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## WELCOME

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### **ADDRESS AT THE CEREMONIAL SITTING TO WELCOME HIS HONOUR JUDGE EDWARD WOODWARD UPON HIS APPOINTMENT AS A JUDGE OF THE COUNTY COURT OF VICTORIA BY JENNIFER BATROUNEY QC, PRESIDENT OF THE VICTORIAN BAR ON MONDAY 8 MAY 2017**

May it please the Court.

I appear on behalf of the Victorian Bar to congratulate Your Honour on your appointment to this Court.

Your Honour has been a tireless servant of the Bar, including as a member of the Bar Council for more than 3 ½ years – up until your appointment to this Court. You have also served for more than 6 years on the Ethics Committee, including a year as Deputy Chair and more than a year as Chair – also up until your appointment to the Court.

Your Honour practised at the Bar for more than 19 years, the last 6 ½ years as Silk.

Your Honour began school at Balwyn Primary School. Although I didn't know this until I learnt of it from your father's autobiography – we were obviously there at the same time! You would have been a lordly 3<sup>rd</sup> Grader when I started. I'm sure that your behaviour would have been better than mine. I was told off for hiding behind the shelter sheds and smoking. My response was to stride the school grounds puffing away in full view – perhaps not quite the outcome the school was looking for!

In Grade 6, you deserted me and went to Camberwell Grammar School. The school had the bonus of, not only your honour as a pupil, but your father – by then "Mr Justice Woodward" of the Northern Territory Supreme Court when he was co-opted onto the School Council and then "Sir Edward" when he became Chairman of the School Council.

You did Law at the University of Melbourne; then served Articles at Arthur Robinson & Co. – what is now Allens Linklaters.

You practised as a solicitor for some 13 years; then came to the Bar in the September 1997 class of Readers.

Your Honour read with Paul Cosgrave – later SC – whom Your Honour now joins on this Court.

While still in your Reading period, you qualified for Bar accreditation as a Mediator. Upon the Bar committing itself to the National Mediator Accreditation System, Your Honour became nationally accredited. You have thus been an accredited mediator and practised as such for 19 years.

With characteristic modesty, upon signing the Bar Roll, Your Honour expected the usual "take whatever comes" start in the Magistrates' Courts.

However, coming to the Bar from Partnership in a major City law firm, and having done some appearance work as a solicitor, you had only a few cases in the Magistrates' Courts. Very quickly you established a practice in the higher jurisdictions – in particular,



in the range of corporate insolvency matters in which you had practised for years as a solicitor.

In no time, Your Honour was discussing the technical niceties of the Corporations Law before Senior Master Mahoney in the Supreme Court and Justices Goldberg and Finkelstein in the Federal Court.

Obviously such discussions went well because two of Your Honour's four Readers came to you, having been Judicial Associates to Justice Finkelstein.

It's been suggested that no-one was more surprised than Your Honour when, in a few years at the Bar, you found that you had developed a specialty in bushfire enquiries and commissions.

The Coronial Inquest into the December 1998 fires at Linton, in which 5 volunteer firefighters lost their lives, ran about a year.

Your Honour was Junior to Stephen Kaye QC (now Justice Kaye of the Court of Appeal) representing the Country Fire Authority – and it was on Your Honour's recommendation that Mandy Fox (now QC) was added as a Junior – and then briefed by Your Honour's Instructors to separately represent two individual CFA Firefighters.

Nine parties were all represented by Counsel. The other Silks were Robert Redlich QC (now a Reserve Judge still sitting in the Court of Appeal) and the late Jeffrey Moore QC. Mark Dean (now His Honour Judge Dean of this Court) was on the verge of Silk.

Stephen Kaye has described the complexities of representing the Country Fire Authority – he was nick-named "the juggler" – and that it felt as though the two of you were standing up to be bashed every day by everyone – including, from time to time, your own client and Instructors.

Your Honour was then Junior to Lex Lasry QC (now Justice Lasry) as Counsel Assisting the ACT Coroner in her Enquiry into the January 2003 ACT Firestorm. That ran about 3 years. Amongst the galaxy of counsel was Bret Walker SC for the New South Wales Rural Fire Service.

Justice Lasry, present in Court today, describes Your Honour as "the consummate junior" – a bushfire specialist from your Linton fire Inquest experience – "straightforward, honest and conscientious".

Justice Lasry had, from time to time, to leave Your Honour while he went to Singapore on the Van Nguyen case. His Honour was able to do so completely confident in Your Honour's ability to do everything alone very well.

One consolation for Justice Lasry and Your Honour was the ability to retire, as you regularly did at the end of a long sitting day, to the "early-days-of-the-Gough-Whitlam-Government" time-warp known as the restaurant *Boffins* at University House, to share a bottle of d'Arenberg *Laughing Magpie* Shiraz.

Your Honour took Silk in 2010. Your first congratulatory call came before you yourself had received word:

- Judge: "Congratulations, Ted"
- Your Honour: "Well . . . thank you . . . I guess – but I don't know what you're congratulating me about – something I don't yet know about . . ."
- Judge: "Damn! I thought I saw your name on the List. Hang on – I'll check." [the now-embarrassed and panicked Judge hangs up]
- At this point, your Secretary comes in, waving an envelope with a familiar red crest on the back.



- Your Honour: [after opening the letter] “Well, I guess I’ll never get briefed again.” – one of the few times, you’ve been dead wrong.

Since taking Silk, it would appear that the strengths forged in the furnace of these massive, stressful and complex Fire Inquests have served Your Honour well.

Sometimes Criminal Lawyers see Commercial Lawyers as less robust and less able to deal with a witness whose evidence is “difficult”. Your Honour, with the experience of these Fire Inquests under your belt, is seen as a glittering exception.

In a Supreme Court contract dispute, Your Honour’s witness, called to corroborate your client’s claim of an oral pre-condition to a signed contract, was blown out of the water as to the place and time of the critical conversation by his mobile phone records and by the published roster of school holidays. Recalled to explain, your witness only made it worse, changing his evidence to accommodate the incontrovertible facts. The trial Judge found that: “This change in his evidence does not reflect well upon [the witness]. It confirms that he was not a witness of truth. His evidence should not be accepted unless supported by other reliable evidence.”

The strongest trial advocate, Commercial or Criminal, would be excused for retiring to Chambers and curling up in a ball.

Not Your Honour. In a subsequent hearing, still before the same trial Judge, Your Honour called the same previously discredited witness on a different point. To the astonishment of all, not least the trial Judge, I quote from the judgment: “Bizarre as it may seem, and whatever the legal consequences and ramifications, I believe him.”

Another direction one might not have expected in the career of a general Commercial Silk specialising in insolvency and reconstruction is that Your Honour was chosen as lead counsel assisting the Commissioner in the very first IBAC (Independent Broad-based Anti-corruption Commission) public enquiry in 2014 – that into corruption in the Department of Transport.

Your Honour was known as one of a very few barristers who are good with figures – with matters accounting. That – and your instincts, timing, legal acumen and utter professionalism under fire – won you the brief for that important first IBAC public examination.

The excellent job on that brief lead to the 2015 Education Department brief involving the investigation of systemic corruption in that Department – a larger-scale enquiry for which two Silks were required.

Your Honour and Ian Hill QC were an outstanding team working well with each other, with the Commissioner and with the investigators.

Your Honour was also the sole Leader for IBAC in the Supreme Court, in the Court of Appeal, and in the Special Leave application – in resisting a challenge to a public examination in relation to alleged systemic use of force at the Ballarat Police Station. You were, in the High Court, led by the Victorian Solicitor-General.

In the substantive hearings, all 11 Judges held for IBAC.

In your more than 6 years on the Ethics Committee, including as Deputy Chair and Chair, Your Honour was thorough, hard-working, passionate and committed. You were always prepared and had the relevant provisions and authorities at your fingertips. You were very calm and collaborative; always seeking and considering the contributions of others. In this way you led by empowerment.



In addition to the Ethics Committee and Bar Council, Your Honour served on the Bar Education & Training Committee for 6 years and as Chair in relation to Continuing Professional Development in the last year.

And you served more than 16 years on the Law Council of Australia Insolvency & Reconstruction Committee from 2000 up to your appointment to this Court.

Your Readers and your Juniors – and each of your four Readers went on to act as your Junior – learned from you. They learned in their Reading – and they furthered their education in the more active and responsible role as your Junior.

The recurring theme is Your Honour's calm, control, and commitment to your family. In the intense Linton Fire Inquest, Stephen Kaye released you for a time so that you could honour a prior commitment to take off on a family trek in the far North of Australia. Having released you - he was very relieved when you found your way back home.

Your wife Sue is a renown public lawyer at Justice Connect and I am proud to sit with her on the Law Council Charity Law Committee. Your Honour has been a strong supporter of women at the Bar – perhaps as a result of growing up with 6 sisters and subsequently having 2 daughters of your own! We are particularly grateful to you for your work on the grievance protocol.

Your Honour is also a Wig on Wheels. You cycle in to Chambers on a very hipster Northcote fixie. For the benefit of those, like me, to whom this is Double-Dutch – "Fixie" is, I'm told, "a single speed with a fixed rear wheel – that is, no coasting".

Whatever!!! In any event, the point is that you apparently keep your racer for weekends.

Each Sunday morning, the "Fifteen Pound Bikers" meet very early – at 7 o'clock in the morning. Your Honour is, and has been for some years, Captain of this Gang of "Bikers" – and the "Fifteen Pound Bikers" now have colours of your own – in yellow, black and red.

The name "Fifteen Pound Bikers" is derived from the "Fifteen Pounds" Café across from the Fairfield Station.

People may have heard of the various ranks in motor cycle gangs – including Road Captain – and Patches – and there always seems to be a Sergeant-at-Arms.

Being more akin to a gentlemen and ladies' sporting club, the "Fifteen Pound Bikers" have simply a Captain and a not only Honorary, but Ethereal Secretary.

And, being rather easy going, there isn't a written Constitution. Rather, the Constitution is committed to memory by the said Secretary who advises that, although this may not have been brought to Your Honour's notice when you joined, the Judge always pays for breakfast.

Your Honour was a foundation tenant in Lonsdale Chambers. Michael Sifris SC (now, of course, Justice Sifris) – writing from London – speaks of the part Your Honour played in the success of Lonsdale Chambers referring to your integrity, wise counsel and commitment as a foundation tenant.

After many years in Lonsdale Chambers, Your Honour was, I understand, pivotal in setting up Level 14 Castan Chambers – a notoriously happy set.

On behalf of the Victorian Bar, I wish Your Honour joy in your appointment, and long, distinguished and satisfying service as a Judge of this Court.

May it please the Court.