



FAREWELL

FAREWELL ADDRESS BY JENNIFER BATROUNEY QC, PRESIDENT OF THE VICTORIAN BAR – THURSDAY 13 APRIL 2017 IN THE FEDERAL COURT AT MELBOURNE UPON THE RETIREMENT OF THE HONOURABLE JUSTICE CHRISTOPHER NEIL JESSUP

May it please the Court.

I appear on behalf of the Victorian Bar to pay tribute to Your Honour's service in the Law ... to date.

I say "to date" because Your Honour's friends doubt that the bucolic delights of your vineyard will keep Your Honour fully occupied for long.

Your Honour signed the Bar Roll in February 1975 and read with Stuart Murdoch (later a Judge of the County Court).

In your very first year, Your Honour served on an *ad hoc*, one-year, Standing Committee of the Bar – the Advisory Committee on Civil Law Reform – headed by Richard Searby QC and Peter O'Callaghan QC.

In 1976, Your Honour was one of the founding members of the newly-established List of Wayne Duncan.

Your Honour had three Readers – Geoffrey Giudice, Simon Marks, and Bryan Mueller.

You took silk in 1987.

Pre-eminent in Industrial Law, Your Honour maintained diversity in your practice: General Commercial Law; Administrative Law; and occasionally, Intellectual Property Law. You also appeared in the High Court in a *Crimes Act* challenge to police interview procedures.

Your Honour's coolness under fire is legendary – let me give just a couple of examples.

In one High Court case, Your Honour read a passage from the judgement of six High Court Justices. It was the Court at its most dense and impenetrable.

Justice Gaudron said: "Dr Jessup, what do you mean?"

Your Honour responded coolly: "We mean what Their Honours meant."

In another High Court argument, Your Honour cited *Portus*, a landmark 1972 High Court decision. Your Honour asserted that "no member of this Court has ever doubted the authority of that decision".

Justice McHugh said: "I don't know about that."

Your Honour's immediate response was: "Perhaps Your Honour will be the first."



In this Court, Justice Peter Gray differed with Your Honour when you were counsel.

Your Honour retorted: "Well, Your Honour, one of us is wrong – and it's not I".

Over and above a substantial national practice at the highest level, Your Honour's service to the community of the Bar was extraordinary.

Your Honour served more than three years on the small, seven-Silks Executive Committee of the Bar Council - including your years as Vice-Chairman and Chairman. As Ms McLeod has outlined, they were arguably the most perilous in the history of our Bar.

In addition to dealing with this crisis, within days of Your Honour's election as Chairman of the Bar Council, there was a change of Government in Victoria, and the new Government abolished the Accident Compensation Tribunal, dismissing its 10 Judges.

Your Honour began your first Chairman's newsletter with the wry comment that: "The first day of October 1992 was not the best day to accede to . . . Office . . ."

Your Honour was an outstanding Bar Chairman. It is because of Your Honour's efforts – and those of the other Bar Chairmen through those challenging years – that the Independent Bar is still here.

Chief Justice Allsop has spoken of Your Honour's substantial contribution, as a member of this Court, to the development of Labour & Industrial Law jurisprudence.

Further afield, Your Honour has sat on matters covering the full gamut of IP Law, involving a variety of scientific and technical areas – patent and design cases ranging from pharmaceuticals to mining equipment – enzymes in food preparation; blind control mechanisms; truck lights; and vacuum cleaners.

In this Court, Your Honour demonstrated remarkable understanding in managing a "hot tub" of 5 professors of organic chemistry discussing, and I quote: "a typical Friedel-Crafts acylation using aluminium chloride in carbon disulfide solvent". Not the most relaxing hot tub, by the sounds of it.

There have, however, been occasional moments in which Your Honour has demonstrated a degree of what might be called "unworldliness".

In one IP case, Your Honour was puzzled by reference to "burritos":

- "What is it?"
- "Something you eat????"
- "I thought it was an animal of some kind. Am I confusing it with some other little animal that runs around?"
- [Junior counsel for the applicant observed that the word is also Spanish for a little donkey.]
- "That's the word I had in mind, yes."
- Finally, it was explained to Your Honour that it is: "a generic name of a wrap, inside of which you have spicy chicken and things like that – and beans – Mexican stuff."

Similarly, in a Consumer Law case concerning "designer jeans", Your Honour expressed complete surprise that anyone would pay extra for jeans bearing particular brands.

A major contribution on the Court has been Your Honour's Chairmanship of the Electronic Court File and Electronic Trials Committee.



Since the 1st of July 2014 launch, no new paper Court Files have been created. As at a few weeks ago, the Court had 39,000 “digital” Court Files consisting of nearly 340,000 documents. The Court is also moving towards digital trials.

On behalf of the profession as a whole, the Bar thanks Your Honour for the meaningful and close liaison with both branches of the profession in the digital revolution – a key factor in the success of the project.

You practised at the Bar for more than 31 years, 18 ½ of those years as Queen’s Counsel.

You were a courageous and effective leader of the Bar through the most difficult times, when our very existence as an Independent Bar was under real threat.

Your Honour has been an outstanding Judge of this Court for nearly 11 years, cut short only by the Statute.

On behalf of the Victorian Bar, I wish Your Honour, your wife Meryl, and your family, joy in your retirement from the Court.

May it please the Court.