

**Welcome address by Michael Shand QC, Chairman of the
Victorian Bar Council – Friday 17 August 2007 – to mark the
appointment of The Honourable Justice Robson to the Supreme
Court of Victoria**

May it please the Court.

I appear on behalf of the Victorian Bar to offer our warm congratulations to Your Honour Justice Robson on your appointment to this Court.

Education

Your Honour began your education at the Hamilton State School, and went on to the Hamilton & Western District Boys' College and then to the Geelong College.

You followed in the footsteps of Sir Leo Cussen who was also educated at the Hamilton College. It had been founded in 1871 and is now a co-educational school known as the Hamilton & Alexandra College.

Sir Leo Cussen did Civil Engineering at the University of Melbourne, and later returned to the University, graduating, in successive years, as a Bachelor of Arts, Bachelor of Laws and Master of Arts.

Your Honour took out 5 degrees from Melbourne: Bachelor of Commerce in 1969; Bachelor of Laws (with Honours) the following year; Master of Laws in 1975; Bachelor of Arts in 1996; and Bachelor of Arts (with Honours) in 2003.

You also graduated as a Master of Science (in Economics) from the London School of Economics, and are currently enrolled part time in a Ph D in American History at Melbourne.

At university, you shared a study at Ormond College with the cartoonist, Peter Nicholson.

You were a formidable combination. You moved the desks out of the shared study into your tiny bedrooms and converted the whole into a grand salon for the provision of generous hospitality.

Now it just happened that one Kenneth Hayne was in a room above yours. He often attended at your converted study with diminishing charm and good humour – to, if I can put it this way, *note the decibel level*.

Your Honour's appointment to this Court has been universally acclaimed. You bring to the bench personal qualities that make you ideal for the role; your career as a barrister has spanned more than 34 years and you have achieved distinction and eminence in the profession.

Your old friend Peter Nicholson offered his own perspective. On learning of your appointment to this Court, he quipped that perhaps the Victorian Labour Government had finally found out that you'd handed out how-to-vote cards for Dr Jim Cairns in Richmond in the 60s. They had realised that you were after all one of the true believers.

The parallel with the legendary Sir Leo Cussen is not confined to education. Sir Edward Mitchell KC said of Sir Leo:

Speaking for myself, I may say that I never met a more loveable nature – a man of robust manly qualities, which he united with consideration for the feelings of others, and a tactful way of doing things which enabled him to get matters adjusted where a more peremptory way might have failed.

Your Honour's modest, unassuming approach, your "consideration for the feelings of others", your patience and common sense and your capacity to engage positively with people are qualities which you share with Sir Leo Cussen.

Particularly since taking silk, Your Honour is known for fighting long cases through to the end – not least the long running *Bell Group v Westpac* case in the Western Australian Supreme Court.

However, your philosophy has for a long time been to achieve compromise where possible. Justice Simon Whelan and Will Houghton QC recall your advice to them when they first came to the Bar. "The cases I'm going to lose, I settle. The cases I'm going to win, I also settle."

School had its challenges for you. In the school annual report at the end of your Intermediate Certificate year at Geelong College (now year 10), the Principal, Mr P N Thwaites, had only three words to say about you: "Not university material".

Two years later, Mr Thwaites obviously did not expect you to pass in the external Matriculation examinations (now year 12, VCE).

In that year's report, he wrote: "We will have Ross back – *if necessary*"

Mr Thwaites was Principal at Geelong for 15 years, from 1960 to 1975, and retired to become Chairman of the Interim Council of the newly founded Deakin University.

To be fair to Mr Thwaites, your mid-year examinations in matriculation had not been encouraging. You were taking Physics, Chemistry, Pure & Applied Mathematics and English. You failed 4 subjects and only just passed the 5th – with marks ranging from 15% to 52%.

A veteran Master at Geelong, Mr Lester, took you in hand. He put you to work on previous years' exams as preparation for the real McCoy and the rest is history.

This perhaps laid the foundation for Your Honour's idiosyncratic approach to law school. In the last couple of years, you didn't go to lectures or tutorials at all. You were far too engaged in university life at Ormond College, and as President of the Melbourne University Film Society. Harking back to Mr Lester's strategy for matriculation, you worked back from previous years' exam papers, applied yourself assiduously and prevailed at the end of year exams.

Articles and Pupillage

You served articles with Roy Ricker at Mallesons, and worked with him and other partners. In March 1972, you were admitted and became Sir Ninian Stephen's first High Court Associate.

You signed the Bar Roll on 22 February 1973 and began pupillage (as it was then called) with James Merralls, now one of Her Majesty's Counsel – and you were his first pupil.

The mentor/ reader relationship stands today as significant as ever in the formation of the competent barrister. It calls for genuine commitment and a generosity of spirit on the part of the mentor.

James Merralls required of his pupils that they spent 3 days of the week working with him; and 2 days were theirs – for the 9 months of the pupillage.

In Your Honour's case, the genealogy of masters and pupils reveals the rich tapestry of our legal heritage.

Merralls was Associate to Sir Owen Dixon. He was a pupil of Richard Newton, who was a pupil of Sir Alistair Adam, who was a pupil of Sir Wilfred Fullagar, who was a pupil of Sir Charles Lowe – all distinguished Judges of this Court.

Your Honour honoured the commitment given to you by Merralls with a generosity without limit. You had 12 readers, notably His Honour Justice Maxwell the President of the Court of Appeal, but also Peter Richards, Rodney Garratt QC, David Collins SC, the Hon Andrew McIntosh, Peter Lithgow, Wendy Kozika, Chris Spence, Josh Wilson, Jonathan Beach SC, Barry Hess SC and Stephen Dewberry.

Clearly pupillage with your Honour was both a privilege and the greatest good fortune.

Practice

At the end of 1973, your Honour took up your first chambers – they were towards the rear of the ground floor of Owen Dixon Chambers (there was only East then). You had a tiny room adjacent to David Habersberger (now Justice Habersberger). Chris Dane, Ian Sutherland and Peter Hayes were not so fortunate. They shared a small single room in the same area between the three of them.

You took whatever work you could get. You did criminal pleas. In one County Court plea on carnal knowledge, you were able to call the 15-year-old young woman involved, and got your 18-year-old client off on a bond.

In another plea on housebreaking, you represented an accused of Italian descent. The prosecutor was routinely listing the pitiful list of items stolen: things like a tennis racquet, 4 long playing records – a crucifix The Presbyterian County Court Judge's brow darkened, threateningly. He glared at your client: "Aren't you Catholic?" "Yes, Your Honour". With no form, your client got 4 years.

At the university, and for some years afterwards, you'd shared a house with Philip Kennon. His father, the late Edwin Colquit Kennon, (better known as Col Kennan) was one of the senior partners at Weigall & Crowther. He was a dour man of determined leadership, great humility and the highest integrity. Col briefed you in your first major Prices Justification Tribunal matter for the Australian Gas Light Company.

Col Kennon came in for a conference with you in your tiny room. There was shabby linoleum on the floor. The pot plant had died. There was not a book anywhere. It mattered nought in those days and certainly not to Col Kennon.

The case came on. Richard Searby QC with Brian Shaw as his junior was for the applicant, Shell. There were about 5 rows of counsel, most parties represented by silk and junior. Your Honour was easily the most junior counsel, and last to cross examine. It was you who asked about the huge sums of money spent by Shell on exploration. It was you who elicited that Shell had found nothing; that but for this huge loss from fruitless exploration, the profits on the sale of petrol at the current price would be very much greater.

It was no surprise that your commercial practice grew and flourished. In the old days of the Commercial list with Justices Beach and Marks, when on Fridays the two court rooms and their ante rooms bustled with people, Your Honour, the late Peter Hayes and Ray Finkelstein (now Justice Finkelstein) had, between the three of you, the lion's share of the junior work in the list.

Your Honour took silk in November 1988 and subsequently appeared in many significant cases.

The most recent is of course the *Bell Group v Westpac* case. The trial ran more than 3 years – 408 sitting days. There were 75,000 exhibits; 150 witnesses; 40,000 pages of transcript; and 35,000 pages of written submissions.

In most mammoth trials the issues and arguments change over the course of the trial. It is a tribute to Your Honour's thorough preparation in the 3 years before trial that you closed with the same key issues and arguments as you had opened with. It is a tribute to your ability to get to the heart of the most complex matter that your oral closing argument was 1 ½ hours.

At the end of the trial, your and your juniors justly deserved what one of them described as the ritual Japanese cleansing in the Indian Ocean at Cottesloe Beach and the ritual Australian cleansing with beer at the Ocean Beach Hotel.

The Bar

Your Honour's service to the Bar has been exceptional. Your faith in the Bar as a vital part of the administration of justice and your commitment to serve are an example to all. You served the Bar Superannuation Fund for some 23 years from 1980 to 2003 – first as a Trustee, then as a Director, and finally as Chairman for 7 years.

Over the course of your 23-year stewardship of the fund, it grew from about \$1.5 million to about 90 million.

Your Chairmanship saw a number of significant initiatives: a new administrator; an investment advisor; re-structuring as a unitised fund; an allocated pension division; investment choices; and the ability of members to access information on investments online through a secure link.

You were a Director of Barristers Chambers Limited for 9 years from 1994 to 2003 – Chairman for 5 of those years.

You were a strong and decisive Chairman at a critical time. You introduced major organisational change in the organisation and its finances. You also presided over the process of planning and implementing the major renovations to the whole of Owen Dixon Chambers East – a massive task.

In your time on the Board, total shareholders equity (that is to say the Bar's equity) rose from a deficit of nearly \$3 million to positive net equity of over \$31 million.

Throughout your career at the Bar, you have been a qualified accountant – a Fellow of the Society of Certified Practising Accountants. You know and understand books of account, and how businesses and corporations work and are valued.

Your Honour began sitting as a Judge of this Court on Tuesday. On your very first day, and very first case, you delivered judgment *ex tempore*. At least in recent times, the only other newly appointed judge known to have done this on the first day or so after appointment from practice is Justice Nettle.

The Bar has every confidence that you will bring to your new role skill commitment and energy in abundance.

The Bar wishes Your Honour long and satisfying service as a member of this Court.

May it please the Court.

