

Classification: IN CONFIDENCE

Hi Claire - that will be fine.

Margaret

From: McAlister, Claire

To: Close, Margaret

Sent: Mon Apr 04 14:29:01 2011

Subject: ExCo on Thursday [SEC=IN-CONFIDENCE:APPOINTMENTS]

APPOINTMENTS-IN-CONFIDENCE

Hi Margaret

I asked Mark Tozer if he knew what time ExCo is on Thursday – he said he didn't know exactly what time the meeting is scheduled for but he usually gets a call from Mary at ExCo at about 2pm to go and pick up our signed documents. Mark said he will call me as soon as he hears from Mary. So I will be able to let you know between 2pm and 3pm, Margaret. Will that be okay?

Claire

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 6 April 2011 11:28 am
To: Close, Margaret
Subject: RE: ExCo on Thursday [SEC=IN-CONFIDENCE]

Security Classification:
IN-CONFIDENCE

IN-CONFIDENCE

Federal Court appointments:

Chief Justice Keane – [redacted]

Mr Bernard Murphy (Melbourne appointment commencing in June) – [redacted]

Mr Alan Robertson SC (Sydney appointment commencing 18 April) – [redacted]

Federal Magistrates Court appointment:

Chief Federal Magistrate Pascoe – [redacted]

Mr Garry Foster (Newcastle appointment commencing 18 April) – [redacted]

All deletions on this page are made under section 47F(1)

From: Close, Margaret
Sent: Wednesday, 6 April 2011 11:16 am
To: McAlister, Claire
Subject: RE: ExCo on Thursday [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Hi Claire

Phone numbers would be fantastic. Could you also send through the numbers for the CJ and CFM?

Margaret

From: McAlister, Claire
Sent: Wednesday, 6 April 2011 11:07 am
To: Close, Margaret
Subject: RE: ExCo on Thursday [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Margaret, did Kat give you the phone numbers for the 3 appointees or would you like me to email them to you?

Claire

From: Close, Margaret
Sent: Tuesday, 5 April 2011 8:27 pm
To: McAlister, Claire
Subject: Re: ExCo on Thursday [SEC=IN-CONFIDENCE:APPOINTMENTS] [SEC=IN-CONFIDENCE]

From: Bernard Murphy [<mailto:BMurphy@mauriceblackburn.com.au>]
Sent: Wednesday, 6 April 2011 1:44 pm
To: McAlister, Claire
Subject: Appointment:
Importance: Low

Dear Claire,

I attach as requested a scanned copy of my drivers licence. As I recollect it, you wanted either this or the scanned photo page from my passport.

Will this suffice or do you require something further?

Regards

Bernard

Bernard Murphy | Chair

Maurice Blackburn Pty Limited
Level 10, 456 Lonsdale Street, Melbourne VIC 3000
T (03) 9605 2735 F (03) 9258 9610
BMurphy@mauriceblackburn.com.au | <http://www.mauriceblackburn.com.au>

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McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 6 April 2011 1:56 pm
To: Bernard Murphy
Subject: RE: Appointment: [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

UNCLASSIFIED

Sorry, no Bernard. The timing will be managed by the Attorney-General's office, but I will see what I can find out.

Claire

From: Bernard Murphy [<mailto:BMurphy@mauriceblackburn.com.au>]
Sent: Wednesday, 6 April 2011 1:50 pm
To: McAlister, Claire
Subject: RE: Appointment: [SEC=UNCLASSIFIED]

Claire,

Do you have any idea of the likely timing of the announcement on Friday so that I can manage the likely mayhem here?

Bernard

Bernard Murphy | Chair

Maurice Blackburn Pty Limited
Level 10, 456 Lonsdale Street, Melbourne VIC 3000
T (03) 9605 2735 F (03) 9258 9610
BMurphy@mauriceblackburn.com.au | <http://www.mauriceblackburn.com.au>

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From: McAlister, Claire [<mailto:Claire.McAlister@ag.gov.au>]
Sent: Wednesday, 6 April 2011 1:48 PM
To: Bernard Murphy
Subject: RE: Appointment: [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Bernard

The scan of your licence will certainly suffice. Thank you for forwarding it.

Kind regards

Claire

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 6 April 2011 2:02 pm
To: Close, Margaret
Cc: Prunster, Susan
Subject: timing of media release [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

UNCLASSIFIED

Margaret – re below, I let Mr Murphy know that the timing of the release was up to the A-G but I would see if I could find out anything further.

Can we give Mr Murphy anything more? Do you think the media release will go out on Friday morning rather than later in the day?

Claire

From: Bernard Murphy [<mailto:BMurphy@mauriceblackburn.com.au>]
Sent: Wednesday, 6 April 2011 1:50 pm
To: McAlister, Claire
Subject: RE: Appointment: [SEC=UNCLASSIFIED]

Claire,

Do you have any idea of the likely timing of the announcement on Friday so that I can manage the likely mayhem here?

Bernard

Bernard Murphy | Chair

Maurice Blackburn Pty Limited
Level 10, 456 Lonsdale Street, Melbourne VIC 3000
T (03) 9605 2735 F (03) 9258 9610
BMurphy@mauriceblackburn.com.au | <http://www.mauriceblackburn.com.au>

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Hon. Robert McClelland MP
Attorney-General

MEDIA RELEASE

Thursday, 7th April 2011

APPOINTMENTS TO THE FEDERAL COURT OF AUSTRALIA

Attorney-General, Robert McClelland, today announced two appointments to the Federal Court of Australia.

"It is with great pleasure that I announce the appointment of Mr Bernard Murphy and Mr Alan Robertson SC as judges of the Federal Court," Mr McClelland said.

"I congratulate the two appointees and look forward to the contribution each will make to the law in their new capacity."

Mr Murphy will take up his appointment at the Melbourne registry in June and Mr Robertson will commence at the Sydney registry this month.

Mr Murphy is Chairman of Maurice Blackburn Lawyers and has specialised in commercial class action litigation since 1998. Mr Robertson is a New South Wales barrister, who was appointed Senior Counsel in 1995 and specialises in constitutional and administrative law and appeals.

The response to the public notice inviting expressions of interest and nominations, combined with candidates considered in a previous appointments round for Sydney and Melbourne, resulted in over 200 candidates being assessed by the advisory panel. The advisory panel comprised Chief Justice Patrick Keane, Sir Gerard Brennan AC KBE, the Hon Acting Justice Jane Mathews AO and a senior official of the Attorney-General's Department.

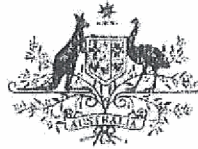
"I would like to thank the members of the advisory panel for their continued contribution to the judicial appointment process," Mr McClelland said.

Short professional biographies for the appointees are attached.

Contact: Ryan Liddell - 02 6277 7300 or

Mr Bernard Murphy

Mr Murphy holds a Bachelor of Laws and a Bachelor of Jurisprudence from Monash University and was admitted as a solicitor to the Supreme Court of Victoria and the High Court of Australia in 1980. From 1980 until 1995, Mr Murphy worked as a solicitor at Slater and Gordon Lawyers and was appointed senior partner in 1990. In 1996, he began working as a solicitor at Maurice Blackburn Lawyers where he is now Chairman (appointed 2005) and Senior Principal of its Major Projects and Class Actions department. Since 1998, Mr Murphy has specialised in commercial class action litigation involving interlocutory, trial and appellate proceedings in the Supreme Courts of Victoria and NSW, the Federal Court of Australia and the High Court of Australia. Mr Murphy is a Senior Fellow and Lecturer at Melbourne University in Class Action Law and is vice president of the Childrens' Protection Society.



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

11/791-03

The Hon Patrick Keane
Chief Justice
Federal Court of Australia
Harry Gibbs Commonwealth
Law Courts Building
Level 8, 119 North Quay
BRISBANE QLD 4000

Dear Chief Justice

I am writing to advise you formally that the Governor-General has appointed Mr Bernard Murphy and Mr Alan Robertson SC as judges of the Federal Court of Australia.

I enclose a copy of their Commissions of Appointment for your information.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Robert McClelland'.

Robert McClelland



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

11/791-03

Mr Bernard Murphy
48 Carlsberg Road
EAGLEMONT VIC 3084

Bernard
Dear Mr Murphy

Please accept my congratulations and good wishes on your appointment as a Judge of the Federal Court of Australia.

I have pleasure in enclosing your Commission of Appointment.

Yours sincerely


Robert McClelland

ATTACHMENT

CURRICULUM VITAE

Name: Mr Bernard Michael MURPHY

Address:

[Redacted Address Box]

Date of birth:

Present position: Chair, Maurice Blackburn, Lawyers (since 2005)

Educational and professional qualifications:

Bachelor of Laws, Monash University, 1978

Bachelor of Jurisprudence, Monash University, 1978

Admitted, Solicitor, Supreme Court of Victoria and High Court of Australia, 1980

Admitted, Solicitor, Supreme Court of Western Australia, 1987

Admitted, Solicitor, Supreme Court of New South Wales, 1989

Relevant experience:

2009 to date Chair, pro bono Social Justice Practice, Maurice Blackburn, Lawyers

2007 to date Senior Fellow and Lecturer, University of Melbourne Law School

2005 to date: Chair, Maurice Blackburn, Lawyers

1996 to date: Lawyer, Maurice Blackburn, Lawyers

1990 – 1995: Senior Partner, Slater and Gordon, Lawyers

1980 – 1990: Lawyer, Slater and Gordon, Lawyers

Current Board Memberships:

2011: Member, University of Melbourne Law School, Competition Law Roundtable

2010 to date: Member, Discovery Advisory Committee, Australian Law Reform Commission

2010: Member, Department of Treasury Roundtable

2006 to date: Board member and then Vice President, Childrens' Protection Society



From 1980 until 1995, Mr Murphy worked as a solicitor at Slater and Gordon Lawyers and was appointed senior partner in 1990. In 1996, he began working as a solicitor at Maurice Blackburn Lawyers where he is now Chairman (appointed 2005) and Senior Principal of its Major Projects and Class Actions department. He was also appointed chair of the pro bono Social Justice Practice at Maurice Blackburn Lawyers in 2009.

Since 1998, Mr Murphy has specialised in commercial class action litigation involving interlocutory, trial and appellate proceedings in the Supreme Courts of Victoria and New South Wales, the Federal Court of Australia and the High Court of Australia.

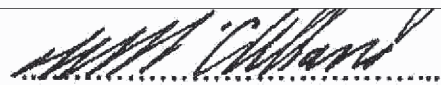
Mr Murphy is a Senior Fellow and Lecturer at the University of Melbourne in Class Action Law and is vice president of the Childrens' Protection Society. He is also a member of the Discovery Advisory Committee of the Australian Law Reform Commission and a Department of Treasury Roundtable.

Curricula vitae for the proposed appointees are included in the Attachment.

The Minute recommends that the appointments be made in the form proposed.

1. Mr Murphy satisfies the requirements for appointment as a Judge of the Federal Court of Australia specified at subsection 6(2) of the *Federal Court of Australia Act 1976*, by virtue of having been enrolled as a legal practitioner of the High Court of Australia, the Supreme Court of Victoria, the Supreme Court of Western Australia and the Supreme Court of New South Wales for not less than five years.

2.


.....
Attorney-General

Authority - Section 72 of the *Constitution* and subsection 6(1) of the *Federal Court of Australia Act 1976*

EXPLANATORY MEMORANDUMMinute No. 11 of 2011 - Attorney-GeneralSubject- *The Constitution*
*Federal Court of Australia Act 1976***Appointment of two Judges of the Federal Court of Australia**

Section 72 of the *Constitution* provides that the Justices of the High Court, and of the other courts created by the Parliament, shall be appointed by the Governor-General in Council. The Federal Court of Australia is a court created by the Parliament for the purpose of this provision.

Section 72 of the *Constitution* also provides that the appointment of a Justice of a court created by the Parliament shall be for a term expiring upon his attaining the age that is, at the time of his appointment, the maximum age for Justices of that court. A person shall not be appointed as a Justice of such a court if he has attained the age that is for the time being the maximum age for Justices of that court. The section further provides that, in the absence of other provision by Parliament, the maximum age for Justices of any court created by the Parliament is 70 years.

Subsection 5(3) of the *Federal Court of Australia Act 1976* (the Act) provides that the Court consists of a Chief Justice, and such other Judges as from time to time hold office in accordance with the Act.

Subsection 6(1) of the Act provides that a Judge of the Court shall be appointed by the Governor-General by commission.


Subsection 6(2) of the Act provides that a person shall not be appointed as a Judge unless he or she is or has been a Judge of a prescribed court or of a court of a state or has been enrolled as a legal practitioner of the High Court or of the Supreme Court of a state or territory for not less than five years.

The Minute proposes the appointment of each of the following persons as a Judge of the Federal Court of Australia until each attains the age of 70 years:

- (a) Mr Bernard Michael Murphy¹ from 13 June 2011; and
- (b) Mr Alan Robertson SC² from 18 April 2011.

Subsection 6(3) of the Act provides the commission of appointment must assign the Judge to a particular location. Mr Murphy would be assigned to the Melbourne Registry and Mr Robertson would be assigned to the Sydney Registry.

Mr Murphy is and is qualified for appointment. He holds a Bachelor of Laws and a Bachelor of Jurisprudence from Monash University and was admitted as a solicitor to the Supreme Court of Victoria and the High Court of Australia in 1980. In 1987, he was admitted as a solicitor to the Supreme Court of Western Australia followed by admission as a solicitor of the Supreme Court of New South Wales in 1989.





The Constitution

Federal Court of Australia Act 1976

**COMMISSION OF APPOINTMENT OF A JUDGE
OF THE FEDERAL COURT OF AUSTRALIA**

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 72 of the *Constitution* and subsection 6(1) of the *Federal Court of Australia Act 1976*, appoint

BERNARD MICHAEL MURPHY

to be a Judge of the Federal Court of Australia assigned to the Melbourne Registry, beginning on 13 June 2011 until he attains the age of 70 years.

Signed and sealed with the
Great Seal of Australia on

7th June 2011

Governor-General



By Her Excellency's Command

ROBERT McCLELLAND
Attorney-General

ENTERED ON RECORD by me, in Register of Patents No. 46
this seventh day of April 2011

Secretary to the Federal Executive Council



ATTORNEY-GENERAL

Departmental No. 11

Executive Council
Meeting No. 6

Minute Paper for the Executive Council

Subject

The Constitution

Federal Court of Australia Act 1976

Appointment of two Judges of the Federal Court of Australia

Recommended for the approval of Her Excellency the Governor-General in Council that, by Commission in the attached form and under section 72 of the *Constitution* and subsection 6(1) of the *Federal Court of Australia Act 1976*, she appoint:

- (a) Bernard Michael Murphy to be a Judge of the Federal Court of Australia, beginning 13 June 2011 until he attains the age of 70 years; and
- (b) Alan Robertson SC to be a Judge of the Federal Court of Australia, beginning on 18 April 2011 until he attains the age of 70 years.

Approved in Council

Quentin Bryce

Quentin Bryce
Governor-General

- 7 APR 2011

Filed in the Records
of the Council

Chris Angus

Secretary to the Executive Council

Robert McClelland
Attorney-General



Australian Government
Attorney-General's Department

Access to Justice Division

11/791-02

8 April 2011

Kim-Louise Benning
Director
Superannuation Branch
Department of Finance
By email

Appointment of two judges to the Federal Court of Australia

Today, the Attorney-General, the Hon Robert McClelland MP, announced the appointment of Mr Bernard Murphy and Mr Alan Robertson SC as judges of the Federal Court of Australia.

Mr Murphy's appointment commences on 13 June 2011. Mr Murphy was born on

S47F(1)

OUT OF SCOPE

I have attached a copy of the Commissions of Appointment as well as the supporting Executive Council documents and CVs.

Claire McAlister
Appointments Administrator
Federal Courts Branch
Telephone: 6141 3094
Email: claire.mcalister@ag.gov.au

McAlister, Claire

From: McAlister, Claire
Sent: Friday, 8 April 2011 4:20 pm
To: 'JudicialSchemes'
Cc: 'Benning, Kim-Louise'
Subject: Appointment of two Federal Court judges [SEC=UNCLASSIFIED]
Attachments: letter to Department of Finance.DOC; Executive Council appointment papers.pdf

Security Classification: UNCLASSIFIED

UNCLASSIFIED

Good afternoon

Please find the attached information regarding the appointment of Mr Bernard Murphy and Mr Alan Robertson SC.

Kind regards

Claire

Claire McAlister
Judicial Appointments Administrator
Federal Courts Branch
Access to Justice Division
Attorney-General's Department
Robert Garran Offices National Circuit Barton ACT 2600
Ph: 6141 3094 claire.mcalister@ag.gov.au

11/791-02

11 # 371296doc

These processes involve public notices, broad consultation, published appointment criteria and the use of advisory panels to assess candidates against the criteria and make recommendations of those that are highly suitable for appointment.

The response to the public notice inviting expressions of interest and nominations for the Federal Court, combined with candidates considered in a previous appointments round for Sydney and Melbourne, resulted in over 200 candidates being assessed by the advisory panel.

The advisory panel comprised Chief Justice Patrick Keane, Sir Gerard Brennan AC KBE, the Hon Acting Justice Jane Mathews AO and a senior official of the Attorney-General's Department.

24 candidates for the position of Federal Magistrate were assessed by an advisory panel comprising Chief Federal Magistrate John Pascoe AO CVO, the Hon Susan Morgan, a former Judge of the Family Court, and a senior official from the Attorney General's Department.

"I would like to thank the members of the advisory panel for their continued contribution to the judicial appointment process," Mr McClelland said.

Short professional biographies of the appointees are attached.

Contact: Ryan Liddell - 02 6277 7300 or S47F(1)

Federal Court of Australia

Biography - Mr Bernard Murphy

Mr Murphy holds a Bachelor of Laws and a Bachelor of Jurisprudence from Monash University and was admitted as a solicitor to the Supreme Court of Victoria and the High Court of Australia in 1980. From 1980 until 1995, Mr Murphy worked as a solicitor at Slater and Gordon Lawyers and was appointed senior partner in 1990. In 1996, he began working as a solicitor at Maurice Blackburn Lawyers where he is now Chairman (appointed 2005) and Senior Principal of its Major Projects and Class Actions department. Since 1998, Mr Murphy has specialised in commercial class action litigation involving interlocutory, trial and appellate proceedings in the Supreme Courts of Victoria and NSW, the Federal Court of Australia and the High Court of Australia. Mr Murphy is a Senior Fellow and Lecturer at Melbourne University in Class Action Law and is vice president of the Childrens' Protection Society.

OUT OF SCOPE

McAlister, Claire

From: Liddell, Ryan <Ryan.Liddell@ag.gov.au>
Sent: Friday, 8 April 2011 11:14 am
To: Gen MEDIARELEASE (LIST SERVER)
Subject: TRIM: ATTORNEY-GENERAL ROBERT McCLELLAND - RELEASE - APPOINTMENTS TO THE FEDERAL COURT AND FEDERAL MAGISTRATES COURT - 8 APRIL 2011 [SEC=UNCLASSIFIED]
Attachments: 110408 McClelland Federal Court and Magistrates Court Appts.pdf

UNCLASSIFIED

**ATTORNEY-GENERAL
HON. ROBERT McCLELLAND MP**

MEDIA RELEASE

Friday, 8th April 2011

APPOINTMENTS TO THE FEDERAL COURT AND FEDERAL MAGISTRATES COURT

Attorney-General Robert McClelland today announced two appointments to the Federal Court of Australia and an appointment to the Federal Magistrates Court.

"It is with great pleasure that I announce the appointment of Mr Bernard Murphy and Mr Alan Robertson SC as Judges of the Federal Court," Mr McClelland said.

"I congratulate Mr Murphy and Mr Robertson and look forward to the contribution each will make to the law in their new capacity."

"Mr Murphy will take up his appointment at the Melbourne registry in June and Mr Robertson will commence at the Sydney registry this month."

Mr Murphy is Chairman of Maurice Blackburn Lawyers and has specialised in commercial class action litigation since 1998. Mr Robertson is a New South Wales barrister, who was appointed Senior Counsel in 1995 and specialises in constitutional and administrative law and appeals.

Mr McClelland today also announced the appointment of Mr Garry Foster as a Federal Magistrate.

Mr Foster will take up his appointment in the Newcastle registry of the Federal Magistrates Court later this month.

"Mr Foster has practised at the New South Wales Bar since 2001 and brings significant experience in family law to the Court," Mr McClelland said.

"I congratulate Mr Foster on his appointment and wish him well as he takes on this new role."

In 2008, the Attorney-General introduced new processes for appointing judges and magistrates to federal courts to ensure greater transparency and public confidence in the judicial appointments process.



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

11/791-02

The Hon Acting Justice Jane Mathews AO
Supreme Court of New South Wales
GPO Box 3
SYDNEY NSW 2001

Dear Justice Mathews

I am writing to thank you for your participation as a member of the advisory panel which considered candidates for appointment to the Federal Court of Australia in Sydney and Melbourne.

I understand that there were 85 candidates from new expressions of interest and nominations for the panel to review as well as 126 candidates from a previous round to consider. I am pleased to advise you that Mr Bernard Murphy was selected for appointment to Melbourne and Mr Alan Roberston SC selected for appointment to Sydney.

The report you provided was very valuable advice in the Government's selection of the successful candidates and I want to express my appreciation for the work you and your fellow panel members undertook in assessing the candidates.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Robert McClelland', written over a light-colored background.

Robert McClelland



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

11/791-02

The Hon Sir Gerard Brennan AC KBE
Suite 3003, Piccadilly Tower
133 Castlereagh Street
SYDNEY NSW 2000

Dear Sir Gerard

I am writing to thank you for your participation as a member of the advisory panel which considered candidates for appointment to the Federal Court of Australia in Sydney and Melbourne.

I understand that there were 85 candidates from new expressions of interest and nominations for the panel to review as well as 126 candidates from a previous round to consider. I am pleased to advise you that Mr Bernard Murphy was selected for appointment to Melbourne and Mr Alan Roberston SC selected for appointment to Sydney.

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Yours sincerely



Robert McClelland



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

11/791-02

The Hon Patrick Keane
Chief Justice
Federal Court of Australia
Harry Gibbs Commonwealth
Law Courts Building
Level 8, 119 North Quay
BRISBANE QLD 4000

Dear Chief Justice

I am writing to thank you for your participation as a member of the advisory panel which considered candidates for appointment to the Federal Court of Australia in Sydney and Melbourne.

I understand that there were 85 candidates from new expressions of interest and nominations for the panel to review as well as 126 candidates from a previous round to consider. As you are aware, Mr Bernard Murphy was selected for appointment to Melbourne and Mr Alan Roberston SC selected for appointment to Sydney.

The report you provided was very valuable advice in the Government's selection of the successful candidates and I want to express my appreciation for the work you and your fellow panel members undertook in assessing the candidates.

Yours sincerely


Robert McClelland

11/791-02
11 # 278345 doc

APPOINTMENTS TO THE FEDERAL COURT AND FEDERAL MAGISTRATES COURT

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"It is with great pleasure that I announce the appointment of Mr Bernard Murphy and Mr Alan Robertson SC as Judges of the Federal Court," Mr McClelland said.

"I congratulate Mr Murphy and Mr Robertson and look forward to the contribution each will make to the law in their new capacity."

"Mr Murphy will take up his appointment at the Melbourne registry in June and Mr Robertson will commence at the Sydney registry this month."

Mr Murphy is Chairman of Maurice Blackburn Lawyers and has specialised in commercial class action litigation since 1998. Mr Robertson is a New South Wales barrister, who was appointed Senior Counsel in 1995 and specialises in constitutional and administrative law and appeals.

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"Mr Foster has practised at the New South Wales Bar since 2001 and brings significant experience in family law to the Court," Mr McClelland said.

"I congratulate Mr Foster on his appointment and wish him well as he takes on this new role."

In 2008, the Attorney-General introduced new processes for appointing judges and magistrates to federal courts to ensure greater transparency and public confidence in the judicial appointments process.

These processes involve public notices, broad consultation, published appointment criteria and the use of advisory panels to assess candidates against the criteria and make recommendations of those that are highly suitable for appointment.

The response to the public notice inviting expressions of interest and nominations for the Federal Court, combined with candidates considered in a previous appointments round for Sydney and Melbourne, resulted in over 200 candidates being assessed by the advisory panel.

The advisory panel comprised Chief Justice Patrick Keane, Sir Gerard Brennan AC KBE, the Hon Acting Justice Jane Mathews AO and a senior official of the Attorney-General's Department.

24 candidates for the position of Federal Magistrate were assessed by an advisory panel comprising Chief Federal Magistrate John Pascoe AO CVO, the Hon Susan Morgan, a former Judge of the Family Court, and a senior official from the Attorney General's Department.

"I would like to thank the members of the advisory panel for their continued contribution to the judicial appointment process," Mr McClelland said.

Short professional biographies of the appointees are attached.

McAlister, Claire

From: McAlister, Claire
Sent: Friday, 8 April 2011 12:04 pm
To: 'Bernard Murphy'
Subject: FW: ATTORNEY-GENERAL ROBERT McCLELLAND - RELEASE - APPOINTMENTS TO THE FEDERAL COURT AND FEDERAL MAGISTRATES COURT - 8 APRIL 2011 [SEC=UNCLASSIFIED]
Attachments: 110408 McClelland Federal Court and Magistrates Court Appts.pdf
Security Classification: UNCLASSIFIED

UNCLASSIFIED

Hi Bernard

Thought I would forward this to you. I imagine you will be fielding a lot of calls today from well-wishers!

And may I add my own congratulations!

I have your Commission of Appointment, signed by the Governor-General. I will be in contact with you next week about sending it to you.

Meanwhile, enjoy your day!

Kind regards

Claire

Claire McAlister

Judicial Appointments Administrator
Federal Courts Branch
Access to Justice Division
Attorney-General's Department
Robert Garran Offices | National Circuit | Barton ACT 2600
Ph: 6141 3094 | claire.mcalister@ag.gov.au

From: Liddell, Ryan [<mailto:Ryan.Liddell@ag.gov.au>]
Sent: Friday, 8 April 2011 11:14 am
To: Gen MEDIARELEASE (LIST SERVER)
Subject: ATTORNEY-GENERAL ROBERT McCLELLAND - RELEASE - APPOINTMENTS TO THE FEDERAL COURT AND FEDERAL MAGISTRATES COURT - 8 APRIL 2011 [SEC=UNCLASSIFIED]

UNCLASSIFIED

**ATTORNEY-GENERAL
HON. ROBERT McCLELLAND MP**

MEDIA RELEASE

Friday, 8th April 2011

From: Liddell, Ryan
Sent: Monday, 11 April 2011 3:43 pm
To: Close, Margaret
Subject: Fw: QUESTIONS FOR THE ATTORNEY-GENERAL [SEC=IN-CONFIDENCE]
Importance: High

Classification: IN CONFIDENCE

Margaret do you mind sending this on to the dept for them to put together some answers? Would like something by cob if possible.

Many thanks,

Ryan Liddell
Office of the Attorney-General

From: Salemme, Nadia
To: Liddell, Ryan
Sent: Mon Apr 11 14:31:54 2011
Subject: QUESTIONS FOR THE ATTORNEY-GENERAL
Dear Ryan,

It's Nadia from mX. Legal sources we spoke to today said they were "surprised" a solicitor had been appointed to the Federal Court. Particularly one with little or no Federal Court experience. Given that, I would like to put the following questions to the Attorney-General.

How many candidates were there?

What made this solicitor, Bernard Murphy, the outstanding candidate?

How many solicitors from Victoria have been appointed to the Federal Court?

Did you know Mr Murphy worked "side by side" with the Prime Minister before she entered politics?

When did the Prime Minister know of the appointment?

What is your response to the suggestion this appointment reeks of "jobs for the boys"?

Justice John Dowsett commented on the way judges are appointed under the current system in today's Age, saying he feared chief judges could become "the government's Trojan horse". What is your response to that?

Nadia Salemme | Reporter

The Herald & Weekly Times Pty Limited
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T: +61 3 9292 1917
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the Chief Justices of the Federal and Family Courts, the Chief Federal Magistrate, the Law Council of Australia, the Australian Bar Association and their State and Territory counterparts.

Mr Murphy was one of 211 candidates considered by the appointments advisory panel for appointments in Sydney and Melbourne. The panel was constituted by Chief Justice Keane of the Federal Court, Sir Gerard Brennan AC KBE (former Chief Justice of the High Court), Acting Judge Jane Matthews, and Elizabeth Kelly (Deputy Secretary, Civil Justice and Legal Services Group, Attorney-General's Department).

Applicants were assessed against the following criteria:

- A person must have been enrolled as a legal practitioner of the High Court or a Supreme Court of a State or Territory for at least five years.
- Appointees to the Federal Court are expected to possess the following personal and professional qualities to the highest degree:
 - legal expertise
 - conceptual, analytical and organisational skills
 - decision-making skills
 - the ability (or capacity to quickly develop the ability) to deliver clear and concise judgments
 - the capacity to work effectively under pressure
 - a commitment to professional development
 - interpersonal and communications skills
 - integrity, impartiality, tact and courtesy, and
 - the capacity to inspire respect and confidence.

The advisory panel subsequently presented the Attorney-General with a report that lists those candidates that it has assessed as being highly suitable for appointment. Mr Murphy and Mr Robertson SC were selected from those highly suitable candidates.

All judicial appointments are approved by the Cabinet prior to being considered by the Governor-General in Executive Council. All Ministers must seek the Prime Minister's agreement to bring a matter before the Cabinet.

Of the judges currently serving in the Federal Court, two were solicitors before being appointed as judges. Neither of these are from Victoria.

We are not really in a position to answer the last four questions directly.

Albin

From: Close, Margaret

Sent: Monday, 11 April 2011 3:54 pm

To: Smrdel, Albin; Prunster, Susan

Cc: Glanville, Louise; Public Affairs

Subject: FW: QUESTIONS FOR THE ATTORNEY-GENERAL [SEC=IN-CONFIDENCE]

Importance: High

IN-CONFIDENCE

Hi Albin and Sue

Are you able to prepare a response to the following media inquiry about one of the recent Fed Court appointments? Grateful for something by COB.

Happy to discuss

Margaret

Smith, Paul Ross (AJD)

From: Prunster, Susan
Sent: Tuesday, 12 April 2011 9:59 am
To: McAlister, Claire; Smith, Paul Ross (AJD); Ovington, Kathryn
Subject: FW: QUESTIONS FOR THE ATTORNEY-GENERAL [SEC=IN-CONFIDENCE]

Security Classification: IN-CONFIDENCE

IN-CONFIDENCE

Sue Prunster
Acting Section Head | Judicial Resourcing Section |
Phone: (02) 6141 4081 | **Fax:** (02) 61415274
Email: susan.prunster@ag.gov.au

From: Close, Margaret
Sent: Monday, 11 April 2011 7:01 pm
To: Smrdel, Albin
Cc: Glanville, Louise; Prunster, Susan; Smith, Paul Ross (AJD)
Subject: RE: QUESTIONS FOR THE ATTORNEY-GENERAL [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Thanks Albin – I have forwarded to Ryan.

From: Smrdel, Albin
Sent: Monday, 11 April 2011 6:47 pm
To: Close, Margaret
Cc: Glanville, Louise; Prunster, Susan; Smith, Paul Ross (AJD)
Subject: FW: QUESTIONS FOR THE ATTORNEY-GENERAL [SEC=IN-CONFIDENCE]
Importance: High

IN-CONFIDENCE

Hi Margaret,

We provide the following response for your consideration:

In early 2008, the Australian Government implemented new processes for the appointment of judicial officers. These new processes aim to ensure:

- greater transparency, so that the public can have confidence that the Government is making the best possible judicial appointments
- that all appointments are based on merit, and
- that everyone who has the qualities for appointment as a judge or magistrate is fairly and properly considered.

Consistent with this process, a call for nominations and expressions of interest was advertised in national and local newspapers in October 2010. In addition, the Attorney-General consulted widely, writing to interested bodies inviting nominations for suitable candidates. These bodies include, but are not limited to,

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 13 April 2011 2:30 pm
To: Bernard Murphy
Subject: Commission of Appointment [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

UNCLASSIFIED

Good afternoon Bernard

Your Commission of Appointment will be dispatched with the courier this afternoon. You should receive it tomorrow morning. I have put Kellie Thain's name and number on the form as an additional contact person for the courier. I would be grateful if you or Kellie could advise me by phone or email that the Commission has arrived safely!

The Commission of Appointment will be needed for your swearing in – the Court will contact you about this – so keep it somewhere safe!

Kind regards

Claire

Claire McAlister

Judicial Appointments Administrator
Federal Courts Branch
Access to Justice Division
Attorney-General's Department
Robert Garran Offices | National Circuit | Barton ACT 2600
Ph: 6141 3094 | claire.mcalister@ag.gov.au

----- Original Message -----

From: Smrdel, Albin

To: Prunster, Susan

Sent: Wed May 25 12:14:00 2011

Subject: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

How many candidates for the Murphy position pls?

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 25 May 2011 1:35 pm
To: Smrdel, Albin
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

UNCLASSIFIED

Melbourne applicant breakdown:

Total candidates considered for Melb - 115

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:50 pm
To: McAlister, Claire
Cc: Prunster, Susan
Subject: Re: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Thanks Claire, can we breakdown to Melb only?

Murphy replaces Ryan, who replaces Finkelstein pls?

Albin

----- Original Message -----

From: McAlister, Claire
To: Smrdel, Albin
Cc: Prunster, Susan
Sent: Wed May 25 12:34:08 2011
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

UNCLASSIFIED

211 considered by AG for round that appointed Robertson to Sydney and Murphy to Melbourne.

See Table A3 2 in brief - Summary of Recent Appointments.

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:16 pm
To: McAlister, Claire
Subject: Fw: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 25 May 2011 1:26 pm
To: Smrdel, Albin
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

UNCLASSIFIED

Advisory panel MAY interview candidates it considers suitable for appointment - but Fed Court panel have traditionally not done so. AG requested Family and FMC Courts to interview due to nature of work.
See page 2, para 6 of attachment A - appointments brochure.

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 1:10 pm
To: McAlister, Claire
Subject: Re: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Hi - is the lack of interview for the Fed Ct in the protocol pls?

----- Original Message -----

From: McAlister, Claire
To: Smrdel, Albin
Sent: Wed May 25 13:00:46 2011
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

UNCLASSIFIED
Correct.

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 1:00 pm
To: McAlister, Claire
Subject: Re: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Thanks, under consideration means we haven't put anything up to the AG?

----- Original Message -----

From: McAlister, Claire
To: Smrdel, Albin
Sent: Wed May 25 12:56:02 2011
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

UNCLASSIFIED

Will have a look at breakdown but could be messy as some were previous applicants and some would have been interested in both locations - but will do my best. FYI - no interviews held for FedCA so no short list - however 7 names went forward to AG in Advisory Panel report for Syd and 5 names for Melb.

Ryan J Melb replaced by Murphy correct.

OUT OF SCOPE

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:50 pm
To: McAlister, Claire
Cc: Prunster, Susan
Subject: Re: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Thanks Claire, can we breakdown to Melb only?

Murphy replaces Ryan, who replaces Finkelstein pls?

Albin

----- Original Message -----

From: McAlister, Claire
To: Smrdel, Albin
Cc: Prunster, Susan
Sent: Wed May 25 12:34:08 2011
Subject: RE: Murphy appt [SEC=UNCLASSIFIED]

UNCLASSIFIED

211 considered by AG for round that appointed Robertson to Sydney and Murphy to Melbourne.

See Table A3 2 in brief - Summary of Recent Appointments.

-----Original Message-----

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:16 pm
To: McAlister, Claire
Subject: Fw: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

----- Original Message -----

From: Smrdel, Albin
To: Prunster, Susan
Sent: Wed May 25 12:14:00 2011
Subject: Murphy appt [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

1996 to date: Lawyer, Maurice Blackburn, Lawyers
1990 – 1995: Senior Partner, Slater and Gordon, Lawyers
1980 – 1990: Lawyer, Slater and Gordon, Lawyers

Current Board Memberships:

2011: Member, University of Melbourne Law School, Competition Law Roundtable
2010 to date: Member, Discovery Advisory Committee, Australian Law Reform Commission
2010: Member, Department of Treasury Roundtable
2006 to date: Board member and then Vice President, Childrens' Protection Society

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:30 pm
To: Senate Estimates Inbox
Cc: Glanville, Louise; MacFarlane, Bernice; Prunster, Susan; McAlister, Claire
Subject: Re: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

Classification: IN CONFIDENCE

Thanks Anna, we're onto it.

Albin

From: Senate Estimates Inbox
To: Smrdel, Albin
Cc: Glanville, Louise; MacFarlane, Bernice
Sent: Wed May 25 12:21:34 2011
Subject: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Dear Albin

Please be aware that Senator Brandis has indicated that he will ask the Department questions about the appointment of Bernard Murphy (for issues that could not be answered by the Federal Court).

The questions were regarding the process for the appointment, Mr Murphy's background/credentials, and a possible personal connection to Julia Gillard.

Please prepare for these questions if and when we get to you.

Kind regards

Anna

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 25 May 2011 1:22 pm
To: Smrdel, Albin
Subject: RE: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

Security Classification:
IN-CONFIDENCE

IN-CONFIDENCE

Of the judges currently serving in the Federal Court, two were solicitors before being appointed as judges - Justices Greenwood and Stone. Appointed August 2005 and October 2000, respectively – both Howard Gov appointments.

From: Smrdel, Albin
Sent: Wednesday, 25 May 2011 12:52 pm
To: McAlister, Claire
Subject: Re: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

Classification: IN CONFIDENCE

Thanks, how often has a solicitor been appointed rather than a barrister?

From: McAlister, Claire
To: Smrdel, Albin
Sent: Wed May 25 12:46:43 2011
Subject: RE: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Albin – re Murphy info request – we were not aware of PM connection until we saw it in press after appt was announced – not sure if advisory panel knew. You could check with EK. Have provided Murphy's CV below...

Mr Bernard Michael MURPHY

Present position: Chair, Maurice Blackburn, Lawyers (since 2005)

Educational and professional qualifications:

Bachelor of Laws, Monash University, 1978

Bachelor of Jurisprudence, Monash University, 1978

Admitted, Solicitor, Supreme Court of Victoria and High Court of Australia, 1980

Admitted, Solicitor, Supreme Court of Western Australia, 1987

Admitted, Solicitor, Supreme Court of New South Wales, 1989

Relevant experience:

2009 to date Chair, pro bono Social Justice Practice, Maurice Blackburn, Lawyers

2007 to date Senior Fellow and Lecturer, University of Melbourne Law School

2005 to date: Chair, Maurice Blackburn, Lawyers

Classification: IN CONFIDENCE

Thanks Anna, we're onto it.

Albin

From: Senate Estimates Inbox

To: Smrdel, Albin

Cc: Glanville, Louise; MacFarlane, Bernice

Sent: Wed May 25 12:21:34 2011

Subject: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

IN-CONFIDENCE

Dear Albin

Please be aware that Senator Brandis has indicated that he will ask the Department questions about the appointment of Bernard Murphy (for issues that could not be answered by the Federal Court).

The questions were regarding the process for the appointment, Mr Murphy's background/credentials, and a possible personal connection to Julia Gillard.

Please prepare for these questions if and when we get to you.

Kind regards

Anna

McAlister, Claire

From: McAlister, Claire
Sent: Wednesday, 25 May 2011 12:47 pm
To: Smrdel, Albin
Subject: RE: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

Security Classification:
IN-CONFIDENCE

IN-CONFIDENCE

Albin – re Murphy info request – we were not aware of PM connection until we saw it in press after appt was announced – not sure if advisory panel knew. You could check with EK. Have provided Murphy's CV below...

Mr Bernard Michael MURPHY

Present position: Chair, Maurice Blackburn, Lawyers (since 2005)

Educational and professional qualifications:

Bachelor of Laws, Monash University, 1978

Bachelor of Jurisprudence, Monash University, 1978

Admitted, Solicitor, Supreme Court of Victoria and High Court of Australia, 1980

Admitted, Solicitor, Supreme Court of Western Australia, 1987

Admitted, Solicitor, Supreme Court of New South Wales, 1989

Relevant experience:

2009 to date Chair, pro bono Social Justice Practice, Maurice Blackburn, Lawyers

2007 to date Senior Fellow and Lecturer, University of Melbourne Law School

2005 to date: Chair, Maurice Blackburn, Lawyers

1996 to date: Lawyer, Maurice Blackburn, Lawyers

1990 – 1995: Senior Partner, Slater and Gordon, Lawyers

1980 – 1990: Lawyer, Slater and Gordon, Lawyers

Current Board Memberships:

2011: Member, University of Melbourne Law School, Competition Law Roundtable

2010 to date: Member, Discovery Advisory Committee, Australian Law Reform Commission

2010: Member, Department of Treasury Roundtable

2006 to date: Board member and then Vice President, Childrens' Protection Society

From: Smrdel, Albin

Sent: Wednesday, 25 May 2011 12:30 pm

To: Senate Estimates Inbox

Cc: Glanville, Louise; MacFarlane, Bernice; Prunster, Susan; McAlister, Claire

Subject: Re: Brandis questions about appointment of Bernard Murphy [SEC=IN-CONFIDENCE]

BACKGROUND BRIEF

APPOINTMENT OF MR BERNARD MURPHY

The Australian Government appointed Mr Bernard Murphy as a judge of the Federal Court of Australia at the completion of an open and transparent appointment process.

Appointment process

The judicial appointments process is outlined in the booklet entitled 'Judicial Appointments – Ensuring a strong and independent judiciary'

The process in which Mr Murphy was appointed commenced in September 2010, with public notices appearing in national and local newspapers calling for expressions of interest and nominations for one appointment to the Sydney registry and one appointment to the Melbourne registry.

Weekend Australian, Sydney Morning Herald and Melbourne Age – 25 September 2010

Australian Financial Review – 1 October 2010

OUT OF SCOPE

DIVISIONAL BRIEF

APPOINTMENT OF MR BERNARD MURPHY

At Senate Estimates on the morning of 25 May 2011, Senator Brandis forecast that he would ask the Department questions about the judicial appointment of Mr Bernard Murphy

-
- Each time a retirement occurs it gives rise to an opportunity to make a judicial appointment.
 - The Attorney-General is responsible for examining whether a replacement appointment is needed. This requires the monitoring of workload and resources of courts across all registry locations. This involves consultation with the courts and careful analysis of workload and resourcing statistics.
 - The Government is committed to ensuring that the federal courts have the resources they need to provide access to justice and help litigants resolve their disputes with a minimum of fuss and delay.
 - The Government announced the appointed Mr Murphy as a judge of the Federal Court on 8 April 2011. This appointment was made in accordance with the Government's transparent and merit-based judicial appointments policy. Mr Murphy takes up his appointment on 13 June 2011.
 - Mr Murphy is Chairman of Maurice Blackburn. He was assessed by the panel as a highly suitable candidate on a short list of five names put to the Attorney-General for consideration.
 - 211 expressions of interest and nominations were considered during the process to appoint judges to the Sydney and Melbourne registries, including candidates from a previous appointment round to these registries.
 - The Attorney-General convened an appointments advisory panel to consider expressions of interest and nominations. This panel comprised Chief Justice Keane, Sir Gerard Brennan AC KBE, Acting Judge Jane Matthews and Ms Elizabeth Kelly of the Department.
 - In relation to the Melbourne registry, 115 candidates were considered. 50 candidates were interested in appointment to Melbourne only, 31 candidates were interested in appt to Melbourne and Sydney equally and 34 candidates were interested in Melbourne as their second preference.

[If asked whether the department knew of Mr Murphy's association with the Prime Minister?]

- The Department was not aware of Mr Murphy's association with the Prime Minister prior to the announcement of the appointment.

[If asked whether candidates were interviewed?]

- Candidates were not interviewed; this is consistent with the protocol for the Federal Court appointments process

[If asked whether any of the current judges of the Federal Court were solicitors upon appointment?]

- There are currently two judges on the Bench who were solicitors at appointment. Justice Stone was appointed in October 2000 and Justice Greenwood was appointed in August 2005. These were both Howard Government appointments.

Version #: 1	Cleared by: Albin Smrdel	Action officer: Claire McAlister
Version current at: 25 May 2011	Phone number: 0438 469 996	Action officer number: 6141 3094

McAlister, Claire

From: McAlister, Claire
Sent: Thursday, 26 May 2011 9:57 am
To: Post, Katherine
Subject: Murphy Briefing - May 2011 [SEC=IN-CONFIDENCE:APPOINTMENTS]
Attachments: FCB - Divisional Brief 94 - Judicial appointments - Murphy Briefing - May 2011.doc

Security Classification: APPOINTMENTS-IN-CONFIDENCE

APPOINTMENTS-IN-CONFIDENCE

Hi Kat

Albin asked me to forward this briefing on the appointment of Bernard Murphy.

Kind regards

Claire

Claire McAlister

Judicial Appointments Administrator
Federal Courts Branch
Access to Justice Division
Attorney-General's Department
Robert Garran Offices | National Circuit | Barton ACT 2600
Ph: 6141 3094 | claire.mcalister@ag.gov.au

IN-CONFIDENCE

QUESTION TIME BRIEF

Appointments to the Federal Courts – Bernard Murphy

At Senate Estimates on Wednesday 25 May 2011, Senator Brandis asked representatives of the Federal Court and the Department questions about the judicial appointment of Mr Bernard Murphy.

On Friday 27 May 2011, the *Australian Financial Review* reported that Senator Brandis had "questioned the government's decision to appoint Bernard Murphy, 'an old associate of the Prime Minister's from a well known firm of Labor Party solicitors', to the Federal Court."

Key messages

- The Government announced Mr Murphy's appointment as a Federal Court judge on 8 April 2011. Mr Murphy took up his appointment on 13 June 2011.
- This appointment was made in accordance with the Government's transparent and merit-based judicial appointments policy.
- Prior to his appointment, Mr Murphy was Chairman of Maurice Blackburn. He was assessed by the appointments advisory panel as a highly suitable candidate on a short list of five names put to the Attorney-General for consideration.
- 211 expressions of interest and nominations were considered during the process to appoint judges to the Sydney and Melbourne registries, including candidates from a previous appointment round to these registries.
- An appointments advisory panel was convened to consider expressions of interest and nominations. This panel comprised Chief Justice Keane, former High Court Chief Justice Sir Gerard Brennan AC KBE, Acting Judge Jane Matthews and Ms Elizabeth Kelly, Deputy Secretary of the Department.
- 115 candidates were considered for the Melbourne registry. 50 candidates were interested in appointment to Melbourne only, 31 candidates were interested in appointment to Melbourne and Sydney, and 34 candidates were interested in Melbourne as their second preference.

[Did Mr Murphy's connection with the Prime Minister influence his appointment?]

- The integrity of the selection process is beyond doubt. While the ultimate appointee is a matter for Government, Mr Murphy's name was put forward on a short list of highly suitable candidates by a panel including the Chief Justice of the Federal Court and a former Chief Justice of the High Court.

[Were candidates interviewed?]

- Candidates were not interviewed; this is consistent with the protocol for Federal Court appointments.

[Were any current Federal Court judges solicitors upon appointment?]

- There are currently two judges on the Bench who were solicitors at appointment. Justice Stone was appointed in October 2000 and Justice Greenwood was appointed in August 2005. These appointments were both made under the previous government.

Cleared by: Albin Smrdel, Assistant Secretary, Federal Courts Branch
14 June 2011

Action Officer: Claire McAlister

Date Created: 30 May 2011

Work: 6141 3115

Mobile:

6141 3094

Date Reviewed: 14 June 2011

IN-CONFIDENCE

RELEASED UNDER THE FOI ACT 1982 BY THE ATTORNEY-GENERAL'S DEPARTMENT

FOI-38

11/1313-04
11/13124

Equivalent MOB ref number: nil

Legal Affairs

Senate row over judicial post

Samantha Bowers

Federal shadow attorney-general George Brandis has questioned the government's decision to appoint Bernard Murphy, "an old associate of the Prime Minister's from a well-known firm of Labor Party solicitors", to the Federal Court.

Senator Brandis asked representatives of the court and Attorney-General's Department whether the protocols for judicial appointments had been followed in respect of Mr Murphy, former chairman of plaintiff law firm Maurice Blackburn, in a Senate budget estimates hearing on Wednesday.

Senator Brandis said there was not necessarily anything wrong with an associate of Julia Gillard's or a solicitor being appointed to the Federal Court, but "it does rather raise the eyebrows when an old associate of the Prime Minister's from a well-known firm of Labor Party solicitors is regarded by the government as the most obvious person in Victoria for this particular judicial appointment to the nation's second-highest court".

Mr Murphy, who joins the court next month, is the first Victorian solicitor to be sworn in to the Federal

Court. He recruited Ms Gillard to his former plaintiff firm Slater & Gordon in the 1980s.

A spokesman for federal Attorney-General Robert McClelland said Mr Murphy was selected last month from 211 applicants by a committee comprising Federal Court Chief Justice Patrick Keane, former High Court chief justice Gerard Brennan, acting judge of the ACT Supreme Court Jane Mathews and Attorney-General's Department deputy secretary Elizabeth Kelly. The panel put forward a list of "highly suitable" candidates, and all judicial appointments were approved by cabinet.

Mr Murphy declined to comment on Senator Brandis's remarks. But he told *The Australian Financial Review* last month he applied on the recommendation of several legal practitioners and two judges, whom he declined to name. He described the process as "lengthy".

Attorney-General's Department secretary Roger Wilkins told the Senate on Wednesday the protocols had been adhered to in respect of Mr Murphy's appointment.

Federal Court chief executive Warwick Soden told the Senate Mr Murphy was "well known as being an expert in class action work" and high-

lighted the court's "large class action jurisdiction".

Senator Brandis asked whether Mr Murphy would replace outgoing judge Ray Finkelstein, who commonly hears class action cases. Mr Murphy has said he will not hear cases involving Maurice Blackburn, which does a lot of class action work, for a "reasonable period of time".

Senator Brandis also used the estimates hearing to check the progress of a bill to move family law federal magistrates from the Federal Magistrates Court into a lower division of the Family Court. The bill was introduced into Parliament last year, but lapsed when the election was called.

Joe Ludwig, who represented the Attorney-General at the estimates hearing, said the bill would be reintroduced but the timing was "a matter for the government". He did not know whether the cabinet had considered the timing yet, he said.

KEY POINTS

- Bernard Murphy is the first Victorian solicitor to be appointed to the Federal Court.
- He is an expert in class action work.

McAlister, Claire

From: McAlister, Claire
Sent: Monday, 30 May 2011 10:20 am
To: QTB
Subject: FCB - QTB - Appointments to the Federal Courts - Bernard Murphy [SEC=IN-CONFIDENCE]
Attachments: FCB - QTB - Appointments to the Federal Courts - Bernard Murphy.doc

Security Classification: IN-CONFIDENCE

IN-CONFIDENCE

Please find attached QTB on the appointment of Bernard Murphy to the Federal Court of Australia. This has been cleared by Albin Smrdel.

Claire McAlister

Judicial Appointments Administrator
Federal Courts Branch
Access to Justice Division
Attorney-General's Department
Robert Garran Offices | National Circuit | Barton ACT 2600
Ph: 6141 3094 | claire.mcalister@ag.gov.au

McAlister, Claire

From: McAlister, Claire
Sent: Tuesday, 21 August 2012 2:22 pm
To: Smrdel, Albin
Subject: Federal Court appointment 2010-11 [SEC=UNCLASSIFIED]

UNCLASSIFIED

- Public notice placed in papers on 25 September and 1 October 2010, calling for expressions of interest and nomination for appointment to the Sydney and Melbourne registries.
- Letters of consultation were sent out on 1 October 2010.
- 62 expressions of interest received and 34 nominations. Candidates from a previous round for these registries were also considered. A total of 211 people were consider for these appointments.
- The advisory panel comprised Chief Justice Keane, Sir Gerard Brennan AC KBE, Acting Justice Jane Mathews AO and a senior officer from the Department.
- In their report to the Attorney-General, the panel listed seven candidates as suitable for appointment to the Sydney registry and five for Melbourne.
- Both appointees from this round (the Hon Alan Robertson and the Hon Bernard Murphy) were recommended in the report.