



VICTORIAN BAR

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## WELCOME

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### ADDRESS BY CHRISTOPHER WINNEKE QC ON TUESDAY 27 JUNE 2017 AT THE WELCOME TO HIS HONOUR JUDGE DOUGLAS TRAPNELL UPON HIS APPOINTMENT TO THE COUNTY COURT OF VICTORIA

May it please the Court.

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

Your Honour brings to your place on the Court a powerful combination of practice, at the independent Bar, as a Crown Prosecutor, and in public service with the Victorian Parliament.

You practised as a Barrister for more than 26 years – including a little short of 14 years as a Crown Prosecutor – more than 8 of those years as Senior & Queen’s Counsel; and nearly 7 of them as a Senior Crown Prosecutor.

You also served as Director of Research and Executive Officer of the Law Reform Committee of the Victorian Parliament.

And Your Honour served as an Army Reserve Officer in the Royal Australian Infantry Corps.

Your Honour was educated at Scotch College and at Monash University, graduating Bachelor of Economics, Bachelor of Laws with Honours; and later Master of Laws.

Unlike your later focus, your LL B Honours Thesis concerned an aspect of the Civil law: *Legal Professional Negligence: Liability to Third Party Beneficiaries* supervised by Peter Heffey. Your Master’s Thesis was *Self-defence in Homicide Cases after Zecevic v DPP (Vic.)* supervised by Professor Bob Williams.

Your Lecturer in Property II (the Monash course on Trusts) was the late Harry Reicher. Your Honour won the Exhibition; and Harry Reicher recruited you into his Jessup International Moot Court team.

You were lead-counsel and had, in short order, to master the International Humanitarian Law subject matter and the procedure and protocol of the International Court of Justice.

The Melbourne University team that knocked you out went on to win the World competition in Washington DC.

Your Honour had done well in other moots, but the experience in this one persuaded you to pursue a career at the Bar.

The Law Institute will speak of Your Honour’s service under Articles; your admission to practice; your year as a Solicitor; and your two years as a Supreme Court Associate to Mr Justice Hampel.

Your Honour came to the Bar with the March 1986 Readers. You read with Michael Rozenes – later QC; Commonwealth Director of Public Prosecutions; and Chief Judge of this Court.



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In your very first year at the Bar, barely out of the Readers Course, you appeared as the Junior-Junior to Peter O'Callaghan QC and David Levin in the unusual and obscure matter of a Grand Jury proceeding (the last Grand Jury summoned in this State) before the Court of Criminal Appeal against a Solicitor, for whom you acted.

Your Honour's academic bent, industry and thoroughness commended you as Counsel in arcane and difficult matters.

In your early years at the Bar, Your Honour also taught at Monash as a Sessional Tutor in Torts, Contracts and Administrative Law.

Peter Heffey knew Your Honour well having supervised your Honours Thesis, and he engaged Your Honour in his subjects of Torts and Contracts; and recommended you to his Administrative Law colleague – and I pass on Mr Heffey's congratulations to Your Honour.

After more than 8 years at the Bar, Your Honour accepted appointment as the Director of Research and Executive Officer of the Law Reform Committee of the Victorian Parliament.

By that stage, you had already made a name for yourself at the Bar. You began, as most do, with whatever came your way in the Magistrates' Courts. But you had also begun to appear as a Junior – appearing, for example, as Junior to Michael Rozenes QC at trial and as Junior to Robert Redlich QC in both rounds in the Court of Criminal Appeal, for the defence, in *R v Rumpf*, and in a Commercial Appeal, led by Charles Francis QC and opposed to Stephen Kaye QC leading Marilyn Warren.

The Honourable James Guest was Chairman of the Parliamentary Law Reform Committee. Mr Guest is in Court today – testament to his high opinion of Your Honour's work with that Committee.

The Committee inquired into and reported on a number of references – in particular a Review of the Jury System in Victoria. The multi-party members of both Houses in that Committee visited some 17 different overseas cities in some 4 weeks, different members going to different cities. Your Assistant, Padma Raman, described the process as: "have politician; will travel".

The Committee members were apparently so impressed with the precision of your logistical arrangements that, (given Your Honour was in the Army Reserve), had they the capacity to do so, they would have sought to engineer your immediate – and exaggerated – promotion in rank to General.

Your Honour returned to the Bar in June 1999 – after more than 4 ½ years with the Parliamentary Committee and picked up where you had left off.

Your Honour specialized in prosecuting serious criminal cases in the Supreme and County Courts, with occasional appearances for the Crown in the Court of Appeal.

You developed particular expertise in complex motor traffic law cases.

Noting that Parliament had done its best to keep drunk drivers off the streets, in 2001 Mr Justice Brooking lamented that the case then before the Court was but another product of the minor, but thriving industry of time and ingenuity devoted to frustrating those efforts and to what His Honour called "the hydra of technicality . . . a many-headed beast . . . as one unattractive point is cut off, (he said) another rears up in its place".

In that context, your Honour's first appearance in the Court of Appeal without a Leader was in *Furze v Nixon* – in which Your Honour successfully did your part by severing a few of the hydra's heads.



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After little more than 4 years back at the Bar, Your Honour was appointed a Crown Prosecutor.

In Your Honour's nearly-14 years as a Crown Prosecutor and Senior Crown Prosecutor, Your Honour appeared in many significant trials and appeals – too many to name this morning.

On the 1<sup>st</sup> of January 2007, Your Honour was assigned to the Major Appeals Unit.

In a February 2007 appeal, the President of the Court of Appeal, at the conclusion of the hearing, particularly complimented Your Honour. Justice Maxwell had been on the Court approaching two years. His Honour praised "the quality of both your written and oral submissions" as "as good as or better than anything I have seen from the Crown since I have been here".

The President said that he "look[ed] forward to seeing you in that role again soon". As you'd recently been assigned to the Major Appeals Unit, His Honour got his wish. With any luck, his Honour, the President and colleagues will see less of your work from here on in, but no doubt if and when they do, they will be equally enamoured of it.

Your Honour was scrupulously fair, both as a prosecutor and on appeal. In one appeal, a couple of years ago, the Court of Appeal said in its judgment: "Following the appellant's submissions, senior counsel for the crown frankly, and with conspicuous fairness, conceded that the trial below was a 'difficult trial to defend' . . . The concessions . . . were properly made and conformed to the highest and best standards of prosecuting counsel."

Your Honour has worked with many of your new brother and sister Judges. Not long before you took Silk, you appeared in the appeal in *R v Lam* (the Salt Nightclub murders) led by Chris Ryan SC (now Judge Ryan). Judge Dean had prosecuted the trial but wasn't in a position to appear in the appeal – so Judge Ryan and Your Honour (both Crown Prosecutors) had, at very short notice, to take that on and prepare from scratch.

Speaking of Judge Ryan, His Honour was glad to have the indirect benefit of Your Honour's thorough defence in the Court of Appeal for the Crown in right of the State of his decision in *DPP v Adamson*.

The Crown in right of the Commonwealth intervened at the last moment. Your Honour had not expected the additional party; or had any opportunity to confer with them. Moreover, you did not immediately recognise Counsel intervening for the Commonwealth, until Justice Weinberg called him "Mr Director". Over the luncheon adjournment, you hastily conferred with Mr Bromwich (now Justice Bromwich of the Federal Court). After lunch, Mr Bromwich "adjusted" some of his morning oral submissions, achieving consistency with yours.

From the high praise of Your Honour by the Director and Chief Crown Prosecutor in the OPP media release, it appears that Your Honour has been forgiven for the independent streak in taking Silk in 2008, some 18 months before you were made a Senior Crown Prosecutor; and for the embarrassment in relation to the "Judge Cannon laptop incident".

Judge Cannon had been away from Prosecutors' Chambers the Friday before a Tuesday Public Holiday. Your Honour assumed that Her Honour would therefore also take the Monday off.

When Your Honour came in on the Monday and realised that you'd left your laptop at home, you borrowed Judge Cannon's laptop. Sadly, you did not think to leave a note.



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Hours later, you came from the other end of the floor, and saw Judge Cannon. “You WHAT?” The police had already been called and were busily fingerprinting Prosecutors’ Chambers.

Your Honour has interests beyond the law in swimming, horse-riding, reading, philately, ornithology and genealogy. You also sing in your Church Choir and have sung in the Bar Choir. You served on the New Barristers Committee in your first two years at the Bar. The Bar is also grateful for your strong support recently as a member of its small World War I Commemoration Committee – in particular the organisation of the two very successful dinners. And you are a devoted family man.

It was in your carefree student days, long before your marriage, that you were a member of the Melbourne University Regiment. A Major in the Regiment describes Your Honour in those days as “a good young colt” – the person he chose to be his “right-hand man” in the late 1970s in a 2-year campaign to extend recruiting actively to recruit women students.

There was fierce resistance from Canberra – fierce to the extent of the General Officer Commanding Training Command coming to Melbourne to order that this not occur.

Resistance was overcome. The recruiting went ahead; and Your Honour demonstrated extraordinary aptitude. Lygon Street was just around the corner, and one technique of a certain “gallivanting young bachelor” was, it’s said, further “in depth” interviews over cappuccino.

Your Honour’s “Trapper” to then-Lieutenant Alan Sandbach’s “Hawkeye” gave rise to the comment that the recruitment campaign was “MASH on steroids”.

In any event the Regiment’s complement increased tenfold.

Your Honour brings to your place on this Court a breadth of experience as Counsel, as a Crown Prosecutor, and in Policy with the Parliamentary Committee. You bring also your scholarly bent and thorough industry in the Law; and your record of scrupulous fairness.

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

May it please the Court.