



VICTORIAN BAR

WELCOME

WELCOME TO THE HONOURABLE JUDGE MICHAEL CAHILL AS A JUDGE OF THE COUNTY COURT OF VICTORIA BY SIMON MARKS QC, JUNIOR VICE-PRESIDENT OF THE VICTORIAN BAR ON FRIDAY 15 JUNE 2018

May it please the Court.

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

I acknowledge the traditional owners of the land on which we meet, the Wurundjeri people of the Kulin nation, and pay my respects to their elders past and present.

Your Honour's appointment to this court comes with expressions of joy and admiration: from your friends and colleagues, among whom the descriptions of your good qualities seem universal.

And the Bar notes, with appreciation, that in doing so, you have taken on the role even though you would have deeply preferred that the purple detailing on your new robes were instead yellow.

Your Honour completed your secondary schooling at Marcellin College before undertaking degrees in Law and Economics at Monash University.

You then commenced your career in what many would consider idyllic circumstances: you were an articled clerk at *Gilbert and Rahilly*, a small general practice at Wonthaggi in South Gippsland. Whilst at the firm, you lived at the family beach house, nearby. That was in 1979.

Your Honour was admitted in 1980 and left Wonthaggi in 1981 to work as a common law solicitor at *Doyles* in Geelong.

You worked hard there and you were admitted to partnership in 1985; you stayed for a further 5 years before coming to the Bar in 1990.

At the Bar, Your Honour read with John Champion, now Justice Champion of the Supreme Court. It had been your intention to pursue a common law practice but it was during your time with Justice Champion that you turned to a life of crime.

One of your colleagues now describes you as one of the outstanding general criminal advocates of your time.

Your Honour took silk in 2016.

In your years at the Bar you have appeared in countless matters, both for the prosecution and the defence, and in several jurisdictions. But your friends and colleagues who observed your



VICTORIAN BAR

appearances say they always bore the familiar hallmarks of your work: intelligence, diligence, shrewd strategy and tactics, and a no nonsense but charismatic, conversational and genuinely down to earth touch, whether addressing judges or juries.

Your final appearance was in Court One of the High Court before the full bench in the long-running matter of *Galloway*.

Your junior in that case was Michael Stanton, who says that while others might have been tempted to treat such surrounds and circumstances as an opportunity to grandstand (even a little); Your Honour's approach could not have been more in contrast: you didn't waste a word.

But in terms of preparation and approach, it is also noted that Your Honour wouldn't distinguish between that forum, or the Magistrates Court, in terms of the effort you would expend.

You also led Mr Stanton in *Rustam's* case, in 2012. That case involved an Indonesian fisherman who had been recruited to crew a people-smuggling boat. It was one of many such cases that had been farmed out to courts across the country.

If convicted, all such accused people would have been subject to a mandatory minimum sentence of five years.

Your Honour argued that your client was not the brains of the operation. Indeed, he and the others were recruited to the task because of their lack of education, their illiteracy, their susceptibility. You described them to the jury picking up an Indonesian phrase – "*gampang ditipu*" – which translates as "*easy to deceive*."

Mr Stanton describes your closing address to the jury members as an incredibly powerful appeal to their better natures.

Your success in the case altered the way other such matters were argued and dealt with around Australia.

Your Honour is, and has always been, contributed to the profession; of course, through your practice, but also in other ways. From 2009 until 2016 you were the Vice Chair of the *Criminal Bar Association*.

You also served on the *Legal Education and Training Committee* from where you kept abreast with the Bar's work in continuing professional development; and also, the work of the *Bar Readers' Course*. I enjoyed the pleasure of dealing with your Honour in that capacity; so too, in your capacity as Chairman of the *International Commission of Jurists (Vic)*, where your Honour worked hard to secure, for foreign advocates from Countries with human rights challenges, an opportunity to observe the rule of law in operation in our Victorian Legal System (including through our Bar Readers' Course).

Whilst on advocacy, I should note that in 2016, your Honour along with a group of the Bar's finest criminal and commercial advocates travelled to Uganda to teach advocacy to Ugandan prosecutors.... On the way over, and stricken with a terrible headache, your Honour took 3 pain killers to soften the pain. Only to find a short time later, that tablets were in fact sleeping tablets, not painkillers at all.

This caused consternation, initially, but not for long. I'm told that thereafter your Honour slept peacefully. So peacefully in fact that you had to be dragged through the airport; and propped up during the first three days of the course. Your meeting with the Ugandan Attorney General went particularly peacefully.



VICTORIAN BAR

Your Honour briefly served on the *Indictable Crime Certificate Committee*, and for a time on the *Art and Collections Committee*. That last fact is not surprising, for reasons I will refer to in a moment.

Your Honour has also mentored four readers.

They are among the many who mention Your Honour's generosity. Cynthia Lynch and Lisa Mendicino both note that you let them stay with you well beyond their reading periods.

Their observations are, that Your Honour will make an excellent judge with your calm temperament, intelligence and care. If there be any reference to a character flaw, it may only be that your propensity for tidiness was so lacking, that it is often impossible to find a bare patch of floor in your room, where one could place a foot.

They both speak of you continuing to be a significant source of support.

And, your enthusiasm and support will be greatly missed by the other tenants of *Brian Bourke Chambers*. Indeed your Honour was instrumental in the establishment of those Chambers; it was you who approached the much-loved Brian Bourke to propose the use of his name. You half expected him to decline. Happily, he didn't. It was only after his death earlier this year that his family made it clear how flattered he had been. It says much about Your Honour that among Mr Bourke's pallbearers, you were the only lawyer.

Your Honour enthusiastically embraces interests outside the law. Chief among these the fortunes – good or bad – of the Richmond Football Club.

The depth of your feelings for the Tigers is something for which you are famous or notorious, depending on who might be describing it.

Some report that even good-natured ribbing about your team is something Your Honour will not countenance.

Your Honour has received advice that it is unseemly for men of a certain age to wear football jumpers in public. I'm told that you have, generally, followed this advice. It is alleged, however, that you failed to do so during Grand Final week last year. But the fact that someone felt the need to give the advice at all speaks volumes of the problem at hand.

What Your Honour does in your own home, though, is a different matter. However, one assertion for which I could find not denial, was that on the night following last year's spectacular Premiership victory you could not be stopped from wearing your Tigers Guernsey; to bed.

Despite Your Honour's undoubted pleasure at your appointment, you do not, even now, regard yourself as the best job in your family. That privilege has been bestowed on your youngest daughter; -who works for the Richmond Football Club.

Through that circumstance; and the generosity of the club's CEO; the 2017 Premiership cup graced your home for one memorable evening in October last year. You invited dozens of your closest friends to gaze lovingly upon it; whether they wanted to or not.

Your Honour is just as keen on art, as an aficionado and a collector of contemporary, abstract and indigenous pieces. They hung on the walls of your own room; and seemingly all of Brian Bourke Chambers.

The walls and – let it be said – the floors of your home are similarly adorned. This passion also resulted in a long association with the Geelong Gallery.



VICTORIAN BAR

I must also mention your membership of the Lex Pistols, the Bar's unofficial house band. You are the bass player. Paul McCartney is among the world's best known in that camp, though he's quoted as saying, "*None of us wanted to be the bass player. In our minds he was the fat guy who always played at the back.*" Your Honour gives the lie to this.

You are one of three original members still with the band, along with Justices Lasry and Champion.

You also stay abreast of modern musical trends. You are known to frequent gigs in the manner of a uni student; and apparently with the same dress sense.

Indeed, some around you affectionately suggest that the that advice about "*older folk and footy jumpers in public*" might equally apply to skinny jeans – in pubs, or in chambers on weekends.

If I may be serious for a moment: -When asking around about Your Honour. I lost count of the number who speak of your virtues: including, your willingness to help junior barristers. As one put it, the door to your room is never closed. Another colleague told me:

"He's hard working beyond the call of duty; and as honest and earnest as any barrister comes...He was a most admirable role model for all of us."

Those grateful colleagues are as certain as I am that your Honour will bring to your new role not only your experience, but your great acuity and empathy as well. Your appointment is widely regarded as a loss to the Bar, but a great win for this Court.

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

May it please the Court.