeared on behalf of the commissioner of taxation as well as for a number of influential, often high-profile private clients.

Your Honour has also made a major contribution to taxation policy development through a number of professional appointments. In 1979 you acted as external legal adviser to the Australian delegation negotiating the Hague Convention on Trusts. In the early 1980s your Honour served on the *General Counsel* of the Taxation Institute of Australia. Later your Honour served for four years on the Business Law Committee of the Law Council of Australia. Your Honour remains highly active and influential in the legal community having been involved with various committees of the New South Wales Bar Association since 1990.

Bathurst QC said:

At the height of your prowess as a solicitor your Honour came to the Bar. As always, and indeed perhaps surprisingly for a former prop forward, your Honour's timing was exquisite both in the short, medium and long term. In the short term you immediately commenced a case with David Bloom which he at least tells me, and I've got no reason to doubt him, that you won. He didn't tell me whether it was due to his efforts or yours.

In the medium term your arrival coincided with the elevation of Justice Hill to this court and the appointment of David Bloom as queen's counsel. You ably filled the gaping hole that was left as a result of those two appointments.

In the long term your Honour's timing was exquisite. The Income Tax Assessment Act, as I understand it, has almost tripled in size and quadrupled in complexity. That led, of course, to an increasing demand for your services as a barrister both in and out of court. You appeared regularly in this court both at first instance and in the full court.

So far as the High Court is concerned a consideration of the *Commonwealth Law Reports* of the last 10 years show that you featured in a great number of tax cases that that court heard. Your last appearance in that court was in *Commissioner of Taxation v Hart* where you valiantly but unfortunately unsuccessfully sought to uphold a decision of the full court of this court in favour of the taxpayer. When you are not in court the Sixth Floor waiting room was packed with hordes of anxious solicitors and accountants seeking advice on their clients tax liability. Sometimes they came away happy, sometimes disappointed, but only as to the terms of the advice never as to its quality.

In reply, Edmonds J had the following to say about his new responsibilities:

I am conscious that my appointment comes close on the heels of the retirement of Bryan Beaumont and insofar as I am seen as replacing him on this court then they are huge shoes to fill. I will endeavour to do my best. I sincerely hope that those who appear before me will find me courteous, decisive and fair. There will always be a propensity for a difference of view on the last criterion from parties of opposing interests, however, if I satisfy both of the first two criteria the more likely it is that the third will be perceived to be satisfied.

I would also like to be known, like so many of my new colleagues are known, as a hard-working judge and one who exhibits a sense of balance and intellectual integrity. The reputation of this court deserves no less and I will endeavour to continue to enhance that reputation.