

ISSUE 171 WINTER 2022
VICTORIAN
BAR
NEWS

BAR DINNER

ABA CONFERENCE

REVIEWS, REVIEWS
AND MORE REVIEWS



THE GREAT RETURN

Celebrating working life out of lockdown

PLUS: EXCLUSIVE EXTRACT FROM *THE BRILLIANT BOY* BY GIDEON HAIGH

Building mental fitness... Together

- ✓ Free
- ✓ Confidential
- ✓ Available for up to 5 sessions per issue

Find out more or book an appointment:

- 1300 our eap (1300 687 327)
- eap@convergeinternational.com.au
- www.convergeinternational.com.au



THE REVISION GROUP



The Re-Vision Group's Health and Wellbeing Counselling service.
Bringing you the benefit of over ten years' experience
working with Victorian barristers.
A 24/7 service just for you and your family.
Phone 03 9650 5540
Any questions? Call and ask Bernadette: 0417 351 677

Suite 45, level 3, 12 Collins Street Melbourne 3000

www.revisiongroup.com.au

ISSUE 71 WINTER 2022 VICTORIAN BAR NEWS



31

Editorial

- The great return **5**
THE EDITORS
- Verbatim **6**
- President's message **7**
RÓISÍN ANNESLEY
- Readers' Digest **10**

Around Town

- Junior Bar Conference **14**
VBN

- Launch of *Vic Bar: A History of the Victorian Bar* **16**
MICHELLE GORDON

- Restaurant review **19**
NICO BURMEISTER

- Celebrating community service across the ages **20**
VBN

- Open justice project celebrates a significant milestone **22**
DR LAURA HILLY, WILLEM DRENT AND TIM FARHALL

- Farewell, Graham Robertson, Esq. **25**
DARRYL BURNETT

- 2022 ABA conference—re-emergence in Melbourne **26**
STEPHEN WARNE

- Law in a Time of COVID **28**
STEPHEN GAGELER

- Flagstaff Bowls **31**
CAROLINE PATERSON

- Brian Shaw QC Portrait unveiling **32**
SIOBHÁN RYAN

- 2022 Victorian Bar Dinner—President's Address **34**
RÓISÍN ANNESLEY

- 2022 Victorian Bar Dinner—Chief Justice's Address **46**
WILLIAM ALSTERGREN



34



50



93

News and Views

- 50** The Law Library of Victoria
LAURIE ATKINSON
- 53** VLRC: Sex offences report
NICK GADD
- 54** Memories are not for sale
NICHOLAS GREEN

- 56** Letter to the Editors

Bar Lore

- 60** The extreme gradualness of inevitability
GIDEON HAIGH

Back of the Lift

- 62** Adjourned sine die
- 65** Silence all stand
- 74** Vale

Boilerplate

- 84** A bit about words
JULIAN BURNSIDE
- 86** Language matters
PETER GRAY
- 88** Test drive
JOHN LAVERY
- 90** Red Bag – Blue Bag
- 93** Music review
ED HEEREY
- 96** Book review
ANDREW GODWIN



Legal Home Loans®

HOME • INVESTMENT • COMMERCIAL • CHAMBERS

Australia's only mortgage broking service exclusively for lawyers and barristers.

Applying for a home loan can be a frustrating process to navigate, especially while balancing a busy legal career. Let our experts take care of this for you.

We understand you and your profession like no other. More importantly, we understand the lending landscape with a specific legal focus and use this expertise to achieve better outcomes for you.

Speak to our specialists and experience the Legal Home Loans difference today.

Official partner of the Victorian Bar.

Members receive **\$500** cashback at loan settlement.

CHAT TO US TODAY

(02) 9030 0420

enquiries@legalhomeloans.com.au

www.legalhomeloans.com.au



ISSUE 170 SUMMER 2020/21

VICTORIAN BAR NEWS

Editors: Janine Gleeson, Alexandra Golding, Nico Burmeister

VBN Committee: Janine Gleeson, Alexandra Golding, Nico Burmeister, Andrew Broadfoot QC, Justin Castelan, Paul Adami, Stephen Warne, Amy Wood, Harry Forrester, Jesse Rudd, Joel Silver, Veronica Holt, Michael Wyles, Denise Bennett, Amanda Utt

Contributors (in alphabetical order): Tom Acutt, Yusr Al-Azzawi, Chryssa Anagnostou, The Hon Justice Stewart Anderson, Nic Andreou, Roisin Annesley QC, Laurie Atkinson, David Bloom QC, Simon Bobko, Daniel B Bongiorno, Anthony Brand, Nico Burmeister, Darryl Burnett, Julian Burnside AO QC, Hannah Canham, Kenny Cheng, Brandon Cooper, Benedict Coxon, Alissa Crittenden, Helen Dellidis, John Dever, Rachel Doyle SC, Willem Drent, Marcus Duckett, Tim Farhall, Sarah Fiskien, Jacob Fronistas OAM, Laurence Fudim, Nick Gadd, The Hon Justice Stephen Gageler AC, Rodney Garratt QC, Harriet Geddes, Bill Gillies, Mark Gioskos, Janine Gleeson, Andrew Godwin, Alexandra Golding, Nicholas Goodenough, The Hon Justice Michelle Gordon AC, James Gray, Professor, the Hon Peter Gray AM, Nicholas Green QC, Harry Greenwell, His Honour Magistrate Martin Grinsberg, Gideon Haigh, Laila Hamzi, Sam Hay QC, Philip B Hayes, Ed Heerey QC, Laura Hilly, Hannah Hofmann, D'Arcy Hope, Jessica Hotchkin, Andrew Ingram QC, Mark James, Catherine Jones Williams, Natalie Kaye, Roslyn Kaye, Belle Lane, John Lavery, Paul Lawrie, Jessica Mackay, Richard Manly QC, Kylie McInnes, Andrew McNaught, Dean Merriman, Anthony Middleton, Trevor Monti QC, Gisela Nip, Christopher Northrop, His Honour Magistrate Tony Parsons, Catherine Pase, Jakub Patela, Caroline Paterson, James W S Peter AM QC, Rohan Phelps, Tom Rawlinson, The Hon Justice Melinda Richards, Andrew Robinson, Amanda Ryan, Siobhan Ryan SC, Sepideh Sadri, Joshua Sheppard, Jeremy Smith, Sam Tatarka, Eugene Twomey, Nicole Tyson, Stephen Warne, Alice Wharldall, Angus Willoughby, His Honour Judge Peter Wischusen, Angelika Yianoulatos

Photography/Images (in alphabetical order): Australian Bar Association, Caroline Paterson, Charlotte Duckett, Christopher Northrop, Chryssa Anagnostou, Clive Stark, Ed Heerey QC, Greg Wheeler, Harry Greenwell, John Lavery, Kate Dugan, Peter Bongiorno, Stefan Vutov, Supreme Court of Victoria

Registration No. A 0034304 S

The publication of Victorian Bar News may be cited as (2022) 171 B.N.

Opinions expressed are not necessarily those of the Bar Council or the Victorian Bar or of any person other than the author.

Advertising:

All enquiries including requests for advertising rates to be sent to:

Roisin Ryan
Victorian Bar Inc.
Level 5, Owen Dixon Chambers East
205 William Street
Melbourne VIC 3000

Tel: (03) 9225 7111

Email: roisin.ryan@vicbar.com.au

Illustrations, design and production:

Guy Shield - www.guyshield.com

Printed by:

Southern Impact
southernimpact.com.au

Contributions: Victorian Bar News welcomes contributions to vbnceditors@vicbar.com.au

Editorial



Standing L-R: Jesse Rudd, Stephen Warne, Alexandra Golding (Editor), Paul Adami, Justin Castelan
Seated L-R: Harry Forrester, Janine Gleeson (Editor), Joel Silver **Absent:** Nico Burmeister (Editor), Andrew Broadfoot QC, Dominic Triaca, Amy Wood, Veronica Holt, Michael Wyles, Denise Bennett.

The great return

JANINE GLEESON, ALEXANDRA GOLDING AND NICO BURMEISTER

Victorian Bar News was founded 51 years ago by Richard McGarvie and the late Peter Heerey. The founding editors' intention was to keep members of our Bar informed of matters that matter to them. It is this ethos, perhaps with a smattering of mirth, that drives this now biannual publication.

The new year brings renewed hope. This one more than those past. There is hope that the illness and isolation of the last two years may finally be behind us. There is hope that the restrictions that have controlled our lives will never return. And there is hope that we will all continue to return to the places we belong: not least our chambers and the courtroom.

This edition of *Victorian Bar News* reflects that hope. From the Australian Bar Association Conference, through numerous launches and farewells, to—of course—the 2022 Victorian Bar Dinner, its pages are decked with photos of our Bar's members and friends in the element that we have been denied during the extended winter of 2020–21: each other's company.

As is customary, we have, and will continue to, publish our members' views (which are, invariably, robust). As editors, we appreciate that popular speech requires no protection; and we encourage original contributions from all corners of our community.

Reviews return. Whether you need new wheels, a good read, a long lunch, or some tunes, we have you covered. In the latter

regard, we recommend Ed Heerey's music review (and anxiously await letters from members who disagree with his assessment of The Rolling Stones' later releases).

In *VBN 170*, John Gordon reviewed Gideon Haigh's recent biography of Doc Evatt. In *Bar Lore* you will find an extended extract from Mr Haigh's book, which the author has generously allowed us to publish.

Old favourites also return. Senior members of our Bar have again shared their wisdom in the form of *A Bit About Words* and *Language Matters*, while the pseudonymous

“In an effort to fight the potential anonymity that coincides with the excitement of joining the Bar, from this edition onwards, the customary Readers' photo will be complemented by each Reader's answer to five icebreakers.”

Red Bag returns to again enlighten their long-time junior, *Blue Bag*.

We also have the distinct pleasure of introducing our next generation, the May 2022 readers. In an effort to fight the potential anonymity that coincides with the excitement of joining the Bar, from this edition onwards, the customary readers'

photo will be complemented by each reader's answer to five icebreakers. We hope they will stimulate conversation around chambers and outside court.

Finally, we pause to farewell and thank Denise Bennett, whose tireless work over the years has been a vital factor in *VBN*'s success. ■

Verbatim

THE EDITORS



High Court

Delil Alexander v Minster for Home affairs

KIEFEL CJ:

Mr Herzfeld, could you remind me where you were taking us to? I have forgotten.

MR HERZFELD:

Yes, not a problem, your Honour, volume 1 of the special case book, annexure SC25 beginning at page 377. I think your Honour Justice Gageler was about to ask me something, I am hoping it was the same question, but fearing it perhaps was not.

GAGELER J: Your fear will be realised.

OVERHEARD SOMETHING?

Submit your verbatim to vbnceditors@vicbar.com.au

Supreme Court online

Coonwarra Pty Ltd v CornoNero Pty Ltd & Ors

NICHOLS J: Thank you very much. Mr Garratt, I just want to know from you whether that's the first time in your career your opening submissions have ever been interrupted by an earthquake?

MR GARRATT: Your Honour has stolen my opening line. I was going to say that it would be useful if I recapped on what I had said on Tuesday because of the intervening earthquake.

NICHOLS J: I don't think I stole that line, Mr Garratt.

MR GARRATT: I doubt that anyone, Your Honour, will have that opportunity in the rest of their career to use.

NICHOLS J: Yes. Well, hopefully we won't be met with any other thing that the Four Horsemen of the Apocalypse might deem to visit upon us during the course of this trial. So you go ahead, Mr Garratt.

PRESIDENT'S MESSAGE

Return to court

RÓISÍN ANNESLEY

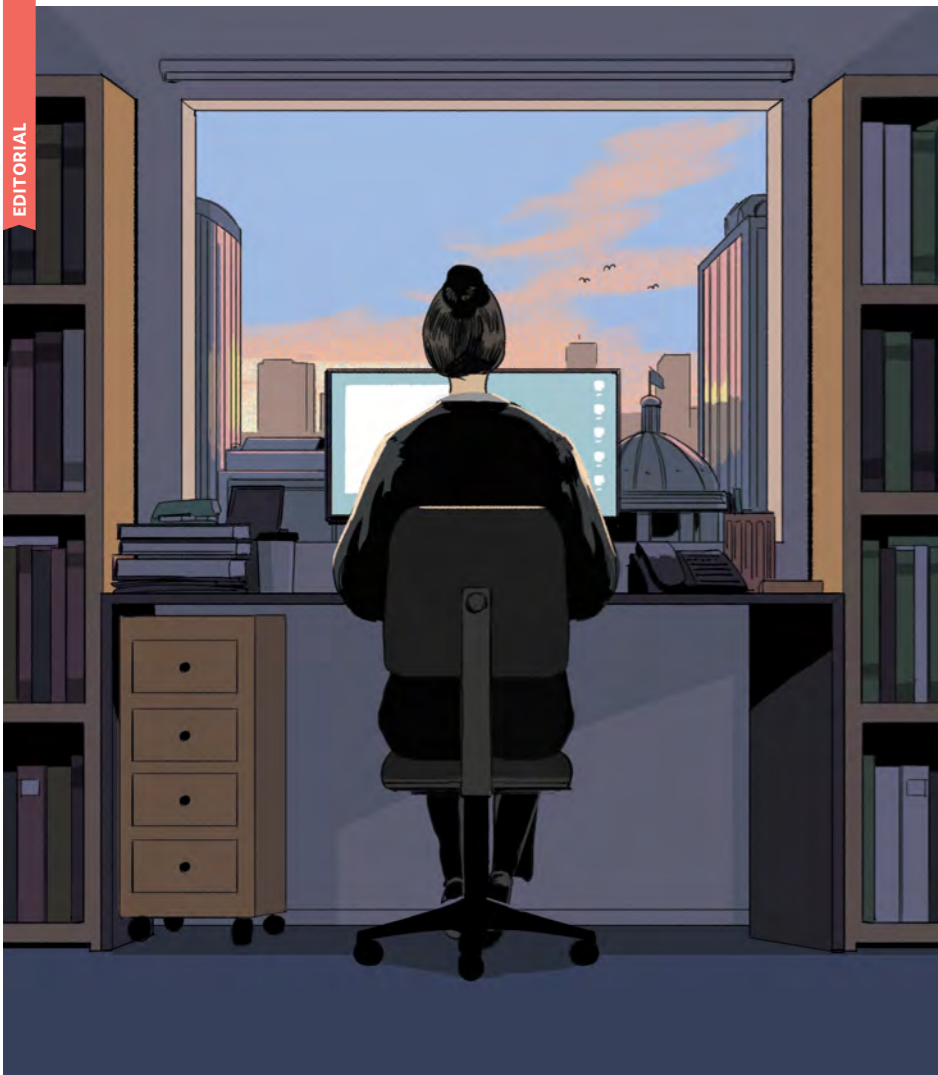
It has been wonderful to see many more barristers returning to chambers and attending events over the last six months. The noise in the Essoign Club is slowly returning to its usual buzz. As this edition of the *Victorian Bar News* goes to print, we are a couple of weeks after what was another fantastic Bar Dinner at the Regent Plaza Ballroom, where over 500 barristers and judges gathered with their friends and colleagues, to celebrate the fact that they are all members of this wonderful college, the Victorian Bar.

The 2021 Victorian Bar dinner was held exactly one week before Victorians were locked down in their homes, and locked out of their places of business and recreational pursuits, for the fourth time. The ramifications of the successive lockdowns in Victoria have wreaked havoc across all communities and across all industry sectors and professions.

The administration of justice did not escape the ravages of the lockdowns. Each jurisdiction has been affected, some more so than others. The backlog of criminal cases waiting to be heard has increased, which affects both the accused and the victims of crime and their families. Similarly, family law cases are backed up, causing extended emotional burdens on families. Moreover, matters in the Victorian Civil and Administrative Tribunal, a jurisdiction which affects the lives of so many Victorians dealing as it does with residential tenancies, guardianship, retail tenancies, and domestic and commercial building, were unable to be heard at all for a significant period of time. Unfortunately, due primarily to long-standing inadequacy of physical infrastructure and inadequate staffing resources, VCAT has been the last jurisdiction to return to in-person hearings.

While we can go to the MCG with 50,000 other Melburnians without any restrictions, the courts are still subject to pandemic orders. The courts appear reluctant to list all matters as in-person hearings. Across jurisdictions there are inconsistencies in relation to restrictions, including inconsistencies between states in the operation of the federal courts.





“The Victorian Bar celebrates its 180th year this year. I fear that — unless barristers begin to advocate that their cases be heard in person; insist on conferring with witnesses in person; attend mediations and CPDs in person; and attend chambers—then the Bar will not be here to celebrate its 200th year.”

- » the interaction between the Bench and the Bar, and between barristers, is not as affective online as it is in a courtroom, which is detrimental to the efficient administration of justice and the resolution of issues and cases;
 - » junior barristers are significantly disadvantaged in their learning opportunities both formally and informally by online hearings; they are further disadvantaged from the lack of professional networking opportunities;
 - » the health of barristers is adversely affected by the isolation of online hearings—the loss of the ability to easily discuss a case with a colleague, to let off steam, to be able to divorce your professional obligations from your family obligations or simply to not be on one’s own—are all significant tolls on the health of barristers;
 - » the conveniences that are touted in a post-Covid era as being beneficial are usually personal conveniences. Personal conveniences are, or ought to be, irrelevant to a profession whose duty to the client and the court is to provide independent, fearless advocacy.
- The Victorian Bar celebrates its 180th year this year. I fear that—unless barristers begin to advocate that their cases be heard in person; insist on conferring with witnesses in

As members of an independent Bar we need to ensure that:

- » the benefits of technology, do not compromise the integrity of the court process;
 - » the court process is open and accessible to all;
 - » justice is not only done, but seen to be done;
 - » our clients receive the best advocacy and that it is delivered by optimal means; and
 - » the judges receive the greatest assistance from the independent barristers appearing before them.
- Importantly for junior barristers, particularly those under 10 years’ call, we need to ensure that they receive the best opportunity to learn, to hone their craft and to become excellent advocates and the future leaders of the profession.
- I accept that there may be a variety of views as to how these things are achieved and what the future holds.

For my part, I am strongly of the opinion that the best way forward is to return to in-person hearings for every trial, appeal, contested application and directions hearing. I maintain that:

- » it is a fundamental precept of a democratic society that justice is administered in an open forum, accessible to all;
- » assessing the credibility of a witness requires an assessment of not only their oral evidence but of their body language, and their physical and emotional response—the full appreciation of which cannot be achieved online;
- » witnesses, parties and legal professionals should be impressed with the importance of going to court—it is a serious matter;
- » the dignity of the court is eroded by the absence of the formality of the courtroom;

person; attend mediations and CPDs in person; and attend chambers —then the Bar will not be here to celebrate its 200th year. If it is, then it will be considerably diminished. It is time for all barristers to actively participate in the conversation about the future of legal advocacy in this state.

I, and the Bar Council generally, are working hard to procure the return of in-person hearings across all jurisdictions. Progress toward that end has been hampered in part by the continued prevalence of Covid. Partly, though, it is because there has been some ambivalence about returning to chambers and in-person hearings.

I urge all members to consider the real consequences of working from home and conducting hearings online—for litigants, for the administration of justice, and for the Bar. It’s your Bar, it’s your future.

Events

The receding of Covid restrictions means that this year more in-person events have returned to the Bar. The March 2022 Bar readers’ course was conducted almost entirely in-person, with the readers able to sign the Bar Roll in-person and in the presence of family and friends, followed by a very happy and enjoyable cocktail party. The September 2021 readers have finally had their readers’ dinner with their mentors.

The Bar has hosted a number of CPD evenings, including a very well-attended evening with the state coroner, Judge Cain. A successful Junior Bar Conference was held early in the year and, of course, Melbourne was the host city to the recent Australian Bar Association Conference. In addition, the bust of Alfred Deakin was unveiled; there was a public conversation between Ken Hayne QC and his portraitist, Bill Henson; *A History of the Victorian Bar* was launched; and we hosted an Iftar Dinner. The individual Bar associations and lists have also

organised and hosted a range of educational and social events.

Such events are important aspects of the Bar. They are an opportunity for the sharing of ideas and the necessary camaraderie between colleagues. Their return has been very welcome.

Return of welcomes

One of the pleasures of returning to court has been the return of welcomes for new judges and magistrates. So far this year we have welcomed 15 judges and five magistrates, including many who were appointed during the pandemic. It has been a privilege to be able to welcome them on behalf of the profession, and in the presence of their family and friends. It is an important time in the lives of those appointed and in the lives of their partners, parents and children. It says much about the life of our Bar that we take time out of all of our

busy schedules to mark these events and the contribution of our members to the administration of justice.

The Bar’s IT project

Perhaps the most important project for the Bar this year is the complete replacement of its information technology systems. Over the years, this has become crucial to the life of the Bar from the importance of the Bar website and the information it contains, including barristers’ profiles and CPD seminars, the Bar’s records in relation to matters such as practising certificates and the use of email to distribute information to members. As a result, it is crucial that the Bar have safe, reliable and secure IT systems. To this end, under the leadership of Michael Shand QC, the Bar is going through the process of renewing its IT systems. While the process is proving to be expensive and time-consuming, it is a crucial aspect of securing the Bar’s future. ■



Astrid Haban-Beer, Rabaea Khan and Rutendo Muchinguri at the recent Iftar dinner

Readers' Digest

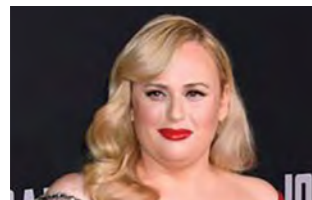
March
2022

Each edition, we reach out to the latest cohort of readers to get to know them better.



Nicole Tyson

What was your dream job (when you were seven)? Hollywood actress
What was your first job? Supermarket checkout
What is your alma mater? Adelaide
With whom will you read? Carl Moller
Who would you cast to play you in the movie of your life? Rebel Wilson



Alissa Crittenden

What was your dream job (when you were seven)? Teacher
What was your first job? Darrell Lea chocolatier
What is your alma mater? UWS
With whom will you read? Albert Dinelli
Who would you cast to play you in the movie of your life? Catherine O'Hara



Jessica Mackay

What was your dream job (when you were seven)? Vet
What was your first job? Waitress (Japanese restaurant)
What is your alma mater? Griffith; Amsterdam
With whom will you read? Jason Gullaci
Who would you cast to play you in the movie of your life? Edna Mode



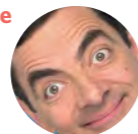
Catherine Pase

What was your dream job (when you were seven)? Musical theatre star
What was your first job? Dad's pharmacy
What is your alma mater? UWA; Notre Dame Australia
With whom will you read? Rebecca Davern
Who would you cast to play you in the movie of your life? Anna Kendrick



Benedict Coxon

What was your dream job (when you were seven)? Musician
What was your first job? Storeman
What is your alma mater? Adelaide; Oxford
With whom will you read? Kylie Evans
Who would you cast to play you in the movie of your life? Rowan Atkinson



Laila Hamzi

What was your dream job (when you were seven)? Doctor
What was your first job? Hungry Jack's
What is your alma mater? Melbourne
With whom will you read? Paul Liondas
Who would you cast to play you in the movie of your life? Timothée Chalamet

Mark Gioskos

What was your dream job (when you were seven)? Doctor or firefighter
What was your first job? McDonald's
What is your Alma Mater? La Trobe; Melbourne
With whom will you read? Angela Lee
Who would you cast to play you in the movie of your life? William Shatner



Kylie McInnes

What was your dream job (when you were seven)? Any job with nice work clothes
What was your first job? Fried chicken take-away
What is your alma mater? ANU
With whom will you read? Raelene Sharp
Who would you cast to play you in the movie of your life? Reese Witherspoon



Jessica Hotchkin

What was your dream job (when you were seven)? Can't remember having one
What was your first job? Bi-Lo supermarket check-out
What is your alma mater? La Trobe
With whom will you read? Kelly McKay
Who would you cast to play you in the movie of your life? Nicole Kidman



READERS, MARCH 2022

FRONT ROW: Katrina Hartman, Jessica McKay, Tamir Katz, Michelle Button, Gisela Nip, Jakub Patela, Catherine Pase, Thomas Rawlinson, Laila Hamzi, Yusur Al-Azzawi, Kylie McInnes
SECOND ROW: Angelika Yianoulatos, Catherine Jones Williams, Greer Boe, Harriett Geddes, Hugh Crosthwaite, Alexis Buckley, Celeste Shambrook, Brandan Cooper, Hannah Hofmann, Joshua Bridgett, Nicole Tyson, Hannah Canham, Sepideh Sadri, Alice Wharldall, Jessica Hotchkin
THIRD ROW: Gabriel Chipkin, Rohan Phelps, Andrew McNaught, Simon Bobko, Vincent Vu, Angus Willoughby, Kenny Cheng, Laurence Fudin, Andrew Hanna, Benedict Coxon, James Gray, Alissa Crittenden
BACK ROW: Tomas Acutt, Samuel Cooper, Dean Merriman, John Petras, D'Arcy Hope, Anthony Middleton, Joshua Sheppard, Eugene Twomey, Mark James ABSENT: Mark Gioskos



Hannah Canham

What was your dream job (when you were seven)? Zookeeper or vet
What was your first job? Maths and English tutor
What is your Alma Mater? Adelaide
With whom will you read? Catherine Boston
Who would you cast to play you in the movie of your life? Anna Chlumsky



Simon Bobko

What was your dream job (when you were seven)? Batman
What was your first job? Pizza delivery driver
What is your Alma Mater? Melbourne; La Trobe
With whom will you read?

Chris Twidale

Who would you cast to play you in the movie of your life? Chris Pratt



Dean Merriman

What was your dream job (when you were seven)? AFL footballer
What was your first job? Dishwasher at Mansfield Golf Club
What is your Alma Mater? Melbourne; Barcelona
With whom will you read? Kateena O'Gorman
Who would you cast to play you in the movie of your life? Jon Hamm



Rohan Phelps

What was your dream job (when you were seven)? Australian men's cricket team or Manchester United
What was your first job? Local rugby union club ball boy
What is your Alma Mater? Melbourne
With whom will you read? Daniel Wallis
Who would you cast to play you in the movie of your life? Stephen Curry (straight to TV)



Alice Wharldall

What was your dream job (when you were seven)? Supermarket check-out or barrister
What was your first job? Piano accompanist for the school year 3 choir and musical



What is your Alma Mater? Adelaide
With whom will you read? Frances Gordon
Who would you cast to play you in the movie of your life? Claire Foy



Tom Rawlinson

What was your dream job (when you were seven)? Fighter pilot



What was your first job? Guitar teacher
What is your alma mater? Melbourne; Columbia; Adelaide
With whom will you read? Sarala Fitzgerald
Who would you cast to play you in the movie of your life? Ben Whishaw



Sepideh Sadri

What was your dream job (when you were seven)? Dolphin trainer



What was your first job? VCE tutor (maths, science, English and French)
What is your alma mater? Melbourne
With whom will you read? Ruth Champion
Who would you cast to play you in the movie of your life? Rebel Wilson



Anthony Middleton

What was your dream job (when you were seven)? Pilot
What was your first job? Caterer
What is your alma mater? Monash; Melbourne
With whom will you read? Zoe Maud
Who would you cast to play you in the movie of your life? Jason Segel



Tom Acutt

What was your dream job (when you were seven)? Chef

What was your first job? Delivering medications (for a pharmacy)

What is your alma mater? Melbourne
With whom will you read? David Cronin

Who would you cast to play you in the movie of your life? Philip Seymour Hoffman



Brandon Cooper

What was your dream job (when you were seven)? Sumo wrestler
What was your first job? Baker's Delight
What is your alma mater? La Trobe
With whom will you read? Maria Pilipasidis
Who would you cast to play you in the movie of your life? Paul Giamatti



Jakub Patela

What was your dream job (when you were seven)? Lawyer
What was your first job? Bunnings
What is your alma mater? Monash
With whom will you read? Andrew de Wijn
Who would you cast to play you in the movie of your life? Me



Harriet Geddes

What was your dream job (when you were seven)? To be Julia Roberts
What was your first job? Nanny
What is your alma mater? Monash
With whom will you read? Chris Nehmy
Who would you cast to play you in the movie of your life? Julia Roberts...!



Gisela Nip

What was your dream job (when you were seven)? Ballerina

What was your first job? Barista

What is your alma mater? Monash

With whom will you read? Carmen Currie
Who would you cast to play you in the movie of your life? Ali Wong



Yusur Al-Azzawi

What was your dream job (when you were seven)? Marine biologist

What was your first job? Bakers Delight

What is your alma mater? Monash; Melbourne

With whom will you read? Stella Gold

Who would you cast to play you in the movie of your life? Alia Shawkat and Ilana Wexler



Hannah Hofmann

What was your dream job (when you were seven)? Veterinarian

What was your first job? Christmas Market in Vienna
What is your alma mater? Vienna; Melbourne
With whom will you read? Fiona Batten

Who would you cast to play you in the movie of your life? Charlize Theron



Kenny Cheng

What was your dream job (when you were seven)? Veterinarian

What was your first job? Radio station assistant
What is your alma mater? Melbourne

With whom will you read? Alan L Hands

Who would you cast to play you in the movie of your life? Hiroyuki Sanada



James Gray

What was your dream job (when you were seven)? Qantas CEO or flight attendant

What was your first job? Casual milker (on a dairy farm)

What is your alma mater? Melbourne.

With whom will you read? Premala Thiagarajan
Who would you cast to play you in the movie of your life? A young k.d. lang



Angus Willoughby

What was your dream job (when you were seven)? To ride on the back of a rubbish truck

What was your first job? Fruit and vegetable shop shelf-stacker

What is your alma mater? Cambridge; Melbourne; UWA

With whom will you read? Mark Costello

Who would you cast to play you in the movie of your life? Late-90s Matt Damon



Joshua Sheppard

What was your dream job (when you were seven)? Computer game developer

What was your first job? Project manager for an international NGO

What is your alma mater? Monash

With whom will you read? Tom Clarke

Who would you cast to play you in the movie of your life? James McAvoy



Eugene Twomey

What was your dream job (when you were seven)? Barrister

What was your first job? Usher (Sun Theatre, Yarraville)

What is your alma mater? Melbourne

With whom will you read? Daniel Bongiorno

Who would you cast to play you in the movie of your life? Phillip Seymour Hoffman



Catherine Jones William

What was your dream job (when you were seven)? Lolly shop owner



What was your first job? Paper round
What is your alma mater? Melbourne; Deakin

With whom will you read? Diana Price

Who would you cast to play you in the movie of your life? Sandra Bullock



D'Arcy Hope

What was your dream job (when you were seven)? Herpetologist

What was your first job? Gallery attendant (Araluen Arts Centre)

What is your alma mater? Melbourne; Nanjing; Deakin

With whom will you read? Helen Tiplady and Dwayne Johnson



Mark James

What was your dream job (when you were seven)? Bakers Delight

What was your first job? Primary school tutor (maths)

What is your alma mater? Monash

With whom will you read? Sam Rosewarne

Who would you cast to play you in the movie of your life? Harriet Geddes (the early years)



Laurence Fudim

What was your dream job (when you were seven)? Race car driver
What was your first job? Retail

What is your alma mater? Monash; Victoria University

With whom will you read? Dan Sweeney

Who would you cast to play you in the movie of your life? Seth Rogan



Angelika Yianoulatos

What was your dream job (when you were seven)? Lawyer or Princess

What was your first job? Waitress

What is your alma mater? La Trobe

With whom will you read? Jim Stavris
Who would you cast to play you in the movie of your life? Melissa McCarthy or Taraji P. Henson



Andrew McNaught

What was your dream job (when you were seven)? Pilot

What was your first job? Jackeroo

What is your alma mater? Bond

With whom will you read? Matthew Hooper
Who would you cast to play you in the movie of your life? Cillian Murphy



AROUND Town

Junior Bar Conference

VBN

On Friday, 25 February, members of the junior Bar united in the Neil McPhee Room for the 2022 Junior Bar Conference.

The Junior Bar Conference is a forum that aims to assist junior Bar members to establish and develop their practices and learn the BD and networking skills essential. The conference was not held in 2020 or 2021 due to COVID-19, so the energy in the room for 2022 was electric.

This year's conference focused on the important question of how to develop a practice at the Bar—a question of critical importance with the impact of COVID-19 on the legal profession.

The half-day conference began with an opening address from Bar President Róisín Annesley QC. The first session was a panel discussion between session Chair, John Leung, Cam Truong QC (Commercial), Sarah Fiske (Family Law), Sandip Mukerjee (Defamation, Sports and Media Law) and Ffiona Livingstone Clark (Crime). The discussion focused on several key areas, including building and maintaining relationships with barristers, solicitors and clients, progressing in your chosen practice area, moving into new practice areas, and marketing—your profile, social media, personal websites, and publications.

Following on from this session, panellists James Strong, Kath McCarthy, with Rioghnach Obst and Naree Brooks, (Price Waterhouse Coopers) discussed ideas and options junior barristers have to ensure that their practice at the Bar is financially viable. This included how to run a sole trader business, how to manage your cash flow, and basic tax planning.

The major sponsor for the conference, Legal Super, hosted a session covering the top-five considerations about superannuation. Speakers included James Peters QC with Ly Holian and Benjamin Fernandes from Legal Super. This presentation focused on effective strategies

for super planning and structuring for sole traders including, super account consolidations, investment considerations and insurance.

During the lunchtime break, junior barristers had the opportunity to mingle with peers before the jam-packed afternoon sessions began.

Attendees chose between one of two specialised panel discussions which included senior counsel and prominent industry professionals. The first was aimed at commercial law juniors and explored what law firms and silks are looking for in a good commercial junior. Chris Brown chaired the session alongside panellists Wendy Harris QC; Philip Crutchfield QC, Jonathon Moore QC, Matthew Critchley (Corrs Chambers Westgarth), Ariel Borland, (Mills Oakley) and Heather Richardson, (Kalus Kenny InteleX Lawyers). This panel took a deep-dive into what law firms and silks are looking for in a good commercial junior.

The second panel focused on criminal, family and compensation areas in a discussion on how to go about getting referrals from law firms. Heather Anderson chaired this session alongside panellists Colin Mandy SC, (criminal law), Liz Kofoed, Partner at Lander & Rogers (family law), and Jeremy King, Partner at Robinson Gill (compensation law). The session included managing workflow, communication, client interaction and court work. The attendees gained valuable insight on building good relationships and developing a solid reputation for long term success.

The conference was closed by Richard Dalton QC, chair, CPD committee and Shane Lethlean, chair, new barristers' committee. Networking drinks at the Essoign club were enjoyed by presenters, guests, silks and members of the junior Bar.

The 2023 Junior Bar Conference will be an event not to be missed! ■



John Leong, Kath McCarthy, Rioghnach Obst and Naree Brooks



Cheryl Richardson, Luisa Frederico



John Leong, Kath McCarthy, Rioghnach Obst and Naree Brooks



Shane Lethlean



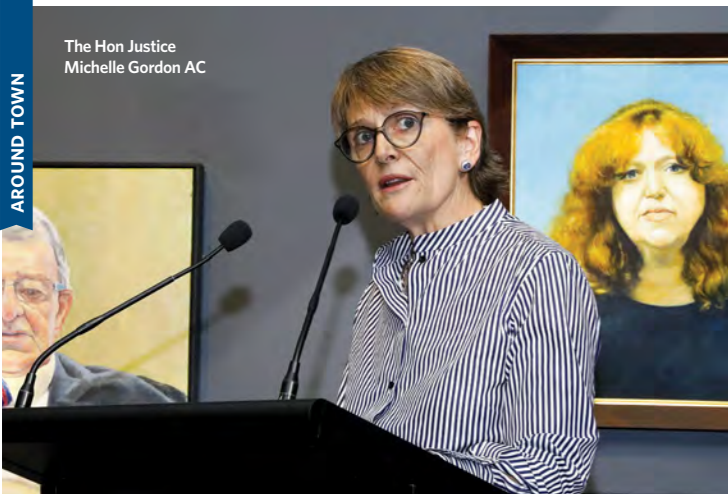
Michael Wyles, Rebecca Aoukar, Cheryl Richardson, Annette Gaber



Kathy Karadimas, Fiona Ryan SC, Jeremy King (Robinson Gill) and Patrick Doyle SC



Róisín Annesley QC



The Hon Justice Michelle Gordon AC



The Hon David Habersberger QC



Dr Peter Yule and Kingsley Davis OAM



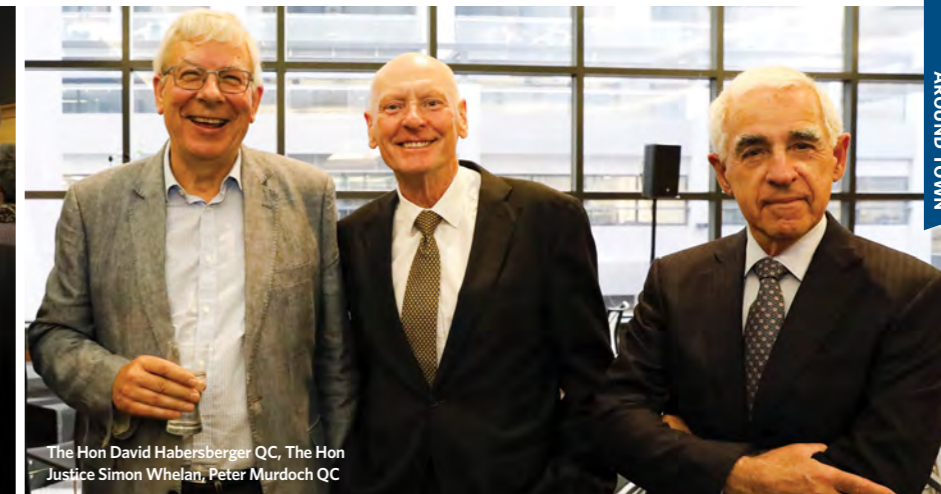
Peter Jopling AM QC and The Hon Justice Michelle Gordon AC



Michele Williams QC, The Hon Betty King QC and Terry Murphy QC



Siobhán Ryan SC and Maria Pilpasidis



The Hon David Habersberger QC, The Hon Justice Simon Whelan, Peter Murdoch QC

Launch of *Vic Bar: A History of the Victorian Bar*

MICHELLE GORDON

History is a challenge for many institutions. It can be congenial as well as contentious and confronting. Why then should the Victorian Bar commission and publish a new history? Peter Jopling has said that this history was commissioned because so much has changed both at the Victorian Bar and across society in Australia generally over the more than 50 years since Sir Arthur Dean's work, *Multitude of Counsellors: A History of the Bar of Victoria*¹, was published in 1968. I agree.

All institutions change and develop. This is especially true of the Victorian Bar. One of the joys for the reader of this history will be to see what they think has changed, and what has not changed, not just in the time they have been at the Bar or engaged with members of the Bar, but over the whole of the 180-or-so years of the Bar's life.

In 2016, Dr Duncan Green, Senior Strategic Adviser at Oxfam GB and a Professor in Practice in International Development at the London School of Economics, wrote in his work *How Change Happens* that "[i]nstitutions are both the object and subject of

most attempts to make change happen"². As he pointed out, people seeking change are often impatient—they are consumed by what Martin Luther King called "the fierce urgency of now"³. But as Green points out, "'now' is merely a moment on the continuum of history"⁴.

Most barristers focus primarily, if not exclusively, on their own practice rather than the institution of the Bar. That is not meant as a criticism. It simply reflects the nature of the work. The fierce urgency of now—the case at hand, the argument to be put, the argument to be met—is the primary, if not sole, focus of the barrister. But history is important, if not critical, in that fierce urgency of now—it is called precedent. It provides principles, ideas, examples or guides to be considered in subsequent circumstances. History is at once a limit and a foundation for change.

The institution, however—the Victorian Bar—is given little if any thought. But the institution—the Victorian Bar—and its history provide equally important precedent. The history of the Victorian Bar is important because:

- » it can inspire a deep respect for our predecessors⁵;
- » it reinforces both curiosity and humility⁶;
- » it makes us question what we take for granted;
- » it permits us to understand what has shaped us;
- » it seeks to identify not only how we have changed, but also how we might and should continue to evolve, including by providing us with insights and ideas on how to effect change⁷; and
- » it identifies who we are, where we come from and where we might go.

The reader of this history of the Victorian Bar will not only have the joy of discovering what they think has shaped the Victorian Bar—what has changed, and what has not changed, over the life of the Bar – but the reader will also be prompted to reflect (sometimes with discomfort) on what they learn from it.

Do they see the Bar as an institution that has a proud history? Do they see the events and people that shaped the Bar as inspiring respect? Do they see the Bar

as an institution that needs to change or as an institution that can bring about change in society more widely, or both? Beyond the fierce urgency of now, does the history recorded here provoke curiosity? Does it provoke humility? Does it provoke the current membership of the Victorian Bar to act beyond themselves?

For my own part, reading this history I was provoked. It is a powerful work and Dr Yule and those behind this publication are rightly to be congratulated. It has a force, a dynamism, that is compelling. Let me share with you what provoked me whilst reading it, and what I think might, should, provoke other readers—things that cause the reader to stop, reflect and think.

First and foremost, the reader should be provoked to think about the basic standards and values which have informed the Bar throughout most, if not all, of its collective life. Those standards and values—associated with the rule of law, professional ethics and advancing the cause of social justice for those who would otherwise not be heard—are so important because the Bar is a paradox. It is composed of fiercely independent individuals who come together as a collective bound by individual commitment to standards and practices of professional conduct about how each of them will conduct their practice. As Justice Brennan put it in *Giannarelli v Wraith*⁸, "[t]he purpose of court proceedings is to do justice according to law", and although counsel may appear to represent adversaries, counsel's paramount duty "is to assist the court in the doing of justice according to law". The way each barrister conducts

their individual practice is critical to the administration of justice, a concern of the whole of society, not just the Victorian Bar. This history compellingly identifies why that is so.

The reader of the history should also be inspired by and have a deep respect for so many former and current members of the Victorian Bar who showed courage and made personal sacrifices to ensure that the Victorian Bar not only continued but did so in a manner that both better reflected society and made society better. The work members of this Bar did (and continue to do) for and with our First Nations people throughout Australia and in connection with refugee claims stand as only two examples. These actions, the lessons they teach, also provoke humility. And that leads to the next observation.

The reader of this history—and particularly the current and all future members of the Bar—should also be provoked to act because this history provides what Green calls the "intellectual ammunition" to challenge the "orthodoxy of now". It compels us to question and look beyond the urgency of now. This history tells us how the Bar emerged and evolved—who, how and why. Those changes to the status quo, important changes—to practice, to the composition of the Bar, to providing a voice for the voiceless, to defending the rule of law, to better addressing diversity of all kinds, to ensuring that the administration of justice and therefore a functioning democratic society were maintained and improved—were not achieved overnight. They were the product of hard work, dedication, and the power of the intellect and humanity of members of the Victorian Bar. It is their



Alan Archibald
QC and Kingsley
Davis OAM

history which empowers us. Indeed, a signal of how far the Bar and our society has come in the past 50-or-so years can be seen in Justice Norris' Book Review of Sir Arthur Dean's history of the Victorian Bar, which concluded that "[a]ny young man proceeding to the Victorian Bar should read the book". One of the great strengths of the Victorian Bar 50 years on is not only the number and calibre of women, but the diversity—celebrated diversity—of our Bar: including first peoples, different socio-economic backgrounds, sexuality, 33 countries of birth other than Australia and where 18 languages other than English are spoken at home. My advice to any person coming to the Bar is that they should read this book.

The history also provides another aspect of, or reason for, intellectual ammunition—basic curiosity—not only to act but how to act for the benefit of something more than "me". For barristers to act beyond themselves, often despite their own adversity. The history's description of William Ah Ket, the son of a Chinese storekeeper and tobacco grower near Wangaratta who won the Supreme Court prize in 1902 and was the first barrister of Chinese descent of the Victorian Bar is curious and compelling. I was so eager to know and learn of and from him, what he did and how he succeeded despite the enormous challenges he faced. And yet his success did not mean that he abandoned where he came from and what he knew. He used his immense intellect and drive

for the benefit of something more than him—he successfully challenged in the High Court the notorious dictation test in *Potter v Minahan*⁹ in 1908 and the *Victorian Factories and Shops Act 1905* (Vic) in *Ingham v Hie Lee*¹⁰ in 1912.

The power and importance of this history is that Dr Yule identifies what the Bar has done well and how the Bar has contributed to society generally, from defending the Eureka rebels¹¹ to devising, prosecuting and arguing the Mabo litigation¹². But the power and importance of the work is all the greater because Dr Yule does not gloss over what has not been done well. Not all history is positive. Adverse or unsettling history equally has the capacity to provoke and so it should.

Some of the most unsettling aspects for the reader of this history will be the Bar's failings; its controversies, calamities, and its failures to act—some institutional and some individual. They cannot be ignored—the failure of the Bar in its early days to address diversity including the anti-Semitic treatment of many barristers is one powerful example. The treatment of Ashkanasy is one aspect of the history that provokes so many responses. At one end of the spectrum, there is so much respect for the individual, whilst at the other end there is shame with the actions and inactions of the institution and its members.

The reader's mind might turn also to later or more recent adverse events. We must learn from the past as well as the more immediate present. As an

institution, identifying how and why each of these events happened is just as important as celebrating the successes of the Bar—at least to ensure that we do not re-create the causes or repeat the same errors. The failings, like our successes, compel us to think beyond the urgency of now and to work smarter and harder for a better institution and a better society.

This work gives us all the opportunity to understand what is now happening, in the context of what has gone before. It provides us with the intellectual ammunition—the history, the facts, the people, the stories that forces you to stop, think and reflect beyond the fierce urgency of now.

And this history is timely. As the events of recent years have revealed, the Bar needs to recognise and celebrate its strengths—the sole significant repository of legal advocacy skills in Victoria, its independence and the fact that it continues to attract smart people—and to marshal those strengths for the benefit of something more than the individual barrister for the benefit of those for whom we appear, the administration of justice in a functioning democratic society, for the Victorian Bar and for a better society. *The History of the Victorian Bar*—a powerful work—provokes us to do just that. I am honoured and delighted to launch *Vic Bar: A History of the Victorian Bar*. ■

1 Arthur Dean, *Multitude of Counsellors: A History of the Bar of Victoria* (F.W. Cheshire, 1968).

2 Duncan Green, *How Change Happens* (Oxford University Press, 2016) at 75.

3 Ibid at 75, quoting Martin Luther King, Jr, 'I Have a Dream' (Speech, Washington, D.C., 28 August 1963).

4 Ibid at 75.

5 Ibid at 76.

6 Ibid at 77.

7 Ibid at 77.

8 (1988) 165 CLR 543 at 578.

9 (1908) 7 CLR 277.

10 (1912) 15 CLR 267.

11 Peter Yule, *Vic Bar: A History of the Victorian Bar* (Australian Scholarly Publishing, 2022) at 20-27.

12 Ibid at 277-284.

RESTAURANT REVIEW

Gasthaus on Queen

NICO BURMEISTER

My friend Rob and I are kindred spirits. He is Austrian-Australian. I am German-Australian. The result is we have a lot in common. Among other things, we both long for schnitzel. We both long for the beer. We bonded over these common loves. When we turned 18, we embarked on a pilgrimage. To Austria. To Germany. The sacred lands of schnitzel. The sacred lands of beer.

This was a time before the internet. Before TripAdvisor. Before Google reviews. If you wanted the best schnitzel in Vienna; the best beer in Munich; you had to fend for yourself. You had to go out and find it. You had to try. You had to err. And try we did. Sixty schnitzels we each ate in our month away, washed down with countless beers. All in the name of love. For schnitzel. And for beer. The best schnitzel: Figlmüller in Vienna. The best beer: Augustiner-Bräu in Munich.

Why am I telling you this? Isn't this supposed to be a restaurant review? I am telling you this to gain your trust. You can trust me when it comes to schnitzel. And you can trust me when it comes to beer.

Across the road from Aickin Chambers, and Chancery Chambers, and Emmerson Chambers, and apparently Hammill QC's chambers in *The Castle*, sits 211 Queen Street. Formerly home to Nick's, The Deli Counter and Saxe, 211 Queen is now Gasthaus on Queen.

Pronounced "gahst" (like, of wind) and "hous" (like, well, the home), a "Gasthaus" is a German-style inn or tavern with a bar and a restaurant. "Gasthäuser" (plural) are usually found in smaller towns, and are typically family owned and operated. They are also typically "gemütlich". This word has no English-language equivalent. It is difficult to define. Think cosy, friendly and of good cheer.

And Gasthaus on Queen is gemütlich. Downstairs houses a bar and several high-top tables. It allows the bending of the arm, and for friendly discussions with publican and chef, Christian Oblak. I pair my Trumer Pils (an Austrian pilsner, \$16 for 500 ml) with Bier Bretzel, a freshly baked pretzel (\$6). This is no Planters pretzel. It would not make George Costanza thirsty. Rather, this is a traditional pretzel, the type consumed soon after baking. Encouragingly, it is piping hot on arrival. It provides the perfect foil to my Trumer Pils. I ordered it with Liptauer (\$4). I did not know

what Liptauer was when I ordered it, but I am glad I did. Think paprika-laden-cream-cheese-dip.

The palate cleansed, we move upstairs to the dining room. Long banque seats adorn one wall. Smaller more private tables to the side. We choose a table by the window, overlooking the front doors of 200 Queen. There is a truant decadence in lunching while covertly watching colleagues come and go from work.

I pair my perusal of the menu with an Erdinger Weissbier, a German hefeweizen from just outside Munich (\$16 for 500 ml). "Hefeweizen"—unfiltered wheat beer—is literally "yeast wheat", but it tastes much better than that sounds. The ingredients and process mean that the finer examples produce hints of vanilla, bubble-gum and banana. Erdinger is one of the finer examples. Finding quality hefeweizen on tap in Melbourne is not easy, but Gasthaus on Queen delivers.

The lunch menu is solid, and should satisfy most. Think the German staples: pork knuckle, an array of sausages, pork belly, and the like. But pescatarians, vegetarians and vegans aren't forgotten. There is even a vegan schnitzel (of cauliflower). And, of course, I was there for the schnitzel. Four graced the menu: the aforementioned cauliflower, as well as chicken, pork, and Wiener (veal).

In honour of my teenage pilgrimage, I choose the Wiener (\$35). By default, it is served with potato salad, lemon, salad, and a cranberry compote. Christian tells me he is flexible with the sides. I stick to the serving suggestion, and order an additional side of sauerkraut (all sides \$7). The schnitzel is superb. The veal is tender. The breadcrumbs float around it like a halo: it's the bubbles of nothing that make it really something. This is how schnitzel ought to be. The potato salad is a delight. The cranberry compote adds a tart riposte.

My appetite sated, Christian suggests dessert. In a further ode to Germanic efficiency, they are all \$15. I prevaricate between the Apfelstrudel (apple strudel) and the Kaiserschmarrn (a fluffy, souffle-like shredded pancake replete with rum-soaked raisins and vanilla ice-cream).

In the end, I demur and settle for an espresso. I pair it with another Erdinger. The journey, started in my late teens, is complete. Schnitzel and beer nirvana has been attained. It was just across the road from work all along. ■

Gasthaus on Queen, 211 Queen Street, Melbourne. Monday-Saturday, noon-late.



Celebrating community service across the ages

Having been thwarted by Covid capacity limits and lockdowns in 2020 and 2021, we were pleased to be able to unveil three portraits in the Peter O'Callaghan QC Gallery on 15 March 2022. The portraits are of three commercial barristers whose careers have been marked by dedication to pro bono work and service to those who are struggling:

- » the Hon Ron Merkel QC by Tony Clark;
- » Julian Burnside QC by Gary Summerfield; and
- » a studio photograph of William Ah Ket taken in 1904, the year he was called to the Bar.

We were delighted to welcome the family and friends of Merkel and Burnside and descendants of William Ah Ket. ■



1. Prof Andrew Godwin and descendants of William Ah Ket 2. Peter Willis SC and Pip Nicholson 3. The Hon Ron Merkel QC and family 4. Julian Burnside AO QC and family 5. The Hon Ron Merkel QC



The Hon President Chris Maxwell AC, Róisín Annesley QC, Samira Lindsey, Dr Laura Hilly, Penny Neskovic QC, Professor Bryan Horrigan

Open justice project celebrates a significant milestone

DR LAURA HILLY, WILLEM DRENT AND TIM FARHALL

After a successful pilot program carried out through the course of 2021, in early 2022, the Open Justice Project celebrated a significant milestone, with the Victorian Bar and Monash University entering into a Memorandum of Understanding to transfer the Open Justice Project out of its pilot phase and guarantee its operation over the next three years.

The Open Justice Project is a collaboration between Monash University and the Victorian Bar to provide Monash University Law Students with an opportunity to assist barristers working on pro bono matters. Students participating in the Open Justice Project are available to undertake legal research as well as provide other general legal assistance to their partnered barrister on a pro bono, or a “low bono” basis. In this way, the students will obtain invaluable,

real life legal experience and an insight into the impact that pro bono legal services can have on both access to, and the administration of, justice in Victoria.

Since inception, it has received great enthusiasm and support from the Bar, students and the judiciary.

On 12 April 2022, the Victorian Bar and Monash University held an event to celebrate this milestone and the success of the pilot. Speakers included President Maxwell, President of the Court of Appeal; Professor Bryan Horrigan, Dean of the Monash Faculty of Law; and Róisín Annesley QC, President of the Victorian Bar. We also enjoyed hearing from two of the inaugural participants in the Open Justice Project— Penny Neskovic QC of the Victorian Bar, and Samira Lindsey, Monash Law alumni and inaugural member of the Open Justice student panel. Their remarks encapsulate the

very essence of what the Open Justice Project hopes to achieve and extracts have been included below highlighting its great value.

Further details about the Open Justice Program, including an assistance request form for barristers wishing to use the service, are available here: <https://www.vicbar.com.au/members/community/pro-bono-work/victorian-bar-monash-faculty-law-open-justice-project>

Remarks from Penny Neskovic QC on her experience as a barrister receiving assistance from the Open Justice Project

“Thank you for the opportunity to say a few words tonight about my experience with the Open Justice Project. It came about like this.

Late last year, the Supreme Court had

a matter in which the defendant was unrepresented. The court recognised that it, and the defendant, would probably be assisted by the defendant obtaining representation through the Victorian Bar’s Pro Bono Scheme.

I expressed an interest through Justice Connect and quickly after that I received an email from the court providing me with a court file, and someone to assist me with any inquiries I had about the matter, and the contact details for the defendant. All of that was important because I was not assisted by an instructing solicitor, I was on my own, and suddenly in the territory of having to do all these administrative things that I wouldn’t ordinarily have to do. The Supreme Court made all that very easy for me.

Then unexpectedly, I received an email from the co-ordinators at the Open Justice Project at the Monash Law School asking if I’d be interested in obtaining assistance from a Monash Law, law student. Of course, I said yes, who wouldn’t! Not long after that, I received the invaluable assistance of Daniel Hicks who was in his final year studying law. His experience far exceeded his years.

I think the importance of that is, as we all recognise, no matter whether you’re a junior barrister, a senior junior, a silk or indeed a judge, we all benefit having someone to assist—whether it’s a second pair of hands, a second pair of eyes, a sounding board—or in my case a sanity check!

Daniel and I approached the matter this way. We both read the court file; we conferred about the issues; I prepared a draft affidavit after speaking with the client and obtaining instructions. Daniel was undertaking research in the background; I then used his research, prepared some submissions; he reviewed my draft; I reviewed his draft. We collaborated: he picked up on all my mistakes, he critiqued my arguments and gave me more ideas. I wanted to mention that because when I was reflecting on what I’d say this evening, I wanted to show how the design of the project helps match the barrister’s needs with the law student’s contributions. I was able to identify some discrete tasks on

which I wanted some assistance, and the co-ordinators of the project were able to facilitate that by providing access to a student who was interested in assisting and who could meet the timeframes.

I really want to commend the project to all of you. It was an extremely positive and worthwhile experience for me. I think pro bono work is one of the most important and fulfilling contributions that we can make as lawyers. I was grateful for the opportunity to participate in the project, I was grateful for Daniel’s assistance. I hope our paths cross in the future when he commences practice.

I think what was also really important to us was that our contribution assistance was also acknowledged by the court in the judgment.

Thank you for that and I commend the project to all of you and thank everyone, the coordinators and everyone who’s made it possible.”

Remarks from Samira Lindsey, Monash Law alumni on her experience as an inaugural member of the Open Justice student panel

“In 2013, the Honourable Robert French, then Chief Justice of the High Court, said that the rule of law is a many coloured dream coat. His Honour went on to state that this is a:

Useful metaphor to highlight the many-hued discourses that exist about the rule of law, a concept which means different things to different people and which has been called a ‘celebrated historic ideal, the precise meaning of which may be less clear today than ever before’.¹

The same can be said when we consider the term, ‘access to justice’. Out of this has emerged a question as to whether access to justice is a service or a right (to use the language of the Honourable Justice Steven Rares)?² Of course, the answer is both. But perhaps your interest in the answer changes depending on the person in whose shoes you stand.

It was not until I became involved with the Open Justice Project that I began to

think more deeply about exactly what ‘access to justice’ is in practice. This project marked a significant milestone in my journey transitioning from law school to practice. It encouraged me to ask more questions, be more accessible and have more empathy. By the time I (very reluctantly) completed my term on the panel, I could walk away with more practical skills, a desire to develop my own pro bono practice, and most importantly, a greater understanding of how the needs of pro bono clients differ to others.

Now, I turn to our future student panellists for whom the Open Justice Project offers three unique opportunities. First, you are contributing to the enhancement of access to justice in a way rarely available to students. This is because there are far fewer opportunities available to students to support the pro bono practice of barristers, compared to those of law firms and solicitors. This is important because clients may be unaware of the need to engage counsel or how counsel will be involved. Students can facilitate this process by helping to ease the burden on barristers, as we have heard tonight. This also helps to lift some of the weight on community legal centres for example, in turn expanding the legal profession’s ability to advance open and equal access to legal support. In the 2009 Report of the Access to Justice Taskforce, it was stated that ‘an effective justice system must be accessible in all its parts’.³ The Open Justice Project responds to this by enhancing clients’ ability to access members of the Bar, aided by student paralegals. The benefit of involving students is two-fold: students can contribute meaningfully to the pro bono work of their assigned barrister whilst also developing their practical skills and gaining court exposure.

Second, you will become ever more passionate about your work. The assignment process adopted by the project matches a student with relevant exposure, skills and interest to a correlating matter and barrister. This means that students can pursue pro bono matters that directly align with their interests and curiosities.

I joined the Open Justice Project against a backdrop of volunteer paralegal work for Julian McMahon SC and the Capital Punishment Justice Project. Many of our clients were overseas. I did not understand the domestic pro bono landscape nor did I understand how varied and interesting the Australian matters are. With Matthew Albert of the Bar, I was fortunate to work on habeas corpus applications seeking to challenge arbitrary detention for asylum seekers. With Laura Hilly, I learnt about the intersection between human rights and employment law. Along the way, I drafted court documents in every Australian jurisdiction, and lost myself in a sea of discrimination case law. At every turn, I was in touch with and supported by my barristers, adapted to their individual working styles, and learnt about the chambers model and how the work of a barrister is both the same as and wildly different to the work of a solicitor. Most importantly, I walked away knowing that the domestic work was as interesting and valuable as the international work.

Third, you will have direct access to high-calibre and seasoned advocates. The barristers who you will work with are eager to get to know you, your motivation for joining the project and your career aspirations. They are a focus group for your questions—both, silly and sophisticated—and can help you understand how to pursue pro bono work moving forward—whether that is in your final years of study, as a law graduate or as a junior barrister (if you are so brave). I remember on my first day I was able to meet with my barrister in person (out of lockdown and COVID-free). I had come in prepared with a bundle of documents ready to talk about procedural law in the Supreme Court. Two minutes in, we were chatting over coffee about what subjects I was studying at Uni and whether I was interested in joining the Bar—not what I had expected but exactly what I needed. Not only will you make excellent connections but you will gain friends and mentors.

I understand now that access to justice is not only about the existence of pro bono services, but it is as equally about improving those services so

that clients from all walks of life have the same opportunity to receive effective legal representation. This is a fundamental principle of the right to a fair trial, recognised in by the High Court of Australia in *Dietrich v The Queen*,⁴ and enshrined in Article 14 of the International Covenant on Civil & Political Rights.⁵ Today, I am committed to a career that traverses both my bread and butter work (which I am still learning about) and pro bono work. I am fortunate that today I have been working on homeless law matters for Victorian clients, and tomorrow, assisting with the evacuation of refugees from Afghanistan. I continue my involvement in the Human Rights Subcommittee of the Law Institute of Victoria's Young Lawyers' Pro Bono Committee, and with Eleos Justice as it defends death row clients from execution. These are things that I hoped for during my time with the Open Justice Project and I hope that you too will share a passion for the important work that is achieved through the collaboration between the Bar and Monash Law." ■

1 Robert French AC, 'The Rule of Law as a Many Coloured Dream Coat' (Singapore Academy of Law 20th Annual Lecture, 18 September 2013) <<https://www.hcourt.gov.au/assets/publications/speeches/current-justices/frenchcj/frenchcj18sep13.pdf>> quoting RH Fallon, 'The Rule of Law as a Concept in Constitutional Discourse' (1997) 97 Columbia Law Review 1, 1.

2 See generally Steven Rares, 'Is Access to Justice a Right or a Service?' (Access to Justice – Taking the Next Steps Symposium, 26 June 2015) <<https://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-raises/raises-j-20150626#:~:text=Access%20to%20the%20courts%20is,away%20from%20the%20court%20door>>.

3 Attorney-General's Department, 'A Strategic Framework for Access to Justice in the Federal Civil Justice System' (Report, 1 September 2009) ix <<https://www.ag.gov.au/legal-system/publications/strategic-framework-access-justice-federal-civil-justice-system>>.

4 (1992) 177 CLR 292, 311. See also Australian Law Reform Commission, 'Traditional Rights and Freedoms: Encroachments by Commonwealth Laws' (Interim Report 127, 31 July 2015) [10.109], [10.111].

5 See especially Article 14(3)(b), (d).



1. Neil Brown QC 2. His Hon Paul Lacava, David Brustman QC, Graham Robertson, Gavin Silbert QC 3. Alex Manos 4. Graham Robertson



Farewell, Graham Robertson, Esq.

DARRYL BURNETT

Over 100 guests had a joyous and entertaining evening celebrating Graham Robertson's career on 31 March 2022. It was fitting that the dinner was held at the Essoign Club as Graham has been a great supporter of what he described as the "beating heart of the Bar". The guests represented all echelons of the Bar, young and old, male and female, senior and junior, to pay tribute to Graham.

The guests heard much not only about Graham's legal career spanning over four decades, but also his successful stints as a legal commentator radio host on 3AW.

The Hon Justice Tim Ginnane recounted Graham's role as his junior in the famous legal tussle between Footscray Football Club and the VFL during the merger wars of the late 1980s. David slew Goliath in court and Footscray survived.

Industrial relations and employment barrister Alex Manos, who had previously shared chambers with Graham, lauded Graham's teaching and mentoring skills, and

described him as akin to an "institution" at the Bar. He also expressed his particular gratitude to Graham for demystifying the term "dividend imputation" to a large portion of the Bar.

The address of the evening was the toast proposed by Hon Neil Brown QC. His Hon described, with hilarity, his patient wait to ascend to become the "father of the Bar"—that is, the most senior barrister at the Bar, and the realisation of what his next ascension will be!

It is true to say that the night's emcee, Darryl Burnett, struggled to curtail some of Graham's answers in the Q&A session. Graham's wife Rosemary was seen to give her husband the wind-up signal on occasion. However, it was recognised by all present that Graham is a man of conviction, courage and passion. The most poignant moment came when Graham was asked why he had stood up and publicly asked questions about Bar governance. His answer was, "I love the Victorian Bar and I want it to be unified".

Our best wishes to Graham and his family in his retirement. ■



Natalie Campbell

Matthew Collins
AM QC, President
of the Australian
Bar AssociationThe Hon Chief Justice
Anne Ferguson

The Hon Virginia Bell AC



Róisín Annesley QC



Lisa Hannon QC

2022 ABA conference— re-emergence in Melbourne

STEPHEN WARNE

The Australian Bar Association's conference, "Re-emerge 2022", got off to a cracking start. We have reproduced the whole of Justice Gageler's beautifully crafted address which kicked things off in the next pages. I thought it notable (slightly provocative even?) given the title of the conference and the tenor of much speech around the Bar in recent times, that his Honour celebrated the version of liberty exercised by Australians throughout the pandemic, overwhelmingly manifesting by their conduct the spirit of liberty described by Learned Hand:

Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it: no constitution, no law, no court can even do much to help it.

We most successfully did so, his Honour observed, by sacrificing our own individual freedoms of movement and association to ensure the welfare of others.

Next up was Richard Susskind OBE. Susskind is a lawyer at the coalface of the delivery of justice now, as the technology adviser to the Chief Justice of England and Wales, and an inventor of justice systems. He thoroughly convinced me that he is not a mad futurist, but a man with an applied passion for access to justice rooted in erudition and deep and original thought about the third arm of government.

An extraordinarily engaging and efficient speaker, the choice of this Norman Swan-esque professor as the international keynote was a credit to the conference organisers, since as Matt Collins QC warned us, his was not a presentation which wallowed in the warm fug of self-congratulation that can sometimes characterise congregations of lawyers assembled to listen to other lawyers.

On the contrary, Susskind laments as a failing of our profession that an estimated 54 per cent of the world has no access to judicial dispute resolution at all, and argues that

whatever the detriments of much of the work of the courts being conducted online, we must be open to the possibility that the status quo is even worse, blind as we generally are to existing defects. Even for those who do have access, he says that for many cases and many people, the traditional system costs too much, takes too long, and runs the risk of looking and feeling out of step in a digital society.

He sketches a three-part process in which the courts are firstly newly involved in the business of dispute avoidance, the second does not look much like current civil procedure, and the third—judicial determination—is a continuation from the first two. The first two are largely not, therefore, without prejudice alternative dispute resolution the ongoing utility of which is wasted as soon as it fails to achieve settlement. That is in contrast to the usual purported solution to the current problems of the civil justice system, the case against which is persuasively put by Owen Fiss

in the brilliant *Against Settlement* 93 Yale L.J. 1073. Susskind says—and I could not agree more—let the people have normative adjudication, the more the better.

There is no transcript or video of Susskind's presentation available to registrants or others. Those unmotivated to buy or borrow *Online Courts and the Future of Justice* (OUP, 2021) may get a flavour of the presentation by Googling "At the foothills of online court reform", to arrive at that article in *Counsel*. There Susskind says:

[T]echnology can and should enable courts to deliver more than judicial decisions. These *extended courts*, as I call them, should provide tools, for example, to help court users understand relevant law and the options available to them. They should guide users in completing court forms, and help them to formulate their arguments and assemble their evidence. They should also offer various forms of non-judicial

settlement such as negotiation and early neutral evaluation, not as an alternative to the public court system but as part of it. Less dramatically, everyday techniques and technologies—apps, smartphones, portals, messaging, video calling, chat bots, live chats, webcasts—should help non-lawyers interact much more easily with the courts. The extension here, and it is a major change, is that these systems are designed primarily for litigants-in-person rather than for lawyers. And these court users can themselves file documents, track cases, engage with court officials and judges, and progress their disputes by using intuitive, jargon-free systems.

What Susskind is advocating is already happening. He points to the British Columbia Civil Resolution Tribunal as a success story, and says that Brazil (where the backlog is 85 million cases) and Singapore are already working on more radical online court technologies. ■

Law in a Time of COVID

STEPHEN GAGELER

The Title of this presentation—"Law in a Time of COVID"—is with apology to Gabriel Garcia Marquez. The subtitle could well be "Never let a good crisis go to waste." The aphorism is often attributed to Churchill.

The aphorism, or something very like it, was actually introduced into public discourse in this century by Rahm Emmanuel at the time he was appointed Chief of Staff to President Barak Obama during the Global Financial Crisis. What he then said was words to the effect, "You never want a serious crisis to go to waste. It's an opportunity to do the things you once thought were impossible."

Pope Francis chose a similar theme in speaking about the COVID-19 pandemic at its global height in June last year. The "scourge" of the pandemic, he then said, "has tested everyone and everything. Only one thing is more serious than this crisis, and that is the risk that we will squander it, and not learn the lesson it teaches". "It is a lesson", he said, "in humility".

My theme—of what we should take away from our experience of having lived through COVID—is similar. As a judge inevitably is to a pope, however, my ambition is less lofty, my focus is more confined and my content is less profound.

For the past two years, we have been living through a global crisis which, from an Australian national perspective, has been broader and deeper than any since at least WWII. The most recent Intergenerational Report prepared by the Australian Treasury describes it as the most severe global economic shock since the Great Depression.

We who work in Australian courts and at the Australian bar have experienced the longest interruption of, and greatest disruption to, our institutional and professional practices that has occurred in our professional lifetimes. Of course, each of us will have had different experiences of living through the pandemic during the past two years. These experiences have been shaped by where we live and the communities of which we are a part.

We are, in the language of this conference, now "re-emerging" from the crisis. We meet as professionals at a national gathering in person for the first time since the pandemic began. It would seem a great waste if we aimed to do nothing more than simply to carry on as before.

This is a moment for reflection on the experience we have just been through. It is an opportunity to ask ourselves questions. What is it that has happened? What has it taught us about the society we serve and about our role in that society? What has it taught us about our core values? What has it taught us about what is important and what is unimportant within the institutional and professional practices which we used to take for granted? How might we aspire to be better versions of our former selves going forward?

Lest I be thought to raise expectations unduly, I should make clear that I have more questions than I have answers.

I do not want to dwell on technology. That is a topic to be addressed by Professor Susskind and to be taken up by Chief Justice Allsop later this afternoon. The most I want to contribute on the topic is to remark on the positive effects of our belated, COVID-enforced, take-up at an institutional level of communications technologies that have been widely available for some time. The ability now for practitioners and parties routinely to gain access to most courts remotely has led to an increase in efficiency. It has led to an increase in access to justice.

Equally importantly, it has led to an increase in the openness of justice. The fact that parts of the anti-vaccination proceeding brought against the New South Wales Minister for Health at first instance and on appeal to the Court of Appeal in the Supreme Court of New South Wales late last year were streamed live to over 100,000 viewers is no bad thing. The fact that parts of the Djokovic proceeding in the Full Court of the Federal Court were viewed nationally and internationally by over 1.2 million people is similarly no bad thing. It has enhanced the public understanding of the role that courts play as neutral arbiters in disputes about competing visions of the public good. It has in turn enhanced the standing of the courts and the profession within society. By both of those means, it has strengthened the rule of law.

I do not want to say much about the impact of the pandemic on the relationships between other branches of government. Its impact on the balance of power between the Commonwealth and the States will be a topic of in-depth discussion tomorrow morning. Like the crisis of WWII, and before that of WWI, the recent global health crisis has led to a greater degree of coordination between governments and has precipitated an alteration in the "federal balance", considered not in terms of any formal allocation or reallocation of constitutional power, but in the essentially practical terms of which level of government within the federation at any given time has responsibility for doing what.

The change that occurred in each of those earlier crises was an accretion of responsibility to the Commonwealth. Since the immediate post-war era, in which Sir Robert Menzies was prime minister, those earlier crises have been seen to have launched us on a one-way trajectory. Interestingly, the change that occurred in the recent crisis has been an accretion of responsibility to the states. That is not a phenomenon unique to Australia. Centrifugal forces have been felt in other federations throughout the world. Whether in Australia the earlier centripetal forces will return again to predominate, it is too early to attempt to predict.



The Hon Justice Stephen Gageler AC

The impact of the pandemic on the balance of power between the executive and legislative branches of government at each of the Commonwealth and State levels is another topic worthy of in-depth discussion. Inevitably in a representative democracy, any crisis in which the public is put at imminent risk of harm will swing the balance of power in favour of the executive branch: it has the immediate power of the purse; it has immediate access to expertise; it is better able to assimilate information; through its management of government resources, it is better able to provide a real-world response in real time.

Usually, although not quite inevitably in a representative democracy, as a crisis becomes protracted, the balance will swing back in favour of the legislative branch which will remain more in touch with the electorate. Those again are not tendencies unique to Australia. They have been experienced, and continue to be experienced, in representative democracies the world over.

What I do want to say something about is the impact of the pandemic on the relationships in Australia between the citizen and the state, between the courts and the citizen, and within the profession. Let me take those topics in that order.

There is in the rare books section of the library of the High Court in Canberra

a small and valuable book. It is a first edition copy of a monograph entitled *The Bill of Rights*, written by the American jurist Learned Hand and published by Harvard University Press in 1958. What makes the library copy valuable is that inside the front cover there is a handwritten inscription from former justice of the US Supreme Court, Felix Frankfurter, to the then-Chief Justice of the High Court of Australia, Sir Owen Dixon. The two had become friends when Dixon had taken time out from his judicial duties to become Australia's ambassador to the United States in the midst of WWII.

The inscription reads: "For Dixon CJ who is not burdened with applying the Bill of Rights but [who] has a great judge's true instinct about it all. With Esteem and friendship, Felix Frankfurter." The inscription hints at the theme of Learned Hand's book. The theme is that, whatever might be contained in the text of a bill of rights (or as we might now say a charter of rights) and, however precisely the meaning of that text might be sought to be expounded by the judiciary, the application of the text in a concrete case will come down to the making of a judgment. The making of that judgment will demand of the judiciary, and of those practitioners who are involved in the process of adjudication,

sensitivity to their own strengths and weaknesses as much as to the strengths and weaknesses of those whose rights and duties will be determined by the judgment.

The theme is a continuation of that eloquently expressed by Learned Hand in a speech he gave not long after the United States had entered WWII, at a time when Dixon was still our ambassador in Washington, and at a time when Allied victory remained uncertain. He entitled the speech, "The Spirit of Liberty". He was anxious to make the point that the true meaning of "liberty" was something very different from "ruthless ... unbridled will" or "freedom to do as one likes". That selfish view of liberty, he said, was ultimately destructive of liberty, as the global crisis then being played out illustrated.

"The Spirit of Liberty" in which Learned Hand put his faith at that time of crisis, he said he could not define but only describe. He described it as "the spirit which is not too sure that it is right ... which seeks to understand the minds of other men and women ... which weighs their interests alongside its own without bias ... [which] remembers that not even a sparrow falls to earth unheeded". "Liberty", Learned Hand said, "lies in the hearts of men and women; when it dies there, no constitution, no law, no court

can save it: no constitution, no law, no court can even do much to help it".

Overwhelmingly, Australians during the pandemic manifested by their conduct a spirit which conformed to the faith of Learned Hand. They did so, I venture to suggest, more than did the citizens of any other representative democracy with the possible exception of New Zealand. There were some vocal exceptions. But by and large, we were spared in Australia the polarising, confrontational and atomistic assertions of individual freedoms that occurred in the homeland of Learned Hand and Felix Frankfurter and in many places elsewhere.

Australians were prepared to recognise the gravity of the circumstances and the need for government action to address those circumstances. They were prepared to trust scientific expertise and to heed the public health advice. They sacrificed their own individual freedoms of movement and association to ensure the welfare of others. They made a choice to do their best to conform to the letter and to the spirit of constantly changing public health orders despite the personal inconvenience doing so caused them.

The experience tells us much about the character of our society which bodes well for the resilience of our democracy.

The consequence was that, measured in world terms, we experienced in Australia not only extraordinarily low rates of COVID-related illness and mortality but also relatively low rates of COVID-related litigation.

Interestingly, and tying in again with the thesis of Learned Hand, neither the severity of the restrictions on freedom, nor the level of compliance, nor the incidence of challenge in the courts, seems to have varied noticeably from one jurisdiction to another in Australia according to the presence or absence of a charter of rights and freedoms in that jurisdiction.

Those challenges to COVID-related measures which were pursued in Australian courts were heard and determined quickly and fairly. Of equal importance is that the challenges were dealt with in a manner that was considerate of the sincerely advanced

concerns of a relatively small number of persons. They found in the courts a forum where they were treated with dignity and listened to with respect. That is again something which bodes well for the strength of our democracy.

The High Court dealt with constitutional challenges to restrictions on freedom of inter-state and intra-state movement quite early in the management of the crisis. State Supreme Courts around Australia dealt with challenges to a range of other measures.

As to the impact of the pandemic on the mainstream non-COVID-related case-load of Australian courts, two rather disparate effects seem to have been felt. For civil proceedings and for appeals, after some teething issues associated with adjusting to remote hearings, it very soon became very much "business as usual". Backlogs occurred but have not become highly significant. The New South Wales Court of Appeal, I know, prides itself on never having missed a day of sitting.

For criminal proceedings, mainly because of the difficulty of assembling and accommodating juries, the effect of the pandemic has in contrast been highly disruptive. Perhaps because the restrictions on movement were most sustained here in Victoria, the impact of the pandemic on criminal proceedings seems to have been most severe here in Victoria. In a sentencing case concerning the utilitarian value of a guilty plea during the pandemic decided in June last year, the Victorian Court of Appeal predicted that the "backlogs in the resolution of criminal cases in [the Magistrates' Court and the County Court] will take years to reign in".

One hopes that will not be so. Perhaps there is a silver lining in the attention that has been focused on the need to ensure adequate resourcing of courts to accommodate the increased volume of criminal cases going forward.

That brings me, last but not least, to the topic of the impact of the pandemic on relationships within the profession. When he was sworn in as Chief Justice of New South Wales last month, Andrew Bell remarked to the multitude of

mask-clad legal practitioners who had assembled for the occasion that their continuing absence from chambers and solicitors' offices will sap them of vitality and will stunt the personal growth and professional development of young lawyers in particular. An essential part of being a good lawyer, he pointed out, is understanding people and human nature, how others react to different situations, perform under pressure, and interact with each other. Much of that is lost, he pointed out, in a professional practice or hearings reduced to scheduled Zoom or Teams meetings.

No profession—especially not the Australian legal profession and especially not that branch of the Australian legal profession that is the Australian Bar—can long expect to maintain its professionalism without the collegiality that comes through the combination of shared professional experience and incidental serendipitous contact. To adapt a refrain from a current long-running musical production, which has itself withstood COVID and which is about the life someone who spent time as a trial lawyer, our professional lives are diminished if we are not "in the room where it happens".

Without the combination of shared professional experience and serendipitous contact that comes with physical proximity, individual members of the bar will survive. Boomers in the twilights of their careers will make it to the end. Those who have become curmudgeons will do so happily. Gen Xs will probably do OK. Gen Ys, and especially those who are at the dawns of their careers will miss out. If they miss out, the Bar, and in turn the Bench, and ultimately the system of law we both administer, will be weaker for it.

That is part of the reason why I regard the holding of this conference as important and why I have braved the airport crowds to make my first trip to Melbourne in three years to support it. I congratulate Matt Collins and all of those responsible for organising the conference on pushing through. I commend you all for attending.

I for one am ready to mingle! ■

Flagstaff Bowls

CAROLINE PATERSON

The annual Flagstaff Bell barefoot bowls event was held by the Family Law Bar Association on 18 February 2022. This event is in its fourth consecutive year and has managed to dodge rain, wind and the pandemic each time. Just over 200 members of the family law profession attended, and we all had

a fabulous time. The solicitors finally managed to beat the Bar and Bench. Their Captain, Jason Walker, sporting dashing red trousers and an ear-to-ear grin, rang the bell and proclaimed that this is the first sporting victory he has ever had in his life. We all believed him. ■



Jason Glass, solicitor; Jason Walker, Captain of the Solicitors; The Hon Justice Alister McNab, Captain of the Bar and Bench and Sophie Mariele, Secretary of the Family Law Bar Association.

Brian Shaw QC Portrait unveiling

SIOBHÁN RYAN

We are used to hearing accolades at our portrait unveilings. Usually, these are in terms of the sitter's brilliant mind, legal acumen and superb court-craft. Their triumphs in the courtroom and other forums are remembered; their contributions to the life of the Bar, noted. As expected, such accolades fell from Justice Gordon when she unveiled the new photo portrait of Brian Shaw QC in the Peter O'Callaghan QC Gallery, on 16 December 2021. Her Honour recalled the Supreme Court Prize; the Oxford First; the brilliant career as a barrister and the rare honour bestowed upon him by the High Court at the end of it; but her Honour shared so much more. She spoke of LOVE. Specifically, Shaw's love for his partner, Keith Beard, who is also in the portrait, and why theirs was an uncompromising love story that helped shape the history of the Victorian Bar. Justice Gordon has kindly allowed the Victorian Bar News to reprint her speech.

BRIAN SHAW QC

Thank you for the introduction and for the privilege of unveiling this portrait to hang in this gallery. The gallery and this portrait would not have been possible without the inspiration and tireless energy of Peter Jopling AM QC. Peter, we are in your debt.

A portrait should reflect the person. A good portrait should tell you something about the person. This portrait—a photograph—is superb. The photograph—taken by Clive Stark, who some of you may remember as one of the great Classic FM broadcasters—records so much. Yes it is a photograph of Brian Shaw QC, a man who holds a very special place in my heart. Brian was the Supreme Court Prize Winner in law at the University of Melbourne and a Vinerian Scholar, ranking him first in his Bachelor of Civil Law class at Oxford. He was widely regarded as the cleverest member of the Victorian Bar. He certainly held that position not only for me but by many who were privileged to work with and learn from him. And learn from him we did—about the law and about life. Brian's one word response to any proposition you put to him—"why"—is indelibly etched in the minds of those who worked with him. He changed the way we thought and worked and how judges thought and worked.

A man so widely respected across Australia that on his last appearance in the High Court, in June 2006, the Acting Chief Justice, The Hon Justice Gummow AC, said this at the conclusion of the hearing:

The Court understands that this may be the last occasion on which it would have the assistance of leading counsel for the appellant. Mr Shaw signed the roll of counsel as long ago as 3 April 1959. Shortly thereafter, he first appeared in this court. He was led by Gillard QC in the case of *Ferrum Metal* reported in (1960) Volume 105 CLR 647. The judgment in the present appeal, when it comes to be reported, will appear, I imagine, in volume 225 or thereafter of the Commonwealth Law Reports. Thereby hangs a tale. In the last 45 years Mr Shaw has appeared in more than 80 cases in this court which have been reported in the Commonwealth Law Reports. The court acknowledges with gratitude the assistance provided over that period and wishes Mr Shaw well.

The High Court then held an afternoon tea in Brian's honour. The High Court had never before thanked retiring counsel or held an afternoon tea or any kind of tea, in their honour. And it has not done so since. That honour bestowed on Brian reflected that Brian was the intellectual leader of not only the Victorian Bar, but recognised to be the intellectual leader of the Australian Bar and for decades. His position was and remains unique. I say remains because in the latest edition of the *Victorian Bar News*, one of the newest silks, Lisa Hespe QC, when asked who has been a legal idol or mentor of influence to her, said "The late Brian Shaw QC. He could make the most complex concepts sound simple". Lisa's right. He did. As I said, his position was and remains unique.

To stop there, however, would fail to complete the picture. Because Brian is only half of the portrait. The other half of the portrait is no less significant and records something equally important. The photograph records the love story of Brian and Keith Beard. A love story that helped shape the history of this Bar. In 1984, Brian, as immediate past chairman of this Bar, attended the centenary dinner for the Victorian Bar with his partner, Keith. This was not to make some grand political statement but because of their love—what was once described as an act of simple truth and devotion. That act, that step, that love story was and remains as important today as it did in 1984. It was an act, a step, a love story that, for generations of barristers that have followed in Brian's footsteps, determined how this Bar would respond to diversity of all kinds—with acceptance, grace and style. It is a love story that defined Brian—he would not and did not compromise his love for Keith for any reason, professional or personal. It is so right that the portrait, that should hang in this gallery of this Bar, should be of Brian Shaw QC, a monumental leader of this Bar but also of Keith Beard.

So to you Keith—thank you. Thank you for giving us this photograph of Brian and of you, thank you for your place in the history of this Bar and thank you for being here tonight with Brian's niece, Emma Lincoln, as we hang this most important portrait in this gallery. The portrait.

The Hon Justice Michelle Gordon AC ■



Brian Shaw QC and Keith Beard
Photo: Clive Stark

2022

VICTORIAN BAR DINNER

PLAZA BALLROOM, MAY 27 2022

PRESIDENT'S ADDRESS

RÓISÍN ANNESLEY

Welcome to what promises to be another fantastic Victorian Bar dinner. Tonight is after all a celebration and there is much to celebrate. Not the least of which is that today marks the 100th birthday of Margaret (Peg) Lusink the oldest member of our Bar.

Margaret was the first Victorian female to be appointed to a Court of Superior Record when she was appointed to the Family Court in 1976. She retired from the court in 1990, making her the longest living judicial pensioner of all time. Given indexation, she is probably earning more today, than when she was a judge!

Tonight we celebrate the 180th anniversary of the Victorian Bar. I dare say that the handful of Irish, English and Scottish barristers who first came to the colony of Port Phillip in 1842, would be astounded at the size and life of the Victorian Bar today.

Yet at the core of our 2200 strong college, we hold dear the same reason for existence as those first barristers—namely to uphold the highest standards of professional conduct in the furtherance of our clients' interests and the administration of justice.

As a college we can and should be proud of our independence and the work we do.

Tonight, is the last Bar dinner at which **President Maxwell, Justice Middleton and Judge Tony Kelly** attend as sitting judges.

President Maxwell retires after 17 remarkable years of dedicated service as President of the Court of Appeal.

The ebullient **Justice Middleton**, a past chairman of the Victorian Bar and one of its greatest supporters, retires after 16 years on the Bench. It would seem that nothing can dampen the enthusiasm and vigour which his Honour brings to his work, listing as he did a month long class action hearing in person in December last year—a sort of Covid-be-damned attitude.

Judge Kelly, after five years of a staple judicial diet of commercial and bankruptcy matters—became a household name last summer as millions of people around the globe tuned in as the Novak Djokovic visa scandal played out on our screens. Retirement is I guess one way of avoiding being the duty judge next summer!

Last weekend three members of our Bar successfully stood for election to the Federal Parliament. It looks

“So I say to Mark, now that you are back in government: 'Don't. Forget. The Victorian Bar'.”

likely that **Keith Wolahan** will be successful in the seat of Menzies, which makes him the latest member of our Bar to take a seat in the House of Representatives. Congratulations to Keith.

Back in government is of course the returning member for Isaacs the Hon **Mark Dreyfus MP**, who I am delighted has been able to join us here this evening. Congratulations Mark.

Mark had an interesting slogan during his campaign. It read, “**On. Your. Side.**” No doubt some social media savvy millennial convinced Mark that the fundamental rules of punctuation and sentence structure could be ignored all in the name of successful “messaging”.

So I say to Mark, now that you are back in government:

“Don't. Forget. The Victorian Bar.”

On the speakers program this evening we welcome the State Attorney-General Jaclyn Symes, to be followed by our much-loved former President of the Victorian Bar, and now Chief Justice of Federal Circuit and Family Court of Australia, William Alstergren.

Both speakers are ‘*at large*’ so to speak—so if they are not entertaining—they only have themselves to blame.

My role this evening is to propose two toasts. The first is relatively straight forward—a toast to the Victorian Bar and the Bars of Australia. The second is a little more challenging—a toast to our Honoured Guests.

Now, to our honoured guests. Each is deserving of special

mention and congratulations either by reason of:

- » their elevation to the Bench or as a head of a jurisdiction;
- » an honour bestowed upon them by the Commonwealth in recognition of their service to the law and/or the community more widely;
- » 45 years of continuous practice at the Victorian Bar.

I suspect that none of you would forgive me if I did a roll call of **all** of the honoured guests, who number 29, and truth be told, I think I’ve already delivered a welcome address for more than half of them anyway.

So, on the basis that brevity is often the best advocacy—on behalf of the Bar I acknowledge and extend congratulations and best wishes to

I particularly congratulate our very own Judge Advocate General of the Australian Defence Force, Rear Admiral the Hon Jack Rush RFD QC RAN. Jack is only the eighth person to be appointed Judge Advocate

General of the Defence force, and only the third Victorian, the last being the late and dearly missed former member of our Bar, Major General the Hon Richard Tracey AM RFD QC. The Judge Advocate General is the ultimate authority within the military justice system and is effectively equivalent to Chief Justice of this important, specialist division. Well done Jack.

The last group of our honoured guests is of course the 45-ers.

It is a remarkable achievement for anyone to be in the same profession for 45 years. The March 2022 readers who signed the Roll only two weeks ago will need to still be in practice in 2067 if they are to achieve 45 years at the Bar. So, I thought it only fitting to dedicate just a few minutes tonight in recognition of our 45-ers.

Each of our 45-ers signed the Roll at the end of 1976 or the beginning of 1977.

The world was a different place. Practice at the Bar was different. To give that some context, let me take you back in time to 1976/77: Malcolm Fraser was Prime Minister; Sir Henry Winneke was Governor; Sir Garfield Barwick was Chief Justice of the High Court; Sir John McIntosh Young was Chief Justice of Victoria; January 1976 saw the first sittings in the then new Family Court; legislation was passed to create the Federal Court; there were 558 counsel in active practice at the Bar; subscription fees for barristers of less than one year call were \$10, for silks \$150; there was no internet; no mobile phones; there were no emails, no efilings, no ebrieties, no ehearings—e was just a vowel; *Don's Party* was released in the cinemas; “Dancing Queen” topped the charts, one of my all time favourites; at least a third of the people in this room weren’t even born; and I had just started school.

If I could I would declare that the success of each of our 45-ers is due in large part to the extraordinary training offered by the readers course. But of course they have been at the Bar, longer than the readers’



course has been in existence—and none of them did it. Indeed, it seems that having neither experience in the law nor indeed much experience in life, held either Greg Davies QC or Pat Tehan QC back from a successful career at the Bar in any way.

Both Greg and Pat were admitted on 1 March 1977 and **nine days** later signed the Bar Roll on 10 March—one wonders what took them so long!

Pat Tehan QC is one of the Bar’s most respected and successful criminal law advocates both at appellate and trial levels. True it is that many a juror has been mesmerised by Pat, as he gently twirled his moustache, musing quietly before he pounced with his piercing cross-examination. But if there are any juniors in the room, who are thinking of emulating Pat’s moustache as a sure-fire way to success—let me sound some words of warning.

First—Pat won’t like it. He prides himself on being the only man at the Victorian Bar with a waxed moustache.

Secondly, moustache wax is clearly detrimental to your health. The photo of the left of screen is a young Tehan sans moustache in 1977—fit, energetic and surgery free. Since that time, Pat has undergone more operations than just about any other member of the Bar in its 180-year history. It seems that if 45 years in the practice of criminal law doesn’t kill you, it makes you stronger.

Spare a thought then for **Greg Davies QC**—45 years buried deep

in the *Income Tax Assessment Acts* of 1936 and 1997, and the *Taxation Administration Act*, dealing with those perennial questions, “What is income?” “What is capital?”

An exceptionally capable and highly regarded tax silk, Greg is without doubt the Commissioner’s go to barrister when it comes to the very most difficult of cases, particularly those in the High Court.

Whilst those around him robustly debate whether the swan is black or white, Greg is renowned for sitting quietly during a conference, often with his eyes closed, sometimes with a scrunched faced—for a long time, much longer than anyone else in the room is comfortable with—before opening his eyes and pronouncing that the swan is in fact a duck.

If I could I would declare that each of our 45-ers have always aspired to fulfil the overarching obligation to ensure that costs are reasonable and proportionate—even before the *Civil Procedure Act 2010* was enacted. But then there is: **Noel Magee QC**. Noel of course has had a remarkably successful career advocating for and on behalf of the rich and famous, and big-end-of-town corporations, keeping as many double or triple booked days in the air as he could manage. His abilities have enabled him to long-command hefty fees.

In one very large commercial arbitration, a senior partner of a top-eight Melbourne law firm imprudently enquired of Noel as to his likely fees for the impending hearing. Noel in his inimitable way replied, “Do not worry—I shall let you know soon—and they will make your ears bleed.”

Noel of course had a rags-to-riches story of his own. Having worked as a carpenter in freezing conditions in London, he emigrated to Australia with his brother Tony, also late of our Bar, to work on the Snowy Mountains Scheme. He subsequently found work on the oil rigs in Bass Strait. If it had not been for his love of literature and the encouragement of the rig’s engineer, Noel might have



The 45-ers

Pat Tehan QC



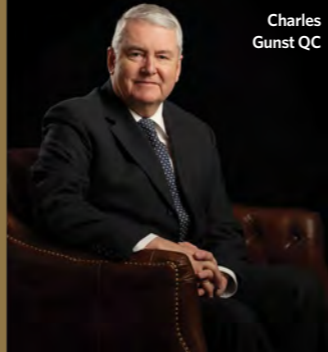
Greg Davies QC



Noel Magee QC



Charles Gunst QC



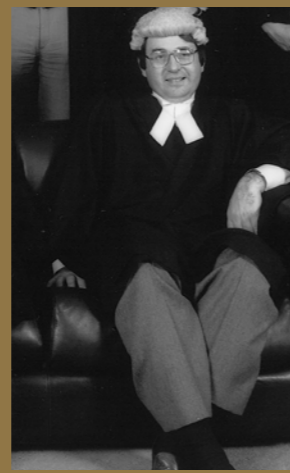
Lindsay Paine



Max Perry



Damian Austin



Russell Young



continued to be a remarkably skilled and competent carpenter rather than the formidable and effective cross-examiner he is today. Noel has always been exceedingly generous in assisting others.

If I could I would declare that notwithstanding all their virtues, that each of our 45-ers have their vices too, but then there is **Charles Gunst QC**. A man who must be without vice as he is also the Chancellor of the Anglican Diocese of Ballarat. Charles has had 45 years of continuous practice in the upper echelons of employment, administrative and commercial law. Ironically Charles appeared in a long-running dispute in the Federal Court about who were the validly appointed leaders of the Ananda Marga—which literally means “the path of bliss”. The case involved many turns of high drama, not the least of which involved the kidnap of the former “Pope” of the religion. For weeks Charles spent his days arguing about the true meaning of the scripture written by the Guru who was a former accountant in the Indian railways before the esteemed ecclesiastical lawyer Julie Dodds-Streeton. Charles saw no conflict in calling his witness, the man who would be “Pope” on the one hand and serving God as Chancellor of the Anglican Archdiocese of Ballarat on the other. Charles had a thumping victory, which led to the reinstatement of the Guru’s and his follower’s vast Australian property holdings, and the payment of Charles’s hard-earned fees—the path of bliss indeed.

If I could I would declare that each of our 45-ers is living proof that a successful career at the Bar is predicated on a fine balance between court work and paperwork. But then there is **Lindsay Paine**. Lindsay holds the all-time record in the 180 years of the Bar’s history for pumping out more common law pleadings and serious injury affidavits than any other barrister, even more than Mighell QC and

continued to be a remarkably skilled and competent carpenter rather than the formidable and effective cross-examiner he is today. Noel has always been exceedingly generous in assisting others.

If I could I would declare that each of our 45-ers have always gone to court well prepared and fully on top of their brief, but then there is **Damian Austin**. In 1977 when he first came to the Bar, Damian’s hair was blonder and more bouffant, and if you squinted and used your imagination, he looked a little like his favourite Geelong player, Sam Newman. It seemed that not only did he have the looks, but in the courtroom, he also had the on-field confidence of Sam Newman. In only his third brief at the Bar, Damian

“A good lesson for the junior members here tonight—if you are worried about a quiet patch in work, plan a holiday or a getaway: the briefs will come flooding in.”

Ingram QC combined. In my 24 years at the Bar, I am yet to see Lindsay Paine actually in a courtroom. It is said that one needs to be an Olympian high jumper to clear the paperwork briefs in his room.

Remarkably as a result of seeing so many elderly Greek clients for Zaparas lawyers over his 45 years at the Bar, Lindsay has become fluent in the language.

If I could I would declare that each of our 45-ers are larger than life characters and well-known figures around chambers, but then there is **Russell Young**. He may be more unassuming than others of our 45-ers, but Russell has been a stalwart of our Bar and had a long and successful career in wills, probate and family law. Long before the catchphrase of work/life balance was in vogue, when things were quiet Russell would head off to his farm to clear his head. Unfortunately it seemed to always be the case that no sooner had he donned his Akubra, stepped into gum boots and waded knee deep amongst the cattle, his clerk rang with a new brief and dragged him back to town. A good lesson for the junior members here tonight—if you are worried about a quiet patch in work, plan a holiday or a getaway: the briefs will come flooding in.

If I could, I would declare that each of our 45-ers have always gone to court well prepared and fully on top of their brief, but then there is **Damian Austin**. In 1977 when he first came to the Bar, Damian’s hair was blonder and more bouffant, and if you squinted and used your imagination, he looked a little like his favourite Geelong player, Sam Newman. It seemed that not only did he have the looks, but in the courtroom, he also had the on-field confidence of Sam Newman. In only his third brief at the Bar, Damian

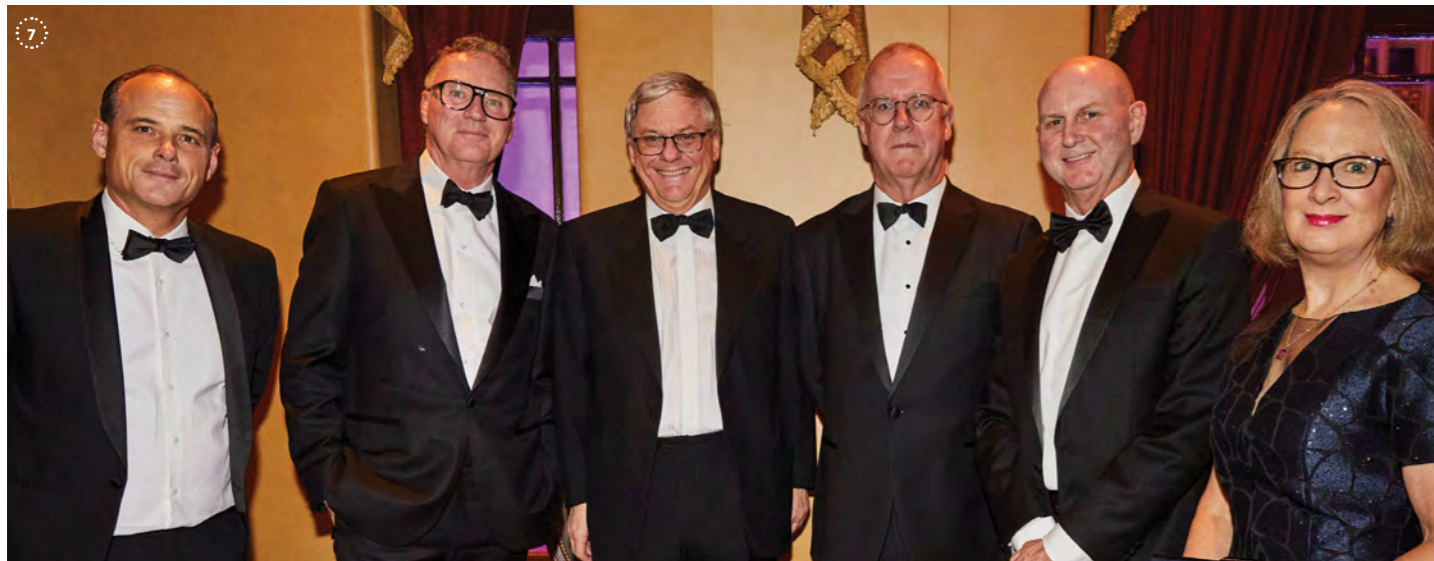
appeared in the bankruptcy court before Justice Sweeney. The totality of his preparation for the brief was to attend upon his clerk some 15 minutes prior to court to receive a single sheet of paper—his backsheets—with instructions to obtain an adjournment. Notwithstanding his lack of knowledge of any procedural matters in bankruptcy cases, his lack of any instructions as to why an adjournment was necessary, and no knowledge at all of the notorious reprobate for whom he was acting, Damian confidently rose when his matter was called and sought his adjournment. Justice Sweeney was not amused and Damian learnt early the need for proper instructions. In the finest traditions of the Bar, Damian’s bacon was saved by a magnificent George Beaumont, who took pity on the new kid on the block and explained away how it was that the newly minted counsel may not be in a position to provide the relevant and already overdue affidavit of means. Apparently moved by the submissions of Beaumont, Justice Sweeney granted the adjournment.

Finally, if I could I would acclaim the suave, sophisticated and elegant fashion sense of each of our 45-ers has been a hallmark of their success at the Bar, but then there is **Max Perry**. Max cuts a unique figure in chambers as he wanders the corridors in his Hawaiian shirts and purple crocs. Max is as well known for his advocacy training as he is for his brilliance in practice in criminal law. Max has mentored many aspiring lawyers and junior barristers, including his 13 readers—most of whom are practising at the Bar and one of whom is soon to be released on parole.

On behalf of the Bar, I congratulate all of our 45-ers on this significant achievement. ■



1. Tass Liveris, President Law Council of Australia, Róisín Annesley QC, Tim North QC
 2. Megan Cameron, Jennifer Cowan, Viola Katotas
 3. The Hon Jaclyn Symes, Attorney-General for the State of Victoria 4. Rachel Doyle SC and Senior Member Andrew Maryniak QC 5. Felicity Fox, Anna Dixon, Samantha Seoud, Chris Winneke QC, The Hon Justice Amanda (Mandy) Fox and Justice Jane Dixon 6. Talia Ferrari and Amanda Pearson
 7. Damien O'Brien QC, Senior Vice President of the Queensland Bar, The Hon Chief Justice William Alstergren, The Hon Justice Anthony (Tony) Cavanough, The Hon Justice David Beach, Chief Judge Peter Kidd, Deputy Chief Judge Meryl Sexton
 8. Chief Judge Peter Kidd, Tania Wolff, President of the Law Institute of Victoria, Chief Magistrate Lisa Hannan, Deputy Chief Judge Meryl Sexton
 9. Tony Middleton





1. Elizabeth Ruddle QC, Susanna Locke and Coroner Catherine Fitzgerald 2. The Hon Justice Michael Wheelahan, Tim North QC, Senior Member Jason Pennell, Douglas Laidlaw AM CSC 3. William Thomas, Kay Chan and Angelo Germano 4. The Hon Linda Dessau AC, Governor of Victoria 5. William Lye OAM QC, Glen Pauline and Daniel Nguyen 6. David Gilbertson QC, Marie Wilkening-Le Brun and Mark Robins QC 7. Maree Norton, Hannah Hofmann and Shawn Rajanayagam 8. Mitch Brogden and Raymond Elishapour 9. Maya Narayan, Tessa Meyrick and Rose Singleton 10. Judge Michael McInerney



1. Charles Shaw QC, Darryl Burnett, Alex Manos, Robyn Sweet
2. The Hon Justice John Snaden, Philip Crutchfield QC and Stuart Wood AM QC
3. Alex Manos
4. Julia Nikolic, Charles Pym and Liam McAuliffe
5. Ben Gahan, Andrea Bannon, Chris Hender, Ben Fry and James Moore
6. The Hon Justice Timothy McEvoy, Kay Chan, Benjamin House, Ben Gahan
7. Judge Amanda Chambers, Judge Michael O'Connell and The Hon Justice Amanda (Mandy) Fox
8. Jonathan Bayly and Maya Narayan
9. Fiona Spencer, Simon Martin, Leisa Glass, Fiona Ryan SC and Michael Clarke



“One blessing of my commission is that I am no longer required myself, literally, to arrange the guest seating, especially on the official tables. That, I can assure you, is a dark art.”

CHIEF JUSTICE'S ADDRESS

WILLIAM ALSTERGREN

The Wurundjeri Woi Wurrung people of the Kulin Nation have cared for and been the custodians of the lands upon which we meet for thousands of years. I pay my respects to their elders past, present and emerging.

Your Excellency, Attorneys-General, Chief Justice, the President of the Court of Appeal, your Honours, Honoured guests, and fellow members of the Victorian Bar, it is my honour and privilege to stand before each of you this evening and address the Victorian Bar, my home Bar, on this great occasion. I have had the privilege of attending this great dinner many times, in different capacities. One blessing of my commission is that I am no longer required myself, literally, to arrange the guest seating, especially on the official tables. That, I can assure you, is a dark art. These days I just give directions, it's so much better!

However, I have not previously had to give the "keynote" speech. That is a task that has tested the hardest of High Court justices. In my experience thus far, in terms of performance anxiety, speaking at this dinner remains only narrowly ahead of addressing a council of justices for the first time—but that story is for another dinner perhaps.

The most senior member present tonight is the Hon Kenneth Hayne AC QC who signed the Bar Roll in 1971 and whose Bar Roll number is 914. At the other end of the age spectrum, the most junior member present tonight is Angelika Yianoulatos, who signed the Bar Roll less than three weeks ago. Her roll number is 5483. Angelika is part of the March 2022 readers group.



The readers are here tonight. They are the rowdy mob sitting on tables 48 and 49!

One of those attending for the first time is Tony Middleton. He signed the Bar role on the 5th May, got engaged on the 7th of May...and contracted Covid on the 9th of May. Such is the life of the new, modern, polymath barrister. His father, John Middleton, is of course a former chairman and a great champion of this Bar. John attends this Bar dinner for the last time in his capacity as a justice of the Federal Court of Australia. John is sitting on the even rowdier table number 10, and yes we can still hear him up here!

We have all recently become accustomed to last minute disruptions of one sort or another. Fortunately, tonight's dinner is proceeding in its usual, in person, boisterous fashion. But I did muse as to the counter-factual; imagine if this dinner was held as a virtual affair:

- » Black tie on the top, board shorts or active wear on the bottom.
- » The Essoign Club delivering dinners via drone.

- » The event broadcast through BCL's YouTube channel, with the ability to mute, change channels, insert subtitles, fast forward or simply pause to make a cup of tea.
- » Perhaps the event could even be sponsored—with political advertisements every five minutes to capture swinging voters, or at the very least, candidates getting in early for the next Bar Council election.

It is wonderful to all be here together in the same room!

And as we are all here, it is important to recognise that, over the last two years you, as members of this Bar, have had to work in extremely difficult circumstances. Notwithstanding great uncertainty, delays, harsh restrictions, illness, personal upheaval and the intrusion of hearings into your homes, you have embraced these challenges.

You have adjusted to the digital transformation, supported the courts and have continued to serve the people of Victoria with the utmost diligence, skill and integrity. Much of this was done at great personal cost.

What has been achieved in this state since March 2020 by members of our Bar has been nothing short of astonishing.

On behalf of the courts and the litigants:

Thank you.

I have never been prouder to be a member of the Victorian Bar!

As our new members begin, it is important to recognise the values of our Bar and the immense contribution our members make to society in many and varied ways. This has remarkably continued during the last two years:

- Take for instance our guests tonight:
- » In the Judiciary: There are 27 Victorian and 13 Commonwealth judges, each of whom has heard and answered the call to serve the community.
- » The President of the Court of Appeal, the Hon Chris Maxwell AC will step down shortly after 17 years of distinguished service, in the tradition of the Hon Jack Winneke AC RFD QC.
- » In the leadership of our state: Is a former barrister, magistrate, Family Court judge and AFL commissioner—the first female Governor of Victoria, and one of its longest serving, her Excellency Linda Dessau AC, following in the footsteps of McGarvie, Gobbo and Chernov.
- » In politics, following in the tradition of Sir Robert Menzies, is the Hon Mark Dreyfus QC MP, a former Vice Chairman and someone who truly understands and champions the values of the Victorian Bar. We expect he will once more be our Attorney-General for the Commonwealth of Australia. Mark is joined by Adam

Bandt and Keith Wolahan serving in the Federal Parliament;

- » In the military, following the example of the great Richard Tracy AM RFD QC, The Hon Jack Rush QC RFD, another former chairman of the Bar, has been appointed Judge Advocate General for the Australian Defence Force—the Head of Jurisdiction of all military courts and tribunals across Australia with the remarkable rank of “Rear Admiral”.
 - » In advocacy training and mentoring for the profession as a whole—Judge Felicity Hampel AM QC who has been appropriately honoured, as has 45-er Max Perry— Bar Legend!
 - » Other important efforts during this period include Rachel Doyle SC’s work on “Power and Consent” and the efforts of members and retired judges The Hon Julie Dodds-Streeton QC, The Hon David Habersberger QC and The Hon Kathy Williams in that regard
 - » And, in our profession more generally, Matt Collins AM QC and Fiona McLeod AO SC should be acknowledged for their national and international leadership roles on the ABA and the IBA, especially in equality and diversity.
- In a similar vein, it is a great sign of the maturity of our state and the profession that we have so many women in leadership roles in Victoria. However, more must be done.

For the Bar to continue to be its best internally and when it comes to serving the people of Victoria, I believe that a truly robust and healthy college would accept that, the famous sporting metaphor, “We are all Patriots here”, applies equally to our Bar.

If that proposition be genuinely adopted for each and every member of the Bar, whomever they may be, whatever background they are from, whatever social group they may belong to, whatever race, gender, or sexual orientation, the fabric

of the Bar will then be woven of strong stuff indeed, for they are the values which are truly the warp and the weft of the college. Into that fabric must be woven equitable support and encouragement for all who aspire to a fair opportunity to succeed at the Bar.

We must all cherish that sentiment as our own, and if we do, external differences and disputes which do not matter, will be subdued for a higher cause.

And as part of that higher cause are our contributions, especially in the provision of Pro Bono work. This work is at times the most difficult and the most rewarding. The substantial nature and importance of these efforts are highlighted by the recent examples in the Pro Bono Awards. Those include:

- » A team of 15 barristers including senior counsel, Aine Magee QC, Dr Sue McNicol AM QC and Elizabeth Ruddle QC who represented the families of victims at the Coronial Inquest into the Bourke Street massacre for a period of over 10 weeks—an amazing effort!
- » Michelle Zammit’s advocacy for legislative reform, which allowed countless sexual assault survivors to self-identify in the media;
- » The representation of women experiencing sexual harassment in the workplace, by Leo Faust; and
- » One of our more junior barristers, Stephanie Brenker, representing an otherwise self-represented litigant in a complex personal injuries trial in the Supreme Court in only her first year at the Bar.

I congratulate the Victorian Bar for its ongoing leadership in providing ever increasing pro bono assistance.

And I respectfully note that when it comes to pro bono work, as with many other things, the Victorian Bar lets its actions speak for themselves. These are the attributes that make a great Bar and the Victorian Bar is a great Bar, built on the solid foundation of those lofty Victorian values of public service and public

duty. I see those values manifest and at work everyday.

We now have to deal with change.

President John F Kennedy once said that “change is the law of life”.

However, the last two years have also made it clear that change is indeed the life of the law.

We have learnt a great deal during the crisis. Courts throughout the country, as a matter of necessity, have learned to embrace the use of electronic or remote hearings. In some instances, at least—and I have in mind remote or regional litigants—access to justice has been enhanced by the use of technology. The same is true of cases involving significant family violence, the prevalence of which continues to be a national disgrace in our modern society.

However, there has been a chorus of distinguished senior jurists who have emphasised the important role that face-to-face hearings play in the administration of justice.

Justice Gageler, urged lawyers to “get back in the room where it all happens”.

The Head of Jurisdiction in the UK, Lord Chief Justice Burnett, remarked on the necessity of face-to-face hearings in order to ensure that the interests of justice are being met.

Justice Keane has advocated for face-to-face hearings and noted that many even in the broader legal profession struggle to understand the intangible value of our work being done in-person. And Chief Justice Andrew Bell warned of the unintended but insidious depersonalisation of our profession as a result of the pandemic. I concur with those comments.

In my view, face-to-face hearings are fundamental to the proper administration of justice.

We are, nationally, returning to a place where in-person hearings and jury trials are the norm and are recapturing the fairness and efficiencies these hearings bring. This allows not only interaction with witnesses, instructors and the



“It is essential that for its part the Bar not only embraces these changes but champions them. The reactive seldom win. Leadership wins. Innovation wins.”

Bench but also interaction between opponents. It enables counsel to engage with each other in a collegial spirit that is the hallmark of this Bar and that serves the interests of justice by avoiding unnecessary disputation. It also allows barristers to learn from one another, seeing the great female and male barristers of our Bar on their feet.

Tradition must be balanced with innovation. Whilst there may be no hard and fast rules, I would suggest that an appropriate balance is struck by conducting contested interim and final hearings in-person while remaining open to the conduct of matters by electronic means where that is necessary, taking into account the resources of the court, the need to avoid delay and the interests of justice.

The only way this approach will be successful is if barristers are briefed and briefed early.

But it is essential that for its part the Bar not only embraces these changes but champions them. The reactive seldom win. Leadership wins. Innovation wins. The Bar must do both to continue to lead the profession. I am confident that is exactly what the Bar is doing, and will continue to do.

May I congratulate the new members of the Victorian Bar on table 48 and 49, assuming they haven’t muted, changed channels or paused to make a cup of tea, and may I sincerely thank the existing members on their continuing dedication, integrity and adherence to the true values of the law.

I also thank you Lavishsha, for doing the guest seating.

As we embark upon our new world...I wish you all the very best.

It is so nice to be home.

Thank you. Have a wonderful evening. ■

News & Views

The Law Library of Victoria independent, authoritative, accessible

LAURIE ATKINSON*

Independent

Victorian barristers have been members of the Supreme Court Library Committee since 1854, bearing responsibility for the good management of a useful shared resource of legal information for all Victorian judges, barristers and lawyers since that time.

In recent years, many barristers have been involved with the design and implementation of a refreshed library, transforming the Supreme Court Library into the Law Library of Victoria. That being a modern library service that provides access to the digital and print collection, along with a wealth of support services in the form of a legal research training program, and research support.

We respect and support the work of authors of legal publications. The Law

Library has great interest in a thriving market of legal publishing. Authors are identified as leading experts on topics of law, and those authors based in Victoria can rely on the quality resources of the Law Library to help you research, write and polish your content.

The Law Library relies on feedback from all who use the service so that we continually improve.

You can get involved in the Law Library in a whole range of ways, including:

- » Use the digital collection (www.lawlibrary.vic.gov.au).
- » Ask for research support or guidance from a librarian.
- » Attend some legal research training conducted by the library.
- » Participate in the Law Library's regular surveys and opportunities for feedback.
- » Tell a friend about the service you've enjoyed from the Law Library and

- encourage them to enjoy it too.
- » Volunteer for one of the Law Library's many committees, advisory groups, working groups, etc.
 - » Attend one of the cultural events hosted by the Law Library.
 - » Perform in one of those cultural events.
 - » Or simply pop in and say hi, or send us a cheery email.
- The Law Library is your library.

Authoritative

Law librarians receive queries on average, once every 20 minutes, year-round. Queries range from simple directional or supply questions, to long-ranging research support or intricate legislative or case law enquiries. With decades of experience behind the team at the Law Library, you can be assured that staff familiarity with the structure of legal information, and the strength of different publishers and platforms creates an authoritative foundation. The Law Library's collection prioritises authorised versions. The Law Library's service provides you with confidence that you'll be directed to the right resource, at the right time.

Feedback: "Thank you for the research you did. It was a tremendous help in an obscure field."

Feedback: "I received your email just before I left for court this morning, it referred to a High Court case that we hadn't found, we got that case delivered to us in court and it was very important to our closing submissions (at least we think so....). So the biggest thank you ever, for your assistance."

Since Alexandria, libraries have shared information. The Law Library also delights in sharing skills with you. Thousands of participants enjoyed sessions held in the past year as part of our legal education program. This is part of how we impart some of our knowledge of legal information and legal research strategies. As your skills improve, the

“Premium content is available when you login—the librarians are happy to help if you haven’t arranged your digital account yet.”

effectiveness of your research will too. You will save time and increase the likelihood of finding exactly the right information for your work.

Feedback: "It was clear, easy to hear, and above all pragmatic. Learned so much and more than expected."

Feedback: "The Law Library's new Legal Research eLearning program has been a truly Heaven-sent aid to all Victorian barristers. I cannot commend this eLearning program highly enough. I am confident that familiarity with this excellent program will become an essential weapon in every skilled barrister's advocacy arsenal!"

Accessible

On mobile devices or from their desktops at any time of day or night all Victorian lawyers, including members of the Victorian Bar, have access to a curated collection of high-quality legal information resources.

Thomson Reuters Laws of Australia, Unreported Judgments database, Victorian Courts and the Lawyers Practice Manual provide a foundation set of information that barristers can rely on. The Laws of Australia includes 35 chapters with specialist comment—a solid springboard for any successful practice. LexisNexis textbooks provide expert commentary on a range of relevant topics with titles including:

- » *Hutley's Australian Wills Precedents* (2021) 10th ed.
- » *Mediation skills and techniques*, (2020) 3rd ed.
- » *Law of Misleading or Deceptive Conduct* (2019) 5th ed.
- » *Covell & Lupton Principles of Remedies* (2019) 7th ed.

Feedback: "Thank you for gathering the resources in one easy location."

This is an amazing resource."

Feedback: "The new Law Library is a fantastic and practical resource which will come in very handy!"

How do you find us? (Hint: we're in your pocket!)

www.lawlibrary.vic.gov.au

Premium content is available when you login—the librarians are happy to help if you haven't arranged your digital account yet.

What's the catch? There is none—we've pooled resources and improved buying practices so that it costs less to run the library, and we can spend more on the digital collection. Best of all—if you're a member of Victoria's courts and tribunals, or a member of the Bar, or any member of Victoria's legal profession, there's no cost to you to access the digital library.

Ubiquitous access is a critical characteristic of a level-playing field for Victorian lawyers—your success or otherwise will not be determined by a lack of access to core information.

Being limited to access legal resources physically located in CBD chambers, or in the Supreme Court Library during business hours, no longer reflects contemporary practice. The Law Library has transformed more than 200 years of legal information into a digital resource that you can access from anywhere, anytime.

If this brief account has not convinced you of the benefits of using the Law Library to improve your confidence and skill, then perhaps one final argument will: are you certain that opposing counsel isn't?

www.lawlibrary.vic.gov.au | llv@courts.vic.gov.au | [@lawlibraryvic](https://www.facebook.com/lawlibraryvic) ■

*Director Law Library of Victoria and Supreme Court Librarian

VLRC: Sex offences report

NICK GADD*

In November 2021 the Victorian Law Reform Commission's (VLRC) report on Sexual Offences was tabled in the Parliament of Victoria. The report covers every aspect of the way the justice system responds to sexual offences.

Many of the VLRC's recommendations, which the government is currently considering, are of relevance to members of the Victorian Bar. They cover topics such as specialisation, the conduct of trials, the work of juries and attitudes towards victims. The VLRC received a detailed submission from the Criminal Bar Association addressing all of these matters.

The VLRC acknowledges that over recent years there have been significant improvements in the way sexual offences are dealt with. However changing a culture is an ongoing process and the VLRC believes there is more work to do. This article gives a brief overview of some key recommendations.

Specialist training and accreditation for lawyers appearing in sex cases

Sexual violence is complex, and so is this area of criminal law. It is the VLRC's view that people who respond to sexual violence—including police, lawyers, and judicial officers—should have specialised knowledge of this area of law. In this inquiry, we once again heard strong support for more education and training in trauma for people working on sexual offence cases.

The VLRC recommended that counsel and judicial officers in sexual offence cases receive specialised training on the effects of trauma, misconceptions about sexual violence and effective communications with victim survivors, among other matters. Only counsel who have completed the training should be accredited to work on these cases either for the prosecution or in legally aided cases, with increased fees as an incentive for accreditation.

Jury directions and expert panels

The role of the jury in a sexual offences trial is critical. Juries have a difficult task in applying the law to the facts, particularly where the law is complex. As juries are members of the community, they bring into the jury room their own views about sex, sexual violence and gender, which may be misconceived. The VLRC has not recommended any change to the role or nature of the jury.

However we think that juries need more guidance during a trial. The VLRC has, accordingly recommended that jury directions should be strengthened.

It is the VLRC's view that the *Jury Directions Act 2015* should be amended to address misconceptions about sexual violence. That would include how juries should consider matters such as the absence or presence of emotion or distress when reporting or giving evidence, a person's appearance, their use of drugs and alcohol, their behaviour and the many different circumstances in which non-consensual sexual activity can occur. These directions should be given early and can be repeated throughout the trial.

We take the view that juries would also be assisted by more expert evidence. We recommend that there should be an independent expert panel on sexual violence available to the prosecution, defence and the court. Their expertise would counter misconceptions and rape myths and provide guidance on matters such as counterintuitive behaviours, the effect of abuse on children, family violence, and memory.

Treatment of victims in the trial

It is generally accepted that trials are distressing for victims.

The VLRC agrees that the treatment of victims in trials has improved over the last several years. A transcript of recent rape trials in the County Court indicated that judges and counsel are making efforts to protect victims and make courtrooms less intimidating places for them. We heard from the Criminal Bar Association that the aggressive cross-examination of sexual assault victims "is long gone and can no longer occur as the law simply does not permit it." However we take the view that good practices are inconsistently applied and more reforms are still needed.

A key recommendation is that before a complainant gives evidence, the prosecutor, defence counsel and judicial officer should discuss the nature and style of the cross-examination, to ensure the respectful treatment of the complainant. Ground rules hearings have been effective in trials involving child witnesses and those with a cognitive impairment but such hearings have not been required for complainants in other sexual offence trials. Using some of the features of ground rules hearings would ensure that complainants are treated with respect and can give their best evidence, while making the court's expectations clear and reducing the need for the judicial officer to intervene.

This brief overview covers only a handful of the report's 91 recommendations. For the full picture, interested readers are advised to download *Improving the Justice System Response to Sexual Offences*, especially chapters 18–21, from lawreform.vic.gov.au. ■

*Communications Manager, Victorian Law Reform Commission

Memories are not for sale

NICHOLAS GREEN

*Space exists, and can be dominated.
Time does not exist, and is invincible.*
—Jean d’Ormesson

I. Roma

An empire’s fluvial memory
insinuates itself as the Tiber
flexes its arm at Isola Tiberina
Late afternoon sunlight pierces the
canopy of plane trees
Along the surface of the water
a dragonfly appears to land then
changes course
The weeds fill the cracks, cover
the pavers under Ponte Garibaldi
Men, their tents pitched in the
shadows of the bridge, prepare
the evening meal
Two tourists walk towards the
west, recalling the harmony of the
Pantheon’s lines, the perfection
of Piazza Navona’s ellipse
On the Aventine, a breeze from
Ostia ripples through a Maltese
cross ensign
Inside the castello, the Grand
Master, a prisoner of the eternal
present, takes an aperitivo.
Each impression made on the
pavers smooths the passage
of ghosts.

II. Iraklou

The sharp point of a pyramid mountain
Sees off every invader, every bus of tourists, every crisis
A man in dark glasses wields a cane
As he leans into the corner
Two women begin a conversation which has no end
An elegant man, old, walks his golden retriever, whom
he gently chides for bumping into you
Those who work are at work; those who don’t, dream of finding it
The golden rule of the market place: don’t confuse hospitality
with friendship
Friendship is ephemeral
Euros live forever
Until, that is, the pyramid mountain, on the vote of Crete’s
ghosts, says “Time’s up.”

III. Valletta

Your face smooth as a bald stone
Impervious to a wrinkle
Enigmatic as the icon of the Madonna of Philermo
You seek Caravaggio
You end up finding the ghost of the Grand Master
Alone, at large, on this island
You regard Europe, as you would an elder sibling
The crossing to Gozo makes you seasick
Terra firma now
Horizontal on a park bench, the colour returns to your face
The building workers install a new clock-face in the church
The minor island’s social clubs offer respite
Till you enter an interminable corridor at the terminal
Embarked on the ferry for Malta, you sigh:
“Just get me back to Floriana.”

IV. Napoli

Vesuvius, destructive now as it was in 79 A.D.,
As creative now as then
Its authority grows daily
Its ghosts take their annual leave
at Herculaneum

In the Spanish Quarter, Montecalvario,
The din of motorcycles lashes your eardrums
Children eight, perhaps nine years of age
accelerate through the streets
Clapping on pace as they approach a corner

Indians sell souvenirs in Piazza Dante
Families observe the *passeggiatta*
In Santa Chiara, the friar, addressing the
children in the front pews, welcomes all the
pets present
Dogs guide the faithful to the communion rail

After, the faithful repair to *via dei Tribunali*
for a street treat: pizza marinara
Into which young & old bite, their happiness
complete
Napoli and the life-force form a symbiosis
With the breadth of its sweep, the bay takes
in the tired, the hungry, the itinerant.

In Montecalvario women come and go
while the sons of Our Lady of Mercedes
come to the aid of un figlio

V. Marseille

From Gare Saint-Charles make for
Boulevard d’Athènes, Boulevard Dugommier,
Boulevard Garibaldi
Turn right into La Canebière
Follow it to Quai de la Fraternité
Le Vieux Port is now before you
Hug Quai du Port till you reach Fort Saint-Jean
A passerelle links the fort with MuCEM
In front of MuCEM is Digue du Fort Saint-Jean
Look in the direction of the islands
Le Château d’If, its remains, are visible
The ghost of Edmond Dantès, intact, invades you.

Notre-Dame de la Garde signals the *Pharaon*,
which is coming from Smyrna, Trieste & Napoli
Past la plage des Catalans towards
La Corniche, les Goudes, second last village before
les Calanques
From the Prado roundabout, make for 280 boulevard
Michelet, Le Corbusier’s 1952 anthill
Forget the trafficking in narcotics, the assassinations
Marseille: the outcome of nature’s unedited bounty.

VI. Then & now

Ghosts do not die.
When ancients die, we learn to live with
our contemporaries. ■

Letter TO THE Editors

J 'Accuse: the Dreyfus Affair and the Pell and Chamberlain Trials

In the *VBN 170* Summer 2021/2022, page 8, Peter Rozen QC (as his Honour then was) agrees with the observations by RP Dalton QC, Michael Waugh and JX Smith in the *VBN 169*, Winter 2021 at page 9, that Alfred Dreyfus was charged, convicted and imprisoned because he was Jewish.

In the same piece, however, Rozen QC states that:

George Pell was charged because the Victoria Police had credible evidence that he had committed certain crimes, that George Pell was convicted because a properly instructed jury accepted that the prosecution had discharged its onus, that George Pell was sentenced according to law, and that the High Court ultimately overturned the convictions in an every-day example of the appeals process.

Rozen QC also disagrees with the observations by Dalton QC, Michael Waugh and JX Smith, that Pell was charged, convicted and imprisoned because he was a Catholic and queries whether it can be seriously suggested that the Victoria Police, the Director of Public Prosecutions and the Courts were all motivated by anti-Catholicism in their pursuit of the case against Cardinal Pell.

As members of the Independent Bar, we should all be concerned about

aspects of the Pell case which take it well outside of the realm of the every-day appeal process. One pernicious feature of this unhappy part of Victorian legal history is the media treatment of the case. In that respect at least it was disturbingly similar to the Dreyfus Affair.

Similarly, although being separated from the Pell case by a period of four decades, the 1982 trial and subsequent conviction of Lindy Chamberlain for the murder of her 10-week-old daughter, Azaria Chamberlain, in the Northern Territory Supreme Court, also raises disturbing questions as to the part the media played in influencing the trial process in that instance.

With respect to the Pell case, the media campaign appears to have been conducted against the Catholic Church as an institution and against George Pell as an individual, especially by the ABC, in the years leading up to the trial.

The media campaign against Pell was intense and as a result he became a public figure of hatred and contempt. Paul Kelly, writing in *The Australian*, observed that the "calculated media assaults on Pell" had been "spearheaded by the ABC" and had contributed to an intense and unjustified public hatred of Pell and a prejudicial environment in which to conduct a trial.

“In the case of Pell, the usual advocates of human rights and civil liberties went silent.”

In the Dreyfus Affair, the media likewise conducted an anti-Dreyfus and anti-Jewish campaign. The Lord Chief Justice of England, Lord Russell of Killowen stated that the 1899 retrial of Dreyfus, when he was again found guilty by a military tribunal despite a complete lack of any credible evidence and despite the fact that the real traitor had confessed, was “drowning in prejudice”.

In that respect it is pertinent to note the trial judge’s sentencing remarks in the Pell trial:

Finally, with respect to these preliminary observations, over the last period we have witnessed, outside of this court and within our community, examples of a “witch-hunt” or “lynch mob” mentality in relation to Cardinal Pell...

The second troubling aspect of the case concerns the role of the Victoria Police. It is difficult to understand why the Victoria Police initiated an investigation into Pell without any victims having made any complaints about him at all.

Robert Richter QC rightly said at the time, this was a “Get Pell operation”. Leading up to charges being laid there were extensive media reports, innuendo and salacious gossip.

The Victoria Police’s evidence against Pell appeared to be quite fragile. The DPP returned the brief several times. The Police decided to prosecute, notwithstanding the apparent reluctance of the DPP. Many of the charges were dismissed at committal, itself a most unusual occurrence. Given the implausibility of the charges relating to the “Cathedral Offences”, the other charges must have been very weak indeed. Not many members of the public are singled out by this form of treatment by Victoria Police, an arm of the state. The obvious despair displayed during the process by

Robert Richter QC, one of Australia’s most experienced criminal lawyers, is entirely understandable.

The third troubling aspect of the case concerns the timing of the charges, coinciding with the sudden publication by Melbourne University Press of Louise Milligan’s book, *Cardinal, The Rise and Fall of George Pell*. Milligan acknowledged on the ABC TV *News Breakfast* program on 17 May 2017, *Cardinal* was written “from the complainants’ point of view”. This anti-Pell book should not have been published at a time when charges were about to be laid because of the obvious prejudice involved. That didn’t concern the ABC with its 7.30 program devoting an entire program to its publication. In effect the ABC launched the book. And Louise Adler, then chair of MUP, defended publication of the book.

The fourth troubling aspect of the case is that the Director of Public Prosecutions, once it took over conduct of the trial, persisted with what should have been recognised as a fundamentally flawed case. Yet the DPP conducted the trial and informed the jury that, on the evidence which had been adduced, that the jury could find Pell guilty beyond reasonable doubt. Given the years of media vilification of Pell, and the fact that the DPP was prosecuting such a case, it is perhaps understandable that the second jury got it hopelessly wrong.

In that light, there is certainly a basis to suggest that the jury itself may have been influenced by the ‘witch hunt’ and ‘lynch mob mentality’ which, unfortunately, permeated the community as a by-product of the media coverage and the public vilification of Pell and the Catholic Church in the long years leading up to the trial.

Arguably, in light of the above, the case should never have gone to

the jury. The Victoria Police should never have laid the charges. The DPP should never have commenced a prosecution. Even at trial it should have been withdrawn.

More troubling still, the DPP persisted with this obviously flawed case in the Court of Appeal and again in the High Court. Ultimately, this led to the rather unusual 7–0 High Court judgment overturning the convictions.

In the Dreyfus Affair, justice was finally achieved because left wing intellectuals rose to the occasion to demand justice. Famously, Emile Zola published an open letter *J’Accuse...!*, knowing that he would likely himself be charged by the State, as he was.

In the case of Pell, the usual advocates of human rights and civil liberties went silent. John Silvester, a very experienced crime reporter who followed the trials, expressed concern. On 27 February 2019, in an article in *The Age* titled “Beyond reasonable doubt: Was Pell convicted without fear and favour?” Silvester noted that Pell is a polarising figure and then said this:

[Pell] was found guilty beyond reasonable doubt on the uncorroborated evidence of one witness, without forensic evidence, a pattern of behaviour or a confession ... If Pell did molest those two teenagers in the busy cathedral, it certainly does not fit the usual pattern of priests ... although he had access to hundreds of boys over his career, he did not groom the vulnerable. Instead, he attacked two he did not know in broad daylight in a near public area.

In other respects, the human rights lawyers and the mainstream media failed to highlight the glaring faults inherent in the prosecution case, with only a few Pell supporters and commentators raising concerns about a seemingly obvious miscarriage of justice. They, however, were dismissed as conservatives. After Pell’s failed appeal in the Court of Appeal, Milligan said this:

As the only journalist who has met J [Pell’s accuser] and other complainants against George Pell, and who wrote about these allegations in my book, *Cardinal, The Rise and Fall of George Pell*... I have never had any reason to believe that J is not telling the truth ... It’s the ultimate David and Goliath tale of a young man who never sought fame, just wanted justice, against a well-resourced defendant who has for years cultivated and been supported by the powerful.

When one reviews the facts of the Pell case, it is clear that this was not an everyday example, if it were, then we should all be very alarmed. It must be remembered that Pell is not some abstract concept, he is a human being who spent over a year of his life in prison as a convicted child-sex offender before that conviction was overturned by the High Court.

I personally experienced a concerning example of how seemingly entrenched was the prejudice against Pell, whilst acting for a defendant in the County Court on the day of the televised broadcast of the Supreme Court Appeal. Prior to the mention, the solicitor acting for the prosecution agency commented to me that they were hoping the mention would be over with quickly so they could head back to the office to watch the broadcast with other staff in the office to see Pell “get what he deserved”. I was genuinely shocked by their comment and reminded them of the presumption of innocence and the right to appeal, to which they of course agreed and replied that they were “just joking”. The reality, however, is that it was hardly a joke. No matter what their personal opinion of Pell was, the fact remained that the liberty of an individual was at stake.

The entire process raises serious questions as to the proper functioning of prosecution agencies and the courts in Victoria.

Similar issues with respect to the role of the media and the



importance of prosecution agencies being scrupulously objective also arose out of the 1982 trial of Lindy Chamberlain in the Northern Territory Supreme Court.

In the VBN 168 Summer 2020/2021, at page 34, Andrew Kirkham QC made the following observations with respect to the Chamberlain case:

The Chamberlains might have expected sympathy on the loss of their loved child, instead they received from the media and others hostility, disbelief and an entrenched attitude that they were guilty. Media scepticism and criticism of the Chamberlains and their version of events played a very significant role in creating a hostile pre-trial atmosphere and a pre-trial presumption of their guilt, as was indicated by a juror interviewed in the recent Channel 7 program entitled “The Lindy Tapes”. Both parents were derided and criticised for not acting as their critics thought they themselves would act if their child had been taken and killed. How shallow and lacking in perception.

Kirkham QC further commented that more recently that the media had similarly created an adverse pre-trial atmosphere in the case of *R v Pell*.

With respect to the Chamberlain case, he stated at page 34 that:

The Police and authorities were not detached and objective in the way

they went about their task of building a case for the purpose of convicting the Chamberlains.

Kirkham QC further observed at page 35 that:

The prosecution of the Chamberlains in the circumstances led to a shocking miscarriage of justice, caused by sloppy investigations and a lack of objectivity on the part of the police who, instead of objectively assessing the evidence, focussed on obtaining evidence to support their entrenched belief that that Mrs and Mr Chamberlain were guilty of murder and being an accessory after the fact of murder, respectively. Evidence called by the Crown in support of their prosecution of the Chamberlains was in so many instances grievously flawed.

The Chamberlain and Pell cases have many parallels with the Dreyfus Affair, because in both cases it was prejudice and bias, stirred up in the public mind by the media and arguably assisted, either consciously or unconsciously, by arms of the State, which resulted in mistrials of justice and the wrongful imprisonment of individuals. Indeed, the extent of the mistrial in Pell’s case was laid starkly bare when Pell’s conviction was overturned by a seven to nil verdict in the High Court. ■

PHILIP B HAYES

The extreme gradualness of inevitability

GIDEON HAIGH

Readers will recall that in *VBN 170* John Gordon penned a fitting review of Gideon Haigh’s *The Brilliant Boy – Doc Evatt and The Great Australian Dissent*. Mr Haigh is one of Australia’s preeminent journalists and prolific authors. He has generously permitted the publication of the following extract, which is replete with intriguing legal lore. What follows is an extract from chapter 4, which is titled *The Extreme Gradualness of Inevitability*.

The 1920s had been a lacklustre decade in the High Court. Knox, a skilled advocate, had proven an uninspiring jurist.

No-one complained when he left to tend his substantial private fortune. Higgins had steadily faded, yielding as the court’s intellectual leader to Isaacs, still formidable if prone to temperamental outbursts. Divergent approaches made for some harsh exchanges. Isaacs was prone to voluminous dissents: in Menzies’ words, Isaacs “liked as many goods as possible in the shop window”. Frank Gavan Duffy was notably thrifty with words, including a famous judgment in *The King v Murray & Cormie ex parte Commonwealth*: “I say nothing.” George Rich also wrote renownedly brief judgments, out of an indolence reflecting his silence on the Bench. “Duffy,” Rich is reputed to have said one day, “the trouble with you is you talk too much from the Bench.” Duffy fired back: “Small wonder since I have to talk for two.”

After Isaacs’ appointment as governor-general, the court’s most formidable personalities were successive leaders of the Victorian Bar. Sixty-year-old Hayden Starke was tall and imperious, so proud of his white mane that he increasingly abjured a wig. The son of a widowed post mistress, he had bootstrapped himself from articled clerk to celebrated barrister, appearing at the High Court on 180 occasions before joining it in February 1920 as a successor to Barton. Along the way, he had acquired the waspish tongue of the self-assured, self-made man: Menzies thought that he “would not temper the wind to the shorn lamb”. Once at the Bar he was rudely treated by a notoriously stern Supreme Court judge, Henry Hodges, alongside whom he then found himself in the gents at the Melbourne Club. When Hodges self-consciously expressed regrets about their exchange, Starke snorted: “How like you, Hodges. You insult a man in court and apologise in a urinal.” His judgments were similarly lucid and brusque.

Fifteen years Starke’s junior, Owen Dixon was donnish and ceremonious, his tastes severely classical and academic—he scorned the modern in literature and music, deplored cars as “lethal weapons”, joined an elite club who took long country walks in their suits. Before succeeding Higgins on the High Court, he had been Melbourne’s most sought after silk. A story went that one day, as he was going from court to court, he was interrupted to provide an advice by phone. Was teaching an industry? Answer: no. Fee: fifty guineas.

Dixon had a melancholic, mordant wit: “There are minds, perhaps mine is one, that take comfort in pessimism, which reconciles them to the inevitable.” His most celebrated and reverential pupil, Menzies, recalled being “quite startled” at some of Dixon’s conversational sallies in trusted company: “Instantly Dixon became the complete cynic, his nervous cough always heralding a devastating blast at somebody or something. He would freely and unapologetically analyse people and expose their mental deficiencies in what seemed to me to be a heartless manner.” In his year on the Bench, however, he had already set a new standard, with judgments unfailingly elegant, discursive and syllogistic—so much so that workshy Rich grew prone to falling in with them.

Of Evatt and McTiernan, Sydney lawyers in their thirties, their mainly Melburnian colleagues would have been conditioned to disapprove. Dixon reputedly contemplated resignation in protest at their selection, but contented himself with a characteristically acrid observation that the appointments were in their way complementary: “Evatt—brains without character; McTiernan—character without brains.” Sensitive to the discontent, and chastened by the return of Scullin and Brennan, cabinet hesitated over the choice of chief justice. Both Evatt and Dixon had advocates. Duffy became the

compromise choice, with a temporary air: he turned 79 in February 1931. A chill remained, bothering McTiernan: “Eggshell Eddie” craved the good opinion of others. The confident Evatt was troubled far less by his outsider’s status. The determined liberal, he felt, was bound to encounter headwinds. Watching their first day on the Bench, *Smith’s Weekly* fancied it detected the difference in the new boys’ personalities, reporting that Evatt seemed “determined to exercise his prerogative” while McTiernan “trembled like an aspen leaf, so that the very paper he held in his hand rattled”. Before the court was a case brought by shipowners, represented by Menzies, challenging the validity of preference for union labour on the waterfront. *Smith’s* clocked the irritation among waterside workers when McTiernan, in his thin, piping voice, announced that he would not sit, due to his having discussed the issue “in another place”.

The surprise which was immediately registered on the countenances of the various trades union leaders suddenly turned to disgust and wrath. Without a word being spoken, it was obvious to those seated at the press table that they considered they had been sold a pup. Why the learned judge should forsake Labor in this, its first hour of triumph, obviously appeared to them to be nothing other than the basest act of ingratitude ...

“Why then,” they ask, “did we appoint him?”

Evatt “did not seem to be in the least perturbed with the icy reception”, and eventually sided with Dixon and Rich in deciding that union preference was valid under the *Transport Workers Act*—a decision, affecting more than 7000 workers, indicative of the influence the court could wield. The court had, however, to swerve a second contentious matter: an appeal of *Trethowan v Peden*, continuing Lang’s relentless campaign against the Legislative Council. Because Duffy was an old-fashioned believer in the



“ Dixon reputedly contemplated resignation in protest at their selection, but contented himself with a characteristically acrid observation that the appointments were in their way complementary: ‘Evatt—brains without character; McTiernan—character without brains.’ ”

rights of the states and as chief justice had a casting vote, he could with Evatt and McTiernan have carried the day and lowered the boom on New South Wales’ upper house. But having appeared in the initial Equity Court hearings, Evatt felt obliged to recuse himself, and in March 1931 the majority sided with Trethowan against Lang, confirming a referendum as a necessary precondition of any move against the council.

The appointments went on being a bone of contention. The Nationalists’ leader, former attorney-general John Latham, put a motion of no confidence in the Scullin government for having accepted “political directions for appointments to the High Court, notwithstanding the declaration of the

prime minister and attorney-general that such appointments would strike fatally at the authority of the Court”. It was only narrowly defeated. During the state by-election in which the Nationalists regained McTiernan’s former seat of Parkes, ex-premier Bavin denounced the appointments as a “cruel wrong to the workers of Australia” that would “end in the complete destruction of the independence of the judiciary”. But their impact faded—partly because, for a period, the court itself did. ■

The Brilliant Boy – Doc Evatt and the Great Australian Dissent
by Gideon Haigh
337pp Simon and Schuster

In this Back of the lift section of the Victorian Bar News, the Bar acknowledges the appointments, retirements, deaths and other honours of past and present members of our Bar.

Adjourned sine die

Court of Appeal	
The Hon Stephen William Kaye AM QC	62
Supreme Court	
The Hon Ross Mackenzie Robson	63
Federal Court of Australia	
The Hon Jennifer Davies QC	63
The Hon Paul Anastassiou	64
Federal Circuit and Family Court of Australia	
The Hon Kirsty Macmillan	64
Silence all stand	
Federal Court of Australia	
The Hon Justice Lisa Hespe	65
County Court	
His Honour Judge Daniel Holding	66
His Honour Judge Gary Clark	67
His Honour Judge Andrew Fraatz	68
His Honour Judge Simon Moglia	68
Her Honour Judge Maria Tsikaris	68
His Honour Judge Peter Rozen	69
Magistrates' Court	
His Honour Magistrate Tim Greenway	70
Her Honour Magistrate Samantha Poulter	70
Federal Circuit and Family Court of Australia	
Her Honour Judge Caroline Jenkins	71
The Hon Justice Andrew Strum	71
Her Honour Judge Anna Parker	72
Her Honour Judge Alison Jane Burt	73
His Honour Judge Paul Glass	73
Vale	
David Clarke	74
The Hon Graham Fricke QC	74
The Hon Sir James Gobbo AC QC	75
His Honour Anthony (Tony) Duckett OBE QC	76
The Hon Dr Raymond Moyle Northrop QC	77
The Hon Geoffrey Michael Giudice AO	78
Jeremy St John QC	78
Paul Christopher Dane QC	78
Ronald Gipp	79
Gregory M McDermott	80
John Greenwell	81
David Bindon Blackburn RFD	81
Charles William George Wheeler	82
Gerald A. Lewis QC	83
The Hon Peter Vickery QC	83
Beverley Marea Hooper	83

Back OF THE lift
ADJOURNED SINE DIE

COURT OF APPEAL

The Hon Stephen William Kaye AM QC

Bar Roll No 1240

When Justice Stephen Kaye formally retired on his 70th birthday in December 2021, his Honour was the longest-serving judge of the Supreme Court. Like his late father, the Hon William Kaye, his Honour served on the Court for 18 years. Retirement is something of a misnomer, however, as his Honour is currently sitting as a reserve judge in the lengthy and complex *Roberts* criminal trial. This is typical of his Honour throughout his career on the bench and at the Bar, never one to shirk a challenge or hard work.

Upon his appointment in December 2003, his Honour was recognised as one of the few remaining generalists at the Bar, equally adept in the areas of crime, common law and commercial law. On the bench, his Honour continued to sit in all three areas. He presided over major criminal trials—including the prosecutions of Dupas, Debbs and Hicks, and in two major police drug trafficking trials. He was equally at ease in niche areas such as defamation and contempt. His Honour was instrumental in building a thriving common law jurisdiction in the Supreme Court.

His Honour’s strong belief in the independence of the judiciary and the separation of powers was evident in his inquiry in 2017 into the conduct of three federal ministers who had made comments published in the media about pending sentences in the Court of Appeal while the judgments of the court were reserved.

His Honour took great pride in taking the court on circuit throughout regional Victoria, frequently reminding us that “we are the Supreme Court of Victoria, not the Supreme Court of Melbourne.” His Honour particularly enjoyed presiding over trials. After his appointment to the Court of Appeal in February 2015, he continued to sit in the trial division for one term every year.

His Honour took his role as mentor to his 14 associates seriously, taking a great interest in their careers, and always taking the time to discuss with them what had happened in court that day. He was always particularly pleased when an associate went to the Bar. His Honour’s associates noted his kindness and humility, and that he would show respect to and talk with everyone, irrespective of their role at the court. He was also a popular choice as mentor for new judges on the court. With his usual modesty, his Honour thinks that he might have mentored “about half a dozen” of his colleagues, although we suspect that the true number is greater. He has informally mentored many more.

One of his Honour’s great passions (along with the Hawthorn Football Club) is indigenous social justice and cultural awareness. His Honour was chair of the Judicial Officers Aboriginal Cultural Awareness Committee for 14 years until his retirement in 2021. Under his guidance, the committee delivered numerous programs to educate judicial officers in issues facing the judiciary in relation to the indigenous community. He was very actively involved in the Bar’s indigenous students mentoring program, and also served as chair of the Court Services Koori Engagement Committee and as a member of

the Australian Institute of Judicial Administration Indigenous Justice Committee. In 2014, his Honour was appointed a Member of the Order of Australia for service to the law and to the judiciary, particularly in the areas of indigenous social justice and cultural awareness.

His Honour was also the judicial co-ordinator of the Jewish synagogue service for the opening of the legal year, each year from his appointment up until his retirement.

On behalf of the Bar, we wish his Honour all the best in his retirement and thank him for a very significant contribution to the judiciary and the administration of justice in Victoria.

ROSLYN KAYE AND NATALIE KAYE

SUPREME COURT

The Hon Ross Mackenzie Robson

Bar Roll No 1035

On 1 March 1972, Ross Mackenzie Robson was admitted to practice. On 13 April 2022, the Banco Court farewelled His Honour and speeches recounted his distinguished service and outstanding loyalty to the Bar and the Supreme Court of Victoria.

Few have travelled the cursus honorum as his Honour has. He was Sir Ninian Stephen’s associate in the High Court. He read with Jim Merralls QC. He took silk in 1988. He appeared in many of the major cases of the time. Two examples will suffice. He was part of the team that defeated the relentless takeover battle for BHP Limited, pursued for a number of years by Robert Holmes à Court. Holmes à Court’s debt-fuelled ambition was ultimately defeated after many court battles spanning the mid to late 1980s. The prescient tactical decisions made by BHP on advice from its legal team were crucial.

In his final case, he led the successful team in the epic Bell Group litigation¹. The case was issued

by liquidators in 1992. He was briefed in 1999 and amended the statement of claim in 2001. The trial lasted more than three years from 2003 to 2006. He led a team of three silks and nine juniors and reduced the most complex of cases to its fundamental core. He won by the most slender of margins, securing a judgment of almost \$2 billion.

There were too many other important cases to include in this brief article.

As for the Bar, he had 12 readers. It is rightly said that they constitute a “who’s who” in the law, including many judges of the Supreme and Federal Courts. He served BCL as a director and chairman for almost a decade, commencing when the company was insolvent. Through his efforts, together with others including Myers QC, he left it in a position of financial strength. Counsel enjoy long term security of chambers terminable on 30-day terms. This is the envy of the other Bars of Australia. We (and following generations) will continue to reap the benefits of his careful stewardship. He served the Bar Fund (now merged into LegalSuper), for 23 years from 1980 to 2003. In that period, its assets grew from just over a million to \$110 million.

Previous editions of *Bar News* cite the exceptional nature of his Honour’s service to the Bar.

Shortly after the Bell Group trial concluded, his Honour was appointed a judge of the Supreme Court. In this role, his fine understanding of the principles of equity and commercial law is evident in his many decisions. Just as he had in practice as a silk, in leading BCL and the Bar Fund, his Honour tackled the hard, long and complex cases. His Honour determined the most complicated of cases by reducing the dispute to concise issues and resolving them with clear and easily understood analysis. His Honour’s reputation will stand the test of time, as is evident in decisions such as *Korda v Australian Executor Trustees* (SA) Ltd [2015]

HCA 6; (2015) 255 CLR 62 and most recently in *Stubbings v Jams 2 Pty Ltd* [2022] HCA 6, where his Honour’s reasons were upheld.

Perhaps it was his Honour’s broad education which contributed much to his understanding of the affairs of commerce and the human condition generally. In addition to degrees from the University of Melbourne (LLM with Honours in Commerce, a Master of Laws) his Honour graduated from the London School of Economics with a Master of Science (Economics) and a further degree of Bachelor of Arts with Honours.

His Honour’s affable manner and understated tone almost camouflage the enormity of his achievements for the Bar and also as a member of the Supreme Court. Those who worked with him or briefed him, who were his clients or litigants before him, all reaped the reward of his Honour’s judgment and skill.

The 13th of April 2022 marks the end of an era.

JAMES W S PETERS

¹ *The Bell Group Ltd* (In Liq) v Westpac Banking Corporation (No 9) (2008) 39 WAR

FEDERAL COURT OF AUSTRALIA

The Hon Jennifer Davies QC

Bar Roll No 1769

Not long after Justice Davies was appointed to the Federal Court, an impressively bound small book arrived on my desk. It was entitled *A Vindication of The Rights of Woman* and its author was Mary Wollstonecraft. This unsolicited gift was the result, apparently, of her Honour having found out that I had lunched the previous week at Melbourne’s Savage Club, which—at least in 2013—did not welcome women guests.

It mattered not that I had been there as a guest of her Honour’s father

Justice John Daryl Davies QC (always known as Daryl) and brother Greg Davies QC—two of the leading lights in Victorian and Australian revenue history. Justice Daryl Davies, a former judge of the Federal Court himself, has unfortunately passed but Greg is in the prime of his practice as a silk. Back in 2013 I was constrained to point out to her Honour that Mary Wollstonecraft was the literary grandmother of Frankenstein’s monster and that the creator of that creature (perhaps itself somewhat of a savage) lost her husband, the romantic poet Percy Bysshe Shelley, to what were rumoured to be savage kidnappers off the coast of Sardinia (it is also a little known fact that Mary Wollstonecraft wrote *A Vindication of the Rights of Men* two years before she published her *Vindication of the Rights of Woman*). Nevertheless, I have never since visited the Savage Club.

This incident says much about her Honour. She was—as usual—as quietly and subtly persuasive in that simple action as she was as a judge.

I was privileged to have her Honour work with me for a few years as my junior. She was always diligent, producing draft opinions and written submissions which required little significant alteration and inevitably according to schedule.

Her Honour took silk in 2004 and, for a time, we had limited professional contact. Her appointment to the Supreme Court in 2009 did not change that much because, although she presided over state tax cases, I never had the pleasure of appearing before her in that court.

All that changed, when in 2013 her Honour was appointed to the Federal Court. I had the pleasure of appearing before her Honour in several income tax and other revenue cases, sitting either as a single judge or as a member of a Full Court on appeal.

Her Honour was always polite, quick to the essential issue and unfailingly fair though firm. In her capacity as a judge of both courts she

wrote her own way into Victorian and Australian revenue history.

In all her Honour’s professional time whether as a solicitor, barrister or judge, she maintained a sensible balance. In particular, she never lost her love of the outdoors, hiking with Justice Daryl Davies having been a particular joy for her. She has always had time for her two sons, Rowan and Lachlan, of whom she is unquestionably proud.

Her Honour retired from the Federal Court after only nine years, and I have not spoken to anyone who appeared before her who does not selfishly wish that she had stayed a little longer.

Yet after a total of 13 years as a judge, her Honour is entitled to enjoy her private life with just friends and family and to allow the outdoors to supply her with the happiness which it does.

DAVID BLOOM

The Hon Paul Anastassiou

Bar Roll No 2148

I have the great pleasure of recounting the achievements of my dear friend, the Honourable Justice Anastassiou, on the occasion of his Honour’s retirement from the Federal Court of Australia.

His Honour’s time on the Bench has all the hallmarks of the man behind the judge. Those fortunate to be acquainted with his Honour routinely share stories of his tremendous generosity, collegiality and vibrancy.

It is not possible for me to enumerate the totality of his Honour’s legal ability and achievements in this short note, but what I can say is that His Honour’s achievements as a judge belie the duration of his tenure at the court and he has served the administration of justice with great distinction. His Honour has played an important role in shaping the jurisprudence of the court in a variety of practice areas. His Honour

has delivered leading judgments in matters spanning the breadth of bankruptcy, corporate insolvency, regulatory law, consumer law, the law of remedies and practice and procedure.

Remarkably, his Honour also boasts the enviable record of not having yet been overturned on appeal to the Full Court. That is a reflection of the breadth and depth of his Honour’s intellect, hard work and diligence. It is also a testament to his Honour’s approach on the Bench, where it is common to find his Honour debating propositions with counsel and sharpening the focus on the critical issues in order to disentangle seemingly complicated or obscure factual and legal issues.

His Honour’s time at the Court has been graced, not only by his noteworthy judicial contributions, but also by his warmth and hospitality to friends and colleagues. His Honour’s hospitality is evidenced in many ways, whether that be preparing a Greek BBQ for the other judges and their staff, or making his chambers available as the de facto meeting point and kitchen for the court’s west wing.

His Honour has been a great judge, is a great friend and all of us at the Federal Court will miss him greatly. On behalf of the Federal Court, we wish you a happy and joyful retirement and we wish you all the best in your role as the self-appointed Australian ambassador to the Greek Island of Lefkada, and with that I say—Ευχαριστώ!

THE HON JUSTICE ANDERSON

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

The Hon Kirsty Macmillan

Bar Roll No 2015

On 24 March 2022 after more than 10 years’ service on the Bench, Justice MacMillan was

farewelled from Division 1 of the Federal Circuit and Family Court of Australia.

Her Honour was almost lost by the legal profession to social work when she originally was contemplating her tertiary studies. Ultimately, she graduated with a Bachelor of Laws from Monash University in 1978, commencing a legal career spanning more than 40 years, and in which time her impulse to serve the community never faltered.

Upon being admitted to practice in 1979 her Honour worked as a research assistant at Monash University before joining the all-female family law firm, Snyder & Fulford. She also maintained a long association with community legal centres, volunteering at the Fitzroy Service and working at the Springvale Service, and serving on the Victorian Legal Aid Appeal Committee and the Victorian Legal Aid Commission.

Her Honour signed the bar roll in 1985, and read with the late Noel Ackman QC. Over the ensuing years they became a familiar and formidable pair, appearing together in difficult parenting matters and significant property cases, some of which still resonate in family law jurisprudence.

Her Honour took silk in 2009, having come to be admired and respected for her work ethic, attention to detail, mastery of the law, as well as her warmth and good humour.

Appointed to the Family Court of Australia in 2011, her Honour never lost her capacity to relate to those whose fates she decided. Despite personal setbacks during her Honour’s time on the bench, particularly the untimely death of Noel Ackman QC whom she had married not long prior, her Honour continued to extend courtesy and compassion to all appearing in her court.

Her Honour is held in high esteem and great affection by

the Bar and the anecdotes and laughter at her Honour’s farewell bore witness to a much-loved judge. The court was overflowing with practitioners with whom she had maintained friendships over the years, and each of her many associates attended her Honour’s farewell, some travelling from interstate to do so.

As expressed in the address of Geoff Dixon QC, the Victorian Bar bids her Honour a fond and heartfelt farewell from the court she served so well, and a retirement we know will involve pursuit of many adventures in travel.

HELEN DELLIDIS

ELEVATIONS

From the Federal Circuit and Family Court to the Federal Court

The Hon Justice Timothy McEvoy

From the Supreme Court to the Court of Appeal

The Hon Justice Cameron Macaulay

From Division 2 to Division 1 of Federal Circuit and Family Court

The Hon Justice Alice Carter

The Hon Justice Alister McNab

County Court of Victoria

Her Honour Judge Meryl Sexton appointed as the State’s first Deputy Chief Judge of the County Court

OTHER APPOINTMENTS

Deputy President of the Fair Work Commission

Andrew Bell

Coroners Court

Catherine Fitzgerald

HONOURS

2022 Australia Day Honours

The Hon Gaetano (Tony) Pagone AM QC – Member of the Order of Australia for significant service to the law, to the judiciary, and to professional associations.

SILENCE ALL STAND

FEDERAL COURT OF AUSTRALIA

The Hon Justice Lisa Hespe

Bar Roll No 4193

The reduction in the ranks of experienced tax judges on the Federal Court of Australia caused by the departure of Justices Simon Steward and Jennifer Davies will be ameliorated—and significantly so—by the appointment of Lisa Hespe.

“Tax experienced” does not, of course, imply tax exclusive, as the judgments of Justices Hill, Edmonds, Steward and Jennifer Davies amply illustrate. Even in revenue cases, there are always other legal and factual issues to be addressed before the application of the relevant revenue statute can be considered.

Lisa Hespe graduated from Monash University with a Bachelor of Economics in 1992, and a Bachelor of Laws (Hons.) in 1994. She achieved her Master of Laws at the University of Melbourne in 2002.

She joined Mallesons Stephen Jacques as an articulated clerk in 1994 and was mentored by Simon Steward both as an articulated clerk and a solicitor. She was appointed as a senior associate in 2000 where she profited from a secondment to the NRMA for a short period, not least by meeting Craig, who would become her husband.

Lisa signed the Bar Roll in 2000 and continued her pupillage with Simon Steward. She took silk in 2021 having been a Senior Fellow, and co-lecturer since 2012 with Justices Gordon and Steward, in the Masters Programme “Tax Litigation” at the

University of Melbourne. She was a part-time senior member of the Administrative Appeals Tribunal since mid-2017.

No one who has read reasons delivered by her Honour as an AAT Member will have any doubt as to her ability to ably discharge her duties as a judge of the Federal Court.

Lisa first instructed, and later appeared as junior counsel, in the landmark tax dispute between BHP Billiton Finance and the Commissioner of Taxation.

I was privileged to be instructed by, and then to lead her, in that, and other high-profile cases. She was always modest, diligent, hugely helpful and supportive. Her technical input and judgment in cases often involving hundreds of millions of dollars in tax, as well as the reputation of important clients and their executives, was not only visible but remarkable. And her role extended beyond the technical. She played a very important part in managing the relationship between instructing solicitors and clients on the one hand and senior counsel on the other. She was always on top of the issues and evidence and would, despite her humility, never shy away from advising senior counsel that he or she was going in the wrong direction.

One fellow silk with whom Lisa also worked extensively has contributed the following:

Lisa enjoys the support of a loving family and circle of friends. Under a serious professional facade, she hides an incredible sense of humour. Her friends at the Bar have long admired her ability to identify the weak points in a case. After telling you how you might lose, she restores your confidence by telling you how to win. She will be missed at the Bar.

Nonetheless, with her background, it is hard to imagine anyone better placed to meet the demands of a Justice of the Federal Court.

DAVID BLOOM QC

COUNTY COURT

His Honour Judge Daniel Holding

Bar Roll No 3637

Danny Holding did articles at criminal law firm Slade & Webb (generally known as Slades) in about 1985. Danny became a very fine criminal lawyer. When he began practising law in the late 1980s Danny already had a sharp appreciation for the importance of our institutions of justice and the importance for all members of the community, whatever their standing, having equal access to those institutions. That strongly ingrained sense of fairness was already in the Holding DNA.

However, he was blessed in that he undertook his articles at Slades. He learnt his early legal craft under the guidance of the late and much-loved Philip Slade. Danny, along with every other young lawyer at Slades spent countless evenings in Phil’s lounge room working through every strategy for the next day’s court appearance. Phil infused Danny with the love of the law and helped him grow his own style of great advocacy. Phil would have been beyond proud to see Danny now wearing the purple of the County Court.

Danny started work at Slades with Les Webb, Phil Slade, Neil Clelland, Tony Parsons and Denny Meadows. In 1987 now-Magistrate Tony Parsons joined the partnership, and the firm became “Slades” and Parsons. Danny saw further changes when now-Magistrates Tim Gattuso, Belinda Wallington and Anthony Brand took over the firm. He stayed as a dedicated defence lawyer, committed to achieving the best outcome for his clients by careful analysis and application of the law, always happy to assist the junior lawyers he was a lovely man to work with.

At Slades perfecting his craft and surrounded by great other criminal lawyers, Danny was known to be totally across his cases, the relevant law, framing persuasive submissions and structuring powerful cross-examination. It was that all-consuming professional preoccupation that was at the heart of his constant state of absent-mindedness. Colleagues caught him going off to the Magistrates’ Court in the morning having forgotten to put his tie on. Whether his shirt was tucked in or not he never seemed to notice. And on more than one occasion those in the public seats at the Prahran Magistrates’ Court couldn’t help but observe that the very persuasive young advocate at the Bar table wasn’t wearing matching socks! Danny is also a beautiful musician. He plays the blues on his harmonica that bring on visions of the back bars in New Orleans. He plays guitar more than competently and has a singing voice sweet enough to melt one’s heart. However, he would doubtless agree that his greatest asset, his greatest love and the centre of his world is his family, comprised of his wife Delia, son Ben, and daughter Emily.

After 15 years in practice as a solicitor Danny wanted to do more and we urged him to apply for admission to the Bar. Perhaps he was pushed, however it was a decision he never regretted.

He has since not only acted for the defence but gained significant experience briefed as prosecutor with the CDP. He has retained a humility and genuine respect for those with whom he works and retains an understanding of the difficulties facing the many whom he has prosecuted. He has retained a true sense of fairness and decency in his practise of the criminal law. He can be relied on to read his materials and to give great thought to his decision making.

His appointment will serve

the community well. His judicial practice will undoubtedly reflect his deep understanding of the law, tempered with the compassion and mercy that the human face of the law demands.

MAGISTRATE TONY PARSONS,
ANTHONY BRAND

His Honour Judge Gary Clark

Bar Roll No 4781

Judge Clark grew up in Purnim, near Framlingham, and went to school in Warrnambool. He matriculated from Warrnambool High School where he excelled at sport while pursuing his studies. He previously attended North Warrnambool Technical School for four years where he had the dubious pleasure of sharing company with two fellow students who were ultimately placed on the “10 Most Wanted List” in Victoria.

After leaving Warrnambool, Judge Clark enrolled in the Faculty of Law at Monash University. While at University, Judge Clark pursued his passion for football and played for Fitzroy Under 19s and then Fitzroy Reserves.

Upon completing his degree, Judge Clark was “recruited” by the Portland firm of Harris Stringer & Bird, ostensibly to play football for the Portland Football Club. Judge Clark completed his Articles and was admitted on the 7th of April 1983.

Remaining with that firm, Judge Clark quickly established a reputation as a very professional, hardworking and diligent solicitor, with an uncanny ability to think laterally. His Honour ultimately took over the firm at a very young age, and the name of the firm was later changed to Stringer Clark.

By dint of Judge Clark’s hard work and innate ability, the firm attracted the support of almost all trade unions in Western Victoria including the largest union in the west, the Australasian Meat Industry

Employees Union, with whom the firm developed a very strong and lasting relationship.

Such was the regard of Judge Clark by the trade union movement, he was awarded the prestigious Bob McClure award for outstanding services to trade unionism, an award proudly displayed in his chambers until the day of his appointment. In the history of the award, he is the only non-unionist to have it bestowed upon him.

The lateral thinking of Judge Clark was typified at a time when TAC placed advertisements on TV on Saturday nights extolling motorists to drive carefully. Judge Clark seized the opportunity to promote his firm and arranged for an advertisement to immediately follow the TAC advertisement which said, “be careful while driving, but if you are injured, make an appointment to come and see me”.

The success of Stringer Clark led to an office being opened in Warrnambool (and later Hamilton and Horsham). Thus, the firm had two very busy offices, and was the largest common law firm in Western Victoria.

The zealous support of injured workers by Judge Clark was typified when representatives from WorkCover attended his office in Portland due to the large number of outstanding cases, to attempt to bring about settlements. During the day, it became clear that WorkCover was not interested in settling cases other than for a pittance. Judge Clark telephoned every client who was maimed to the extent that they were wearing a brace, had plaster casts on injured limbs, were on walking sticks, or were in wheelchairs. They were positioned outside the Portland office and as luck had it, a photographer from the Portland Observer wandered by. Seeing the assembled mass of maimed Portland citizens, the photographer obtained a photograph which appeared on the front page of the Portland Observer the following day, with a heading which read

something like, “WorkCover Won’t Settle”. Soon thereafter, a large number of cases were the subject of quick settlements.

In 1998 Judge Clark sold the firm of Stringer Clark to Richard Morrow and David Purcell and moved to Williamstown. He then opened an office in Williamstown in partnership with Patsy Toop (Clerk Toop). The firm quickly expanded, resulting in the need for larger offices, culminating with the firm purchasing premises in Jeffcott Street, West Melbourne, where it continued to operate until it was purchased by Slater & Gordon, at which time Judge Clark became employed by Slater & Gordon. He remained with that firm until being called to the Bar on the 22nd of October 2015, reading with Kaye McNaught.

After Judge Clark’s call to the Bar he quickly established an extensive and lucrative common law practice including in the challenging jurisdiction of medical negligence. Judge Clark was briefed in many large and complex medical negligence cases, as well as a large number of substantial common law cases. An example of his hard work, diligence and determination, Judge Clark was briefed as Junior Counsel in a case where a 13-year-old boy dived off the Black Rock Jetty into shallow water and became an instant quadriplegic. The arduous work, endeavour, professionalism and energy of Judge Clark in that case, resulted in the defendant being required to “cough up” hundreds of documents, which were of considerable assistance to the plaintiff, whose case was ultimately successfully settled.

Judge Clark will bring to the court experience, knowledge, humanity, ethic of hard work and humility, and he will provide satisfying and distinguished service as a Judge of the County Court.

TREVOR MONTI QC

His Honour Judge Andrew Fraatz

Bar Roll No 3607

Judge Andrew Fraatz was appointed to the County Court of Victoria on 1 March 2022.

His Honour’s appointment is not easily reconciled with the Ormond teenager whose HQ Holden skidded to a halt in the gravel pit at Monash University in early 1987. Over the next few years he studiously avoided the library and most of his lectures, preferring the pool hall, the beach and jamming with friends. However, one immediately understood that his infectious optimism was coupled with a powerful intellect.

It was not until the latter stages of his law degree, when he volunteered at the Springvale Legal Service, that his Honour saw how rewarding a legal career might be. He witnessed the potential of the law to improve the lives of his fellow citizens.

In 1994, his Honour obtained articles at Carew Counsel. He immersed himself in a broad range of litigation but always managed to leaven the pressures of practice with a rich array of interests. He played saxophone in several bands, dabbled in many sports and surfed at every opportunity.

It was a fondness for surfing which saw his Honour commence with Maddens in Warrnambool in 1998. A most varied practice provided opportunities to appear in state and federal courts and tribunals, in civil and criminal proceedings. It was an ideal preparation for the Bar.

In 2003, his Honour commenced reading with Peter Riordan, now His Honour Justice Riordan of the Supreme Court. His Honour’s approach quickly won admirers among solicitors and counsel alike. He demonstrated a creative legal mind, a powerful work ethic and a generosity of spirit in his dealings with colleagues and lay people. All of these qualities were on display in the long running *Love* litigation in

the Supreme Court, and in his rapidly developing personal injuries practice.

In more recent years, his Honour was in great demand in class actions in various jurisdictions, often working with Tim Tobin QC and Gerard Dalton QC. He appeared in many cases relating to bushfires including *Murrindindi* in Victoria and *Walla Walla* in NSW, as well as others concerning IVF treatment, COVID-19 and the victims of Anne Hamilton.

But surpassing all of his Honour’s professional achievements is the family that he has created with Natasha. It was wonderful to see Natasha, Lily Rose, Luca and the Fraatz and Gracey clans at his Honour’s welcome, in person. A tremendous occasion!

Unsurprisingly, his Honour’s appointment has been greeted with acclaim.

JEREMY SMITH

His Honour Judge Simon Moglia

Bar Roll No 3884

Judge Moglia comes to the Bench with an experience far greater than simply the practice of law. From a state school in rural New South Wales his Honour, as a young man, worked with the Uniting Church and with the World Council of Churches. His Honour’s roles were always aimed at helping others and helping them develop their best potential.

For a short time his Honour was the drive time announcer for 5MU- Radio Murray Bridge in South Australia .

His Honour ultimately completed his law degree at the University of Melbourne in 2001 and subsequently secured Articles at Victoria Legal Aid, where he spent some five years working in criminal advocacy. His Honour then went to the Bar and read with Judge Michael O’Connell.

It was at the Bar that his Honour found his calling and his Honour’s work went well beyond the work of a criminal barrister, although

he excelled at that. In addition to the long hours and hard work of defending serious cases, including terrorism, and prosecuting for the Commonwealth, his Honour was extremely generous with his time, holding many positions on various committees, including the Law Reform Committee, the Duty Barristers Scheme Committee, the County Court (Criminal Users and Sex Offence List) Group, the Pro Bono Committee and, the Victorian Legal Aid Collaborative Planning Committee. Additionally His Honour was a long standing member of the Criminal Bar Association (CBA) and worked for many years holding a number of senior roles with the CBA.

Judge Moglia had eight readers. His Honour gave freely of his time and wisdom to those readers, and to many other barristers. His Honour’s open and approachable manner was noted particularly by his readers. His Honour’s commitment to helping others is demonstrated by one story. On a skiing trip in Japan his Honour was in a restaurant when a group of young Australians came in and sat next to him. They were probably snowboarders as they knocked people on entering. One young man sitting next to his Honour had clearly never used chopsticks. His Honour demonstrated by extending his arm so it could be seen in his peripheral vision, and describing, in a just so much louder voice, how to easily use chopsticks. The young man avoided embarrassment; his Honour taught (as is his way), and all moved on.

NICHOLAS GOODENOUGH

Her Honour Judge Maria Tsikaris

Bar Roll No 3798

Judge Tsikaris was appointed to the County Court on 1 March 2022.

Her Honour arrived in Australia from Greece with her family when she was two years of age. Her Honour now has a daughter undertaking International Baccalaureate studies

and a husband, and both are incredibly proud of her achievements.

Her Honour’s commitment, hard work and natural ability are impressive.

Her Honour studied at Monash University and then completed a Master of Laws at the University of Melbourne.

Her Honour completed her articles at Clements Hutchins and Co, and later became a partner at Dunhill Madden and Butler and Deacons.

In 2005 her Honour came to the Bar, and right from the start had a flow of work that never ebbed.

This was a sign of how highly her Honour was regarded by her peers and opponents.

Her Honour became an expert in the work cover jurisdiction performing both plaintiff and defendant work.

Her Honour resided on the seventh floor of Owen Dixon Chambers West throughout her time at the Bar, and had one reader Victoria McLeod.

Her Honour was known as a strong advocate and a tough negotiator and most importantly she had the ability to multi-task.

One wet morning her Honour was required to attend a view in a Supreme Court damages trial and was driving whilst conducting negotiations (in two other matters) on the phone in her car.

Her Honour arrived at the view, with the jury waiting, under police escort with sirens blazing as the police had been under the mistaken view that her Honour was not using a hands-free car set.

Her Honour was a member of the Common Law Bar Association and Compensation Bar Association having served on the committee of the latter.

Her Honour has a strong intellect. Her Honour’s ability to understand and interpret legal concepts lead to her being a respected source of guidance to her colleagues in chambers.

Her Honour is also known for her genuine love of fashion and food and

hopes retain the use of her clerk’s address for delivery of the internet shopping parcels that usually arrived in chambers on a bi-weekly basis.

Her Honour’s appointment to the County Court of Victoria is a source of great pride for her family and her community. Her Honour’s compassion, dedication and capacity for hard work will benefit the profession and the community.

AMANDA RYAN

His Honour Judge Peter Rozen

Bar Roll No 3244

His Honour Judge Peter Rozen began practising law in 1988, at Maurice Blackburn & Co in workers’ compensation. He was then recruited to help establish the Central Investigations Unit at the Victorian Department of Labour, a forerunner of today’s WorkSafe. After a year travelling overseas with his wife Mandy—now Judge Chambers of the County Court—Peter returned to Melbourne to work as a legal consultant for clients including ComCare and the National Road Transport Commission.

We first came to know Peter in 1998 when he joined the Victorian Bar. He read with Mordy Bromberg (now Justice Bromberg of the Federal Court), a senior member of our floor in Douglas Menzies Chambers. Peter was a congenial and valued member of the chambers, which he shared with the authors, in Joan Rosanove Chambers and later in Castan Chambers.

Peter had two readers, Oliver Lesage and Sally Buckley. He took silk in 2018. Many of his juniors since that time speak affectionally of his patient encouragement of them, his willingness to give them responsibility, and his example of keeping work and life in balance.

Early in his time at the Bar, Peter appeared for the United Firefighters Union at the inquest into the deaths of five volunteer firefighters in the

1998 Linton fire. The lengthy inquest was a formative experience for him, and he was proud to have contributed to the Coroner’s comprehensive recommendations to improve firefighter safety. Since then, Peter has appeared in many inquests—including into a death at the Big Day Out concert in 2003, into three deaths caused by the collapse of a brick wall on a Grocon site in 2013, and most recently as counsel assisting the inquest into deaths of 50 residents at St Basil’s during the COVID-19 pandemic in 2020. The authors and Peter were part of the counsel assisting team, led by Jack Rush QC, for the 2009 Victorian Bushfires Royal Commission. The workload was huge, the timelines were tight and the subject matter often distressing. When the Commissioners announced that they would also be conducting a ‘mini-inquest’ into the death of each of the 173 people who died in the fires, our first response was that this was impossible. Our second, more constructive, response was to insist that Peter Rozen be asked to join the counsel assisting team. To our great relief, he agreed, and made the impossible possible. Peter guided the Commission through the grim task of exploring the circumstances of every death caused by the Black Saturday fires. His approach was at once methodical, respectful, efficient, incisive and empathetic. It was also innovative: Peter embraced the use by the Victoria Police Phoenix Taskforce of interactive electronic briefs. The families of the victims expressed deep appreciation for Peter’s approach; not one family later asked the Coroner to conduct a full inquest. Jack Rush QC says that Peter’s work was outstanding, combining his great qualities of compassion and understanding with thoroughness and rigour.

Five years later, Peter was an obvious choice as counsel assisting both Hazelwood Mine Fire Inquiries—as junior to Melinda Richards in the first inquiry, and leading Ruth

Shann in the second. He brought his customary rigour, good humour and courtesy to the role— (mostly) managing to mask his feelings about Rachel Doyle’s client, the mine owner. Both inquiries were particularly well served by his broad knowledge of health and safety law and his understanding of regulatory culture. Ruth observes, and we agree, that Peter is a natural in the role of counsel assisting: balanced and fair, a clever strategist who always ensures he is approaching the issues with an open mind. Another five years on, Peter brought these qualities to the Aged Care Royal Commission, joining Peter Gray QC as senior counsel assisting. The entire counsel assisting team for that inquiry describe his work, and his work ethic, with huge admiration and affection. Peter Gray QC says Peter was fiercely effective in hearings, his industry and meticulous preparation were second to none, and his collegiality and affability shone through—this last quality coming from a wellspring of true empathy. He was driven by his understanding that, done right, the Commission’s work would change lives.

Peter’s work in these high-profile inquiries took place against the background of a busy and varied practice that included workplace relations. He appeared (led by Herman Borenstein QC) in *Esso Australia Pty Ltd v The Australian Workers’ Union* (2017) 263 CLR 551 and (successfully) for the applicant in *Newton v Australian Postal Corporation* (No 2) (2019) 292 IR 396, again opposed to Rachel Doyle SC and again (mostly) disguising his feelings about her clients. Peter also found time to teach Workplace Health and Safety in the Master program at the Melbourne Law School, and to co-author Occupational Health and Safety Law in Victoria with Breen Creighton, now in its fourth edition. He has advised the International Labour Organisation and the Commonwealth and State governments. Recently, he undertook a review of WorkSafe’s management

of complex workers’ compensation claims. His report of April 2021 was, typically of Peter, titled *Improving the Experience of Injured Workers*. Peter was on the ethics committee in a formal capacity between 2017 and 2019. Informally, his calm generosity always made him a ‘go-to’ person on ethical questions for colleagues at the Bar.

We congratulate Peter on his appointment to the County Court. We know that he will continue to bring out the best in everyone around him—his new judicial colleagues, the court staff, the lawyers who appear before him, but most of all the litigants in his court. He will be a wonderful judge.

JUSTICE MELINDA RICHARDS
AND RACHEL DOYLE

MAGISTRATES’ COURT

His Honour Magistrate Tim Greenway

Bar Roll No 4291

Magistrate Greenway was born at the piano and what’s more, he plays all of Chopin’s nocturnes without needing the score.

Whilst some dream of driving exotic cars on the open highway, his Honour needs nothing more than a concert Grand Steinway.

His Honour received a classical education in Latin and Greek, which put him in good stead before becoming a Beak,

At the Bar and in between cases, it’s perhaps a little odd to mention, that his Honour would write out nouns in the Fifth Declension.

He’ll know that none of this is in dactylic hexameter.

But he is patient and kind, he’d never berate such an amateur.

An Associate to Justice Judd who read with Christopher Winneke QC, No doubt they saw what an advocate he would turn out to be.

He was drawn to, and took on the hardest cases with zeal, Which might explain why he frequented the Court of Appeal,

He loves complex legislation that would give mortal lawyers grief, To opponents, his appointment will come as quite a relief.

With respect, Gluyas v Best [2013] VSC 3 at 60 says it all, Whilst he did work hard, he always managed to have a ball.

He may not have attended every single Victorian Bar function; But he did manage to make an art out of the barristers’ luncheon.

His Honour’s appointment to the Magistrates’ Court of Victoria, will be greater for our community than Chopin sapere a memoria

His friends and family know he can ignite a bright spark, so that justice’s light continues to pierce the dark.

We wish his Honour success and a fulfilling career, to advance the principles of law which he holds dear.

The Court has gained such a seriously good player, It’s almost makes you proud to be a taxpayer.

NIC ANDREOU

Her Honour Magistrate Samantha Poulter

Bar Roll No 4136

Samantha Poulter comes to the Bench, with a very long involvement in the court. Indeed, perhaps a unique view of the court given her previous experience.

After graduating school and working in the local video store, a job unknown to younger members of the profession, her Honour moved quickly towards Corrections. Initially, she started at Corrections in a volunteer capacity, but then moved into it professionally.

Her Honour had many years of involvement in Corrections. She held many different roles, including prosecuting breaches and assessing offenders for community corrections orders. One offender who was sent to her by a court for an assessment is reported to have come out of the assessment and to have said, “She was tough, she didn’t believe me”. Her Honour was never a push over.

Her Honour also had senior roles in developing policy at a high level, project management.

Her Honour, then part time, completed a Bachelor of Laws in 2005 and whilst working full time, completed post graduate qualifications.

Her Honour worked at Victoria Legal Aid in the then Criminal Law Division. In the 18 months she was there, she worked across the spectrum of matters that CLD operated in, including duty lawyer at the Melbourne Magistrates’ Court.

Her Honour was called to the Bar in 2008, reading with Geoffrey Steward, and never looked back. Colleagues describe the work she did as being high level work, including a large Commonwealth matter with numerous issues. Her Honour was always approachable, knowledgeable and interested in the work of others, freely giving her time to discuss issues.

In court her Honour was always polite, respectful but firm. Clients knew they had strong and fearless representation. Whether in the Magistrates Court, the County Court, the Supreme Court or the myriad of other jurisdictions her Honour appeared in the position was the same.

Her Honour is also flexible and able to adapt. When the Fitzroy Lions ceased to exist, she was able to make the transition to the Brisbane Lions. This was not something that everyone was able to do and she has maintained her links with the past as a member of the Fitzroy Football Club Historical Society.

NICHOLAS GOODENOUGH

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

Her Honour Judge Caroline Jenkins

Bar Roll No 3665

Judge Jenkins was appointed to the Adelaide registry of the Federal Circuit and Family Court of Australia (Division 2) on 15 October 2021.

Prior to embarking on her legal career, her Honour was a member of Victoria Police for over a decade. Whilst working as a policewoman and with two very young children in tow, her Honour worked hard to complete a Bachelor of Laws (Hons) at La Trobe University. She then came to the Bar after eight months as a solicitor in private practice. Her Honour read with Marylyn Smallwood SC and had one reader, Sarah Damon.

As a barrister, her Honour had a very strong work ethic and was confident and strategic when advocating on her clients’ behalf. She did not shy away from difficult personalities or challenging subject matter. She was known by her colleagues and the bench for methodically preparing her cases, and by her instructors as responsive, helpful and able to give direct and realistic advice.

As a person her Honour is both self-aware and self-deprecating. Her Honour will freely admit to being the inventor of culinary monstrosities including the “mountain of meat” and “chicken soup pie”. This directly contrasts with her love of French language and culture, and is such an affront to the late great Paul Bocese that he probably turns in his grave whenever her Honour enters a kitchen.

As a lawyer, her Honour appreciates that there is far more grey than black and white when trying to understand why people

behave the way they do, especially within the context of a relationship breakdown. This quality will continue to serve her Honour well in her new role.

The opportunity to sit in Adelaide has brought with it a chance not only to reconnect with extended South Australian family and to live by the beach, but to enjoy even more golf courses than her Honour already does, together with her beloved husband.

Her Honour’s appointment has been welcomed by her colleagues and friends, all of whom hope that her period of service on the bench will be both satisfying and distinguished.

CAROLINE PATERSON.

The Hon Justice Andrew Strum

Bar Roll No 2872

Justice Strum was appointed to Division 1 of the Federal Circuit and Family Court on 26 November 2021, 30 years after his appointment to its predecessor (the Family Court) but then, as an associate to the late Justice Steven Strauss.

His Honour is a graduate of Mount Scopus College where he impressed his teachers with his academic abilities. The less said about his sporting abilities (if indeed anything kind could be said) the better.

His Honour’s pathway to the stellar career in the practice of family law he enjoyed prior to his appointment was not as direct as one might have expected, given that he served articles with leading commercial law firm Arnold Bloch Leibler and then, following his associateship, chose to read with Ruskin QC who, despite being a leader in common law, has never enjoyed renown in matrimonial causes. His Honour’s offer to enlighten Ruskin QC about the interplay between Jewish Law as it pertains to divorce and Family Law (a subject his Honour had written about extensively), was politely declined.

His Honour is learned not only in the Law. He is fluent in French, Ladino and Hebrew and reads widely. He has a deep love for and understanding of history and in particular Jewish history which has seen him amass a truly remarkable library of books, artefacts and Judaica which bulges at the seams of the home that he shares with Dinah, the love of his life.

His Honour is the proud father of three children. His son Gabriel aka Japanese Wallpaper is a musician of renown with a worldwide audience; his daughters Orly and Noa are strong independent women pursuing their own dreams and in the case of Orly an intention to study law.

His Honour had one reader, Holly Renwick, but mentored each of his many juniors with generous allotments of time, patience and care.

His Honour served the Family Law Bar Association as secretary for three years and the Bar as a whole as a member of the ethics committee for a period of five years, during which time he and his dear friend the late St John QC were the go-to members for all matters Family Law.

His Honour is highly regarded by his peers for his superior intellect, extraordinary work ethic, fairness, and courtesy; traits he will no doubt employ to full effect in his new role. He is also renowned and deeply appreciated for his steadfastness as a friend and confidante.

His Honour's appointment was met with general acclaim, and we wish his Honour well in his new role. To coin the motto of his alma mater, Mount Scopus, we say to His Honour, “Chazak v’Ematz” —Be strong and of good courage.

SAM TATARKA

Her Honour Judge Anna Parker

Bar Roll No 4834

I have had the pleasure of knowing her Honour since her fledgling days in the law, nestled in the nurturing folds of Westminster Law.

Her Honour had already outgrown Harwood Andrews, having had the opportunity for tutelage under the watchful eye of ‘Diamond’ Jim Mellas. At Westminster she would commence another of her long-standing friendships in the law, this time with Julian Macdonald, who shares both her Honour’s love of football as well as her wry, observant wit and appreciation of a funny story, well-told.

As an at times cavalier barrister with only the occasional necessity to descend to the detail of facts and the rigour of legal precedent, Her Honour’s capacities in this regard soon became apparent as my instructor. Like the best solicitors are able, her hard work was reflected in my performance.

Her Honour moved to Nicholls Family Law, where Sally Nicholls’ indefatigable energies curated a febrile environment for work and learning. Here her Honour had the pleasure of meeting Rebecca Dahl, a lawyer whose legendary wit has afforded her the opportunity to perform on the stage of the Comedy Festival. Rebecca, another of the family law pilgrims from Adelaide, may instead have proved to be a prophet, given her Honour’s elevation to the Bench in South Australia. Like Julian Macdonald, Rebecca shared both her sense of fun as well as her passion for football, this time her hometown Crows, with her Honour.

After a final elevation as a solicitor, this time to partnership at Nicholls, her Honour made her inevitable decision to come to the Bar. “For barristers, stress may be acute, but for solicitors it is chronic”, her Honour once expressed to me.

I was flattered that her Honour chose to read with me, given there was little I could teach her about family law, although perhaps a few things about management of stress. Her Honour certainly taught me about neatness and order in chambers, before flying the nest and establishing her own rose-gold furnished, and impeccably presented place of hard work.

Not content with the level of stress, whether acute or chronic, her Honour commenced and completed a Doctorate in Laws, her supervisors were Dr. Renata Alexander and Dr. Adiva Sifris at Monash University. Her Honour’s doctoral thesis examined the impact of the changes to the Family Law Act since 2000, and her research and work was extensive.

At the Bar, her Honour’s work maintained the same impeccable standards and it was only a matter of time until her ability, demeanour and personality attracted the attention of the courts. Her Honour left her status as the preferred junior to a number of silks, notably the recently appointed Honourable Justice Andrew Strum (who had been her Honour’s senior mentor when she came to the Bar) to wrestle with the implementation of the federal government’s plan to combine the Federal Circuit and Family courts.

Her Honour was appointed as a senior judicial registrar, initially working behind the scenes to ensure the smooth transition of the combined court, and then on the bench as a busy judicial officer. Scarcely had the combined court been established, new Acts passed, new rules written and implemented, that the need for new judges saw Her Honour’s elevation to the bench of the Federal Circuit and Family Court Division 2, at the Adelaide Registry.

Whilst her Honour’s skill, ability, reason and wit will be sorely missed in Melbourne, they will be Adelaide’s gain.

Her Honour has a rare combination of natural curiosity for, and aptitude in, the law; intelligence; wit; capacity for hard work and a generous, genial and polite demeanour. They will serve her Honour very well on the bench both in Adelaide and, hopefully, on her return to Melbourne.

I wish her Honour all the best on her appointment and to the next stage of what is already a wonderful career.

ANDREW ROBINSON

Her Honour Judge Alison Jane Burt

Bar Roll No 4820

Judge Alison Jane Burt was appointed as a Division Two Judge on 6 April 2022, some eight years after arriving in Australia from London and six-and-a-half years after signing the Bar Roll in November 2015.

Her Honour hails from the UK. She is a graduate of Queens’ College, Cambridge. Upon completion of university studies, her Honour was attracted to undertake her practical qualifications at a firm with a strong civil liberties ethos. She commenced working at Bindmans LLP, where she was able to further that interest. Her areas of practice covered complex family law and child protection matters. These included allegations of intentional injury, wardship cases that involved forced marriages and cross-border cases that involved international child abduction. In 2010 her Honour was appointed a part-time Deputy District Judge.

Her Honour and her partner Kate decided to move their family to Melbourne, Kate’s city of origin. The attractions of Melbourne upon arrival seemed dimmed by the heatwave at that time, a run of 42-degree days. However, the weather cooled, as it always does, and her Honour plunged into the law here in Melbourne. She undertook a Masters’ degree, which she completed in March 2015. She sat the readers’ entrance exam in April and commenced the readers’ course in September. Her Honour did not know anyone at the Victorian Bar, but nevertheless was not deterred from commencing an enthusiastic and successful practice. She was warmly welcomed by colleagues, who have become good friends. She read with Marylyn Smallwood SC, following which she shared chambers with Dr Renata Alexander and the late Margaret Mandelert.

Her Honour was quickly recognised as a fiercely intelligent and diligent

barrister. She built a strong practice in family law. Her Honour was well-regarded as a colleague and an opponent. The ferocity of her skills was matched only by her wit. Her strong ethics and analytical skills saw her practice and reputation continue to grow. She joined the Family Law Bar Association committee in 2017 and was appointed as the Victorian Bar representative on the executive of the Family Law Section of the Law Council of Australia in June 2021.

Her Honour brings a wealth of experience to the Court. Her capacity for hard work, her strong intellect, her compassion and her patience will greatly benefit litigants who come before her. Her Honour’s personal qualities will serve to benefit the community in a most significant and important way in the work she will now undertake on the Bench. She will be much missed at the Bar by her many friends and colleagues.

BELLE LANE

His Honour Judge Paul Glass

Bar Roll No 4467

Judge Paul Glass was appointed to the Federal Circuit and Family Court of Australia (Division 2) on 4 April 2022.

His Honour was admitted to practice in 2007 and spent his formative legal years working in private practice in Canberra.

In 2009, his Honour relocated to Melbourne, and commenced employment as a senior family lawyer at Victoria Legal Aid where he acted as a duty lawyer. During this time, he was responsible for providing duty services to the Magistrates’ and family law courts, and appeared as an advocate in both duty matters and for ongoing clients. This role gave his Honour a close-up appreciation of the challenges facing self-represented litigants in the family law system.

From 2011 to 2018, his Honour practised as a barrister at the Victorian Bar appearing in the Family

Court and Federal Circuit Court for both private and legally-aided clients, including in complex parenting trials as counsel for the Independent Children’s Lawyer.

At the Bar, Judge Glass quickly gained a reputation for his exceptional intellect, and kind and gentle demeanour. He was generous with his time and prepared to assist at every stage of the proceedings to ensure his clients enjoyed the best and fairest representation. Unlike many of his contemporaries, His Honour’s written advocacy was just as well developed as his oral advocacy. His written submissions were concise, impeccably researched and precisely drawn. His skills in this regard were on full display when he appeared before the Full Court of the Family Court in *Re Kelvin* in 2017.

In 2016, his Honour accepted a position as a part-time member of the Administrative Appeals Tribunal. His Honour’s dedication to family law continued at the Tribunal where he reportedly became one of the only tribunal members in recent history to volunteer to hear complex child support departure appeals.

It was at the Tribunal that his Honour developed the taste for the other side of the Bar table. Thus began his Honour’s meteoric rise within the judiciary.

Never shy of an adventure, his Honour’s first judicial appointment was as a Magistrate in the Family Court of Western Australia in 2018. Whilst in Western Australia, his Honour gained a reputation as a highly competent, fair, and efficient magistrate. His Honour embraced the Western Australia lifestyle to such an extent that he bought a property in Margaret River, and worked remotely from there during lock down.

In September 2021, presumably motivated by a desire to experience a genuine lockdown, his Honour returned to Melbourne and accepted an appointment as a Senior Judicial Registrar of the Federal Circuit and Family Court of Australia. Those in the West lamented his Honour’s return to

Victoria, describing him in romcom terms as “the one that got away”. He and his wife Sally returned to Victoria with one significant addition to their household in the form of a very cute golden retriever puppy, Louis.

During his time as Senior Judicial Registrar, his Honour became known for his uncanny ability to dissect and engage with interlocutory issues in such a highly efficient manner that many arguments were concluded during the morning call-over.

His Honour’s talents extend far beyond the law. He is a highly accomplished pianist, as any who attended lyrical lunchtimes at the Supreme Court library can attest. His passion for the piano was evident to those on his floor when a piano was delivered to his chambers. His Honour is also a keen water enthusiast, and on days when the afternoon sea breeze picks up, his Honour has been known to down tools, and hot foot it to Port Phillip bay for a kite-surfing session. However his Honour’s most envied talent, from the author’s perspective, is his exuberant and inimitable dance style that is on display at almost every work function.

His Honour will be a great asset to the court, and his friends and colleagues wish him all the best for this exciting next stage of his career.

SARAH FISKEN

VALE

David Clarke

Bar Roll No 1898

David Millward Clarke passed away on 13 October 2021.

David was born on 5 May 1954 and emigrated from England as a young child. His father had been a friend of Nigel Creese in England, so David was schooled at Melbourne Grammar School under its new headmaster. An exceptional student, he graduated with

special distinctions in geography and Australian history. Awarded a senior government scholarship, he was a school prefect, house captain, editor of the school magazine and awarded colours in swimming and rugby.

As a rugby player he was a tight head prop. That is the most important position in any rugby team (first you pick your tight head prop, then you pick your reserve tight head prop—they are the linchpin of the team). He continued to play rugby after he left school at Monash University, with some success.

David was also a contributor to the school magazine. In 1972 David wrote an article called “The Confrontation” in which he reflected on his experience as House Captain:

I was to take over the proceedings of the House. My nerves tensed slightly as I moved to the front of the room and gathered myself for the first oration. All eyes were on me, and I felt excessively small; the [House] seemed to be at my fingertips; they were all attentive for my first word, yet I was scared. I built myself up for the first word, and launched myself into it. I broke the barrier, overcame all fears and projected myself into the business of the year... I was now ready to take on my function.

At Monash he graduated with a Bachelor of Economics and a Bachelor of Laws with Honours in 1977 and was admitted to practice on 1 March 1978. Whilst at Monash, he worked with Burnley Legal Service. He then worked briefly for Mallesons, Nevitt Counts & Wilson, then G. W. P. Aarons & Co (where he became an associate). He then went onto work at Arnold Bloch Leibler & Co where he became an associate in 1983. He signed the Roll of Counsel on 17 May 1984 reading with the Honourable Raymond A Finkelstein. His Master recalls him as a very diligent and competent junior.

David had a busy general commercial and building practice and was both a mediator and an arbitrator. He retired from the Bar

in 2018. He was a well-regarded junior in many large and complicated cases, in particular the Occidental Life cases.

He was involved in many Bar committees, including the professional indemnity insurance committee, the civil justice working group and the working committee examining the Professional Standards Act. He was also a member of the equality before the law committee.

He first joined Moir’s List, and then Meldrum and Hyland where he was list chair from 2000 to 2010 guiding the list through difficult times. He briefly left the role of counsel in 2010 and practiced as a solicitor in suburban Melbourne, before returning to the Bar in 2015. David was reserved and modest. He was selfless and humble. He had a sense of humour which was wry and self-deprecating.

He worked extremely hard at the Bar. He was a diligent barrister and was entirely unassuming.

He is survived by his wife Marianne and his children Emily, Olivia, George, Sam and Louise. Our sympathy goes to them.

BILL GILLIES

The Hon Graham Fricke QC

Bar Roll No 652

Graham Lewis Fricke QC died on 7 November 2021. He was born on 5 December 1935.

Judge Fricke was an outstanding student who progressed from the state school system to obtain an LLB with honours from the University of Melbourne and an LLM from the University of Pennsylvania.

Having started his career as an academic and lecturer at the University of Tasmania, he never ceased to be deeply interested in both the law and the lore of the courts.

Judge Fricke was admitted to practice on 1 December 1961 and signed the Bar Roll on 1 February 1962. He read with Justice Richard McGarvie.

He was appointed Queens Counsel on 27 November 1979, and had a mixed practice, mainly in civil law, with expertise in areas such as personal injuries, compulsory acquisition, and defamation. He was extremely efficient and popular with both solicitors and clients.

He was a mentor to three readers, Robert W Davis, David J Bell, and The Honourable Stuart R Morris QC.

Judge Fricke was a prolific author of articles and books: including being the co-author of *The Law of Trusts in Victoria* (1964) and the author of *Compulsory Acquisition of Land in Australia* (1982), *Judges of the High Court* (1986), *Tales from the Courts* (1999) and *Shute the Messenger* (2011).

He was appointed a judge of the County Court on 31 May 1983 and, although he enjoyed his forays into criminal law on the court, he did not enjoy sentencing and retired in 1995 to enjoy travel and retirement.

Judge Fricke loved relaxing with friends and colleagues, especially with a red wine in hand, discussing politics, the law and social justice. After a couple of drinks, he would launch into poetry, often his own work, and explore life, philosophy, and history. He was a warm friend to those who worked with him.

He will be sorely missed by all members of the Bench and Bar.

VBN

The Hon Sir James Gobbo AC QC

Bar Roll No 568

Sir James (Jim) Augustine Gobbo AC QC, the 25th Governor of Victoria and member of our Bar (Roll No 568), died on 7 November 2021 at the age of 90. His death marked the completion of a life of service and achievement.

Born in Carlton in 1931, Sir James was the son of Italian immigrants. His father, Antonio, was a terrazzo worker and later café proprietor (of the St Kilda Grill Rooms in North Melbourne). His mother, Regina, housed boarders from

Melbourne’s Italian community (often on the family verandah). Both had arrived in Australia in 1927 from Cittadella, Padua.

When Sir James was four, the Gobbos returned to Italy. As Europe became unsettled, they returned to Australia after three years. Unable to speak English, Sir James started school at St Mary’s Primary School, West Melbourne, later attending St Joseph’s Christian Brothers College (CBC), North Melbourne.

In 1944, Sir James commenced at Xavier College, Kew. In 1948, he was a member of Xavier’s winning Head of the River crew (a feat not repeated by Xavier for 51 years). He then studied a Bachelor of Arts at the University of Melbourne. During that time, he resided at Newman College, where he happily and enthusiastically contributed to the Junior Common Room.

Sir James was awarded the Victorian Rhodes Scholarship in 1952, the first known recipient of Italian and Catholic heritage. At Oxford, he attained a Master of Arts from Magdalen College (majoring in jurisprudence). Continuing his love of rowing, Sir James also became the president of the Oxford University Boat Club, rowing in the 100th Oxford-Cambridge Boat Race.

In 1956, Sir James was admitted to practice and, in 1957, he signed the Bar Roll. He was likely the first person with English as their second language to do so. Much later, Sir James would recall that another “confident young barrister” assessed the prospects of an aspiring barrister in the 1950s thus: “You can make a living just by staying on your feet. If you can talk at the same time, you’ll make a bloody fortune.” Fortunately, both were tasks at which Sir James excelled. He was sought after as an advocate, especially in town planning.

Between 1964 and 1971, Sir James mentored eight readers (John C Walker QC, the Hon David M Byrne QC, Richard J Stanley QC, David Henshall, the Hon Peter Heerey AM QC, Philip Dunn QC, the Hon

Dr Peter Buchanan and Richard J Evans). In 1971, Sir James was appointed silk.

Sir James appeared in several important cases, including for the Commonwealth in the *Northern Territory equal pay* case, wherein the Commonwealth Conciliation and Arbitration Commission determined that indigenous workers should be included in the Cattle Industry (Northern Territory) Award 1951 (see Commonwealth Conciliation and Arbitration Commission, Cattle Station Industry (Northern Territory) Award 1951, 7 March 1966). Sir James appeared as junior to Sir Edward Woodward AC QC, who soon left Darwin to appear in another matter, leaving Sir James in charge for the remaining six months that the case would run. Interestingly, he was opposed to a leading industrial Sydney silk who would, like Sir James, go on to be one of her Majesty’s representatives in Australia. That silk was Sir John Kerr AK QC. Sir James described the case as “the most historic case in which I ever appeared.” Historically, however, the matter is confounding. Although the Commission essentially provided for “equal pay” for indigenous stockmen, its reasoning was neither egalitarian nor enlightened. Nor did the decision necessarily inure to the benefit of indigenous workers.

On 18 July 1978, Sir James was appointed a Justice of the Supreme Court of Victoria. He retired from the bench on 14 February 1994.

Sir James was a steadfast patron of migrant welfare in Australia. He remained a dedicated member of Melbourne’s Italian community, including as president of CO.AS.IT (a welfare and cultural organisation for Italo-Australians). Sir James was also a member of the Immigration Reform Group, a 1960’s conclave of Melbourne intellectuals, professionals and clergy which sought the termination of the White Australia Policy. In the 1970s, Sir James advised Malcolm Fraser’s Population and Immigration Council. Its green paper, tabled in Parliament

▶

on 17 March 1977, informed the Fraser Government’s refugee policy (providing for, among other things, community refugee resettlement programs for the many Vietnamese fleeing to Australia).

In 1995, Sir James was appointed as the Lieutenant-Governor of Victoria. In 1997, he was appointed by the Queen as the 25th Governor of Victoria. He retired in 2000, becoming the Commissioner for Italy in the Victorian Government.

Among his many awards, Sir James was appointed a Knight Bachelor in the 1982 New Year Honours; a Companion of the Order of Australia in 1993; and a Knight of Grace of the Most Venerable Order of the Hospital of St John of Jerusalem in 1997. He was awarded the Centenary Medal in 2001. He was also a Knight of Malta. These awards were principally conferred as a recognition of Sir James’s services to the sick, elderly and needy. He continued his practice of handing out coats to the homeless well into his 80s.

Upon his death, politicians of both persuasions, including Prime Minister Scott Morrison and the Premier of Victoria, Daniel Andrews, shared their condolences and acknowledged the profound contribution Sir James had made to Australian society.

On 16 November 2021, Sir James was given a State Funeral at St Patrick’s Cathedral, Melbourne. His friend, Allan J Myers AC QC, delivered one of the eulogies.

Sir James detailed his life in his 2010 memoir *Something to Declare*. Putting the legal and public aspects of his life aside, Sir James was a deeply committed Catholic and loving father.

He is survived by his wife, Lady Shirley Gobbo, whom he married in 1957; their five children, including fellow Bar member Jeremy Gobbo QC; their 14 grandchildren; and one great-grandchild.

DANIEL B BONGIORNO



His Honour Anthony (Tony) Duckett OBE QC
Bar Roll No 710

Tony was born in Mosman, Sydney in 1937. His parents were overjoyed at his birth after enduring at least one pregnancy loss and a cot death. Tony was an only child. Tony’s father, George, left for the War as a naval officer when Tony was two. George was stationed predominantly (and bombed) in Darwin. George was decommissioned in 1946 and returned to the family home when Tony was nine. Not long after, the family relocated to Melbourne.

Tony attended Wesley College and was then one of the first to do a combined degree of Law/Commerce at Melbourne University. His mother passed away when he was halfway through university. Tony was admitted to practice in March 1962 and signed the Bar Roll in November 1963. Tony read with Ivor Greenwood (later A-G Cth).

Tony became the first Victorian to ever work as a lawyer in Hong Kong taking up position as crown prosecutor in 1966. During this period he had an adventurous interlude in 1969 as a senior magistrate for two small Pacific Islands now known as Kiribati and Tuvalu. He returned to the Bar in 1974 with five young children in tow.

Tony again moved to Hong Kong in 1980 and remained there until 1995.

Appointed Queen’s counsel in 1984, he simultaneously joined the Middle Temple, London. Tony was a criminal trial lawyer and was routinely opposed to UK silks flown to Hong Kong for significant trials. He was appointed Deputy Director of Public Prosecutions in 1984. Appointed acting solicitor general in 1993 and in that role was chair of committees that saw the introduction of legislation that essentially preserved the British legal system in Hong Kong thereby allowing China to usher in “One Country. Two Systems”. Tony received the OBE from Prince Charles at Buckingham Palace in 1995 for his total of 23 years of service to the administration of justice in Hong Kong.

From 1988 onwards Tony would make an annual trip to the Privy Council in London and without junior would argue an appeal on behalf of the DPP of Hong Kong. This avenue of appeal closed to Australia in 1968. The three biggest of these appeals were *Li Shu Ling v The Queen* [1988] 1 AC 270, which concerned the admissibility of video reconstruction evidence; *Lam Chi-ming v The Crown* [1991] 2 AC 212, concerning the admissibility of evidence secured from the defendant after exclusion of a confession statement, and *Hui Chi-Ming v The Crown* [1992] 1 AC 34, which concerned directions to be given to juries in joint enterprise cases.

Tony is probably the only person to have ever moved directly from living overseas to take up judicial office in Victoria. He served as a County Court judge from 1995 to 2010. Notable cases included the historical rape case *Stringer v Geoff Clark*. He was the judge at first instance for the High Court case *D’Orta-Ekenaike v Victoria Legal Aid* [2005] HCA 12, a decision that preserved/extended barrister’s immunity from suit for advice given “at the court door”.

Tony is survived by his wife of 57 years, Frances. His children, Georgina, Charlotte, Victoria, Louisa and Marcus. His grandchildren, Ruby

and Siena, Umberto and Massimo, Isobel and Agnes. Always a gentle man. Tony will be missed.

MARCUS DUCKETT



The Hon Dr Raymond Moyle Northrop QC
Bar Roll No 474

Raymond Moyle Northrop QC, a founding judge of the Federal Court, died on 31 December 2021, at the age of 96.

Ray was born in 1925 in New Britain, Papua New Guinea, the son of a First World War infantryman and wartime nurse. He and his family came to Australia two years later and moved to Murrumbidgee, an outer almost rural suburb of Melbourne. His family found the Depression difficult. For a period, Ray lived with relatives on a farm where food was more abundant. He attended the local primary school and later received a scholarship to Melbourne High School.

Upon completion of secondary school, Ray joined the Royal Australian Navy at the age of 17. He was told he did not need to do so and that he could undertake an engineering degree instead. Ray served as a seaman on the HMAS Arunta from 1943 until 1945, seeing active service in the south-west Pacific. His ship took part in a number of battles, including the battle of Leyte Gulf. During one of these battles the Arunta was hit by a kamikaze aeroplane which killed two crew members but, fortunately,

caused minimal damage to the ship. Had the plane struck in a slightly different spot, the result would have been catastrophic.

On completion of his naval service Ray studied law at The University of Melbourne, graduating with an LLB with honours in 1949 and with an LLM in 1950. Ray was admitted as a barrister and solicitor of the Supreme Court of Victoria in 1951 and signed the Bar Roll in 1952. He was a founding member of Hyland’s List and was appointed Queen’s Counsel in 1970.

Life at the bar was not always easy for Ray. During the 1960s he gave serious consideration to leaving the Bar for financial reasons, but he persevered and in due course established a thriving practice with a particular focus on industrial law. He represented both employers and employees, as well as competing union factions. The internal union disputes, involving notoriously militant organisations such as the Painters and Dockers Union, were the most hard-fought. On occasions these led to various threats to his well-being, delivered (as was the custom in those days) by telegram.

In 1976 Ray was appointed as a judge of the Australian Industrial Court and the Supreme Court of the Australian Capital Territory. He was appointed as a judge of the newly formed Federal Court of Australia in 1977.

As a judge of the Federal Court Ray delivered many judgments covering a wide range of matters. He considered one of his most significant decisions to be *Adamson v West Perth Football Club* [1979] FCA 81. The decision concerned the principle of accrued jurisdiction, which allowed the Federal Court to determine non-federal matters provided there was a federal connection. This principle was later endorsed by the High Court and, without it, the jurisdiction of the Federal Court would be greatly reduced.

Outside of the law Ray was extremely active within The

University of Melbourne, serving as the Warden of Convocation between 1972 and 1975, as a member of Council between 1975 and 1993, as President of Graduates in 1975 and as Deputy Chancellor from 1985 to 1993.

Ray’s other great interest was the Presbyterian Church, serving as procurator from 1974 to 1976, and later the Uniting Church in Australia. His time as procurator coincided with the complex amalgamation of the Presbyterian, Methodist and Congregational churches. Ray was a member of the Presbyterian Ladies’ College Council between 1968 and 1980, the last eight years as chairman during a difficult transitional period.

Ray retired as a judge of the Federal Court in 1998. His farewell sitting was attended by many judges wearing, to their surprise, full bottomed wigs. Throughout his legal career at the Bar and on the bench, Ray enjoyed regular Friday light-lunches with a group of friends at the RACV Club on Queen Street. These lunches presented a great opportunity to catch up on all the news! Following his retirement, Ray resumed his interest in naval matters. Amongst other things, Ray was instrumental in the successful campaign to persuade the local council and the Victorian government to erect a memorial to the three World War II tribal class destroyers on the foreshore at Queenscliff. He was the leader of the ANZAC Day March in 2012.

Ray was one of the last members of the Bar who experienced the Great Depression, the Second World War, the formative years of the modern Bar, and the development of the Federal Court. He devoted his life to public service and to upholding the principles of the law.

Rayis survived by his five children Merinda, Nerida, Christopher, Rohan and James, 10 grandchildren and five great-grandchildren. His wife of over 50 years, Joan, died in 2008.

C.R. NORTHROP

The Hon Geoffrey Michael Giudice AO

Bar Roll No 1942

The Honourable Geoffrey Michael Giudice AO died on 18 November 2021. He was 73.

Geoff was born in 1947 in Bendigo and educated at Xavier College. He graduated in law at Melbourne University in 1970, where he was a resident at Newman College. After graduation he worked in various industrial relations positions before taking articles at Moule Hamilton and Derham (now Herbert Smith Freehills), being admitted on 1 August 1979. In a short time, he became a partner of the firm.

He signed the Bar Roll in 1984 and read with the Hon Dr Chris Jessup QC. He quickly built up a strong practice in employment and industrial relations, appearing regularly before state and federal tribunals, the Federal Court and the High Court. He represented the airlines during the 1989 Australian pilots’ dispute. He regularly appeared in national wage cases.

On 17 September 1997 he was appointed President of the Australian Industrial Relations Commission and a judge of the Federal Court of Australia. He served as president during a legislatively turbulent period. The relevant legislation was substantially and controversially changed on three separate occasions in the 13-year period to 2009. He oversaw the implementation of the Workplace Relations Act 1996, WorkChoices 2005 and the Fair Work Act 2009. He proved a cool head in a difficult environment.

His appointment in 2009 as the inaugural President of the Fair Work Commission by the Rudd government acknowledged his competence and fairness, with unions and employers alike seeing him as an independent voice.

As Michael Tehan said at his funeral, “Geoff brought to his professional life a mixture of

humility, sophisticated intelligence, integrity, personal likeability, a preparedness to work and a suppleness of thinking that enabled him to adjust to change”.

He was the thirteenth and second-longest-serving president of the national tribunal. He will be remembered as its head at its centenary and for his personal commitment to capturing and preserving its unique history.

He retired from the tribunal at the age of 64 on 28 February 2012.

Post retirement his positions included Professorial Fellow at Melbourne University, Chair of the Catholic Professional Standards Board, the Newman College Board, the AFL Tribunal and the AFL Appeals Tribunal.

The Catholic Professional Standards Board acknowledged his work for the Board by describing him as “a lovely man with quite a lot of steel. He could engage with different layers of the Church but hold to the heart of those who had suffered there.”

Geoff was admired and respected by his colleagues at the Bar, in the national legal profession and those engaged in industrial relations across the country.

He was unfailingly patient and courteous to all those who appeared before him.

Geoff embodied in his work as an advocate and as a judicial officer the highest standards of the Victorian Bar.

VBN

Jeremy St John QC

Bar Roll No 1831

Jeremy William St John was born in Sydney on 19 September 1952. He moved to Adelaide in his early years, where attended Northfield Primary School and then Enfield High School. He moved to Melbourne in 1967 and attended Kew High School, where he was dux of humanities in 1969.

In 1974, he graduated from Melbourne University (Bachelor of Laws) and in 1975 was articled to

Mary Cameron at Stedman Cameron Meares & Hall, in its day, one of the leading family law firms in Melbourne. He was admitted to practise on 3 April 1975 and later that year, at the age of 23 years, he was admitted into the partnership. At the firm, his work colleagues included Jan Pannam (later Judge Pannam), David Brown QC and John FitzGibbon (later Senior Registrar FitzGibbon). Jeremy signed the Bar Roll on 24 November 1983 and was the first reader of John Cantwell. Like his uncle, Edward St John QC, before him, Jeremy took silk on 17 December 2002.

At the Bar, he practised exclusively in family law. He was a past Vice Chairman of the Family Law Bar Association and a long-serving member of the ethics committee of the Victorian Bar from 2008 until 2018.

Outside of the law, Jeremy had a great love for the music of Gilbert and Sullivan and regularly performed with the Savoy Opera Company, most notably in the leading role of Pooh-Bah in *The Mikado*.

He is survived by his wife and partner of 34 years, Jill Rivers of Counsel, his four children, Emily, Polly, Phoebe and Tom, and his two grandchildren.

VBN



Paul Christopher Dane QC

Bar Roll No 1057

Paul Christopher Dane QC prophetically asserted that a Melbourne Demons victory

would herald his demise and so it came to pass on 7 January 2022, at his behest, my closest friend of 28 years stepped off this mortal coil.

Born 29 July 1946 in Melbourne Chris was schooled at Preskil, (declared a genius by Margaret Little), later Hawthorn West Primary School, and Melbourne Grammar School obtaining his B. Juris. LLB from Monash University in 1972. Initially called to the Bar in 1973 he read with Forsyth QC in taxation law. His legal practice only becoming a serious pursuit post his rowing career coaching the Australian Olympic crew to Moscow in 1980.

Dane QC at his superb best was an engaging, larger than life persona of acerbic wit and disarming contradiction. A charming no-nonsense traditionalist whose quips, quintessentially Australian turn of phrase, and 1930s doggerel often induced uncontrolled belly-aching laughter and awe in those he courted.

Dane QC was first bitten by the criminal law as a neophyte to the Bar where he seized upon a legally-aided murder brief lying unclaimed on the floor of his clerk’s office. This first final address marked the start of many acquittals, considered by him simply as “sport”. He was equally philosophical at guilty verdicts remarking, “came second”.

Indeed, he was a remarkable jury advocate, honing his natural talents to walk with kings, he kept the common touch ensuring extraordinary legal outcomes; much to the bewilderment of many of his adversaries.

Above all Dane QC was a fearless and formidable advocate who was possessed of a deep and tangible sense of injustice which sat awkwardly with his feigned pretention. He relished challenging any inappropriate exercise of authority and would demand “a fair go for any punter” [defendant], ruffling many feathers as he strode the corridors and nooks within the administration of the criminal law. Often perceived as arrogant, his gravitas was generally

misconstrued as he aimed for a level playing field for his many socially disadvantaged clients.

Chris was a deeply private man, known for his thespian whispers and caustic flourishes in court. He was a highly competitive and acclaimed sportsman which put him in good stead for the rigours of his nearly 50 years at the Bar. A most handsome man of much personal style and vanity he luxuriated at all reflective surfaces and much adored his jury audiences.

A philhellene, transfixed by the classical Greek world from childhood, he more recently manifested a new Mediterranean flare adding to his already mercurial Protestant-Irish background. Dane QC hated and loved hard, but once a friend, his generosity, kindness and fierce loyalty knew no bounds.

Christopher Dane QC was at his happiest on his feet at the Bar table in court 4 of the Supreme Court, when watching his beloved Melbourne Demons at the MCG with his children, and sitting by the gentle waves of the wine-dark sea of Ithaka.

His legacy to the Bar is as an exemplar of robust legal defence of one’s client, whatever their ilk.

For those that knew him he will remain truly, sadly, and deeply missed. χαίρετε!

CHRYSSA ANAGNOSTOU



Ronald Gipp

Bar Roll No 3164

After a very long (and very private) battle with cancer, Ron died on 24

January 2022. He had only recently given up his briefs. Up until that time, he had been carrying on one of the busiest practices at the Bar. His enormous capacity for hard work stayed with him right up until the end.

Ron grew up in Orbost as the oldest son in a large family. His working life started in the 1980s with Victoria Police where he rose to the rank of senior sergeant. He was a prosecutor for many years, ultimately ending up in the training branch of the Prosecutions Division. In that role, he became a principal author of the *Prosecutions Manual*, which was used by all Victoria Police prosecutors at the time.

Ron’s time in Prosecutions rekindled an early interest in becoming a lawyer. With that goal in mind, and while still working full-time and with a young family, he commenced his study of law at Monash University as a part time student, but took on a full-time study load. He obtained his law degree with Honours in very quick time.

Ron completed his articles at the Victorian Government Solicitor’s Office. Having been a lawyer for only a year or so, Ron was placed in charge of an enquiry into collusive bidding practices within the Victorian building industry. Whilst head of that enquiry, he decided to build a house at Mount Disappointment with his own hands. The project was a resounding success and, until it was lost in the Black Saturday bushfires, the house stood as a testament to Ron’s work ethic and ingenuity.

Ron came to the Bar in 1997. He was immediately successful. He practised in crime, common law, immigration cases and occasionally commercial matters. He was naturally able to develop rapport with a person no matter his or her station in life. He was a tough and fearless opponent but always scrupulously fair and honest. He was a renowned cross examiner with a remarkable ability to quickly absorb complex facts and summon them instantly, often with

devastating effect for his opponents.

After a few years, Ron started acting for Victoria Police in tort cases and coronial inquests. It was in this context that he really hit his straps. Ron became the Chief Commissioner’s undisputed ‘go-to’ barrister for the truly hard cases. He was trusted and respected by his opponents many of whom, upon hearing of his death, reached out to Ron’s friends and colleagues to express just how highly they regarded him.

Outside of work, Ron had a deep love of history and took time to travel with close friends to Europe and the US to visit significant historical sites. He approached any recreational interest in much the same way he approached his professional life—with never a short step taken. He sailed, fished deep seas in small boats and was always very keen on camping and four-wheel driving in the Victorian High Country with his family and friends.

Ron will be remembered as fiercely loyal friend who was incredibly proud of his wife, Kseniya, his children, Andrew, Steven and Natalie, and his six grandchildren. He is sorely missed.

MAGISTRATE MARTIN GRINBERG,
PAUL LAWRIE AND SAM HAY



Gregory M McDermott

Bar Roll No 1651

Gregory M McDermott passed away peacefully on Friday 4 February 2022 after a relatively short illness. He was 65 years old. He passed at home in the bosom of his children, wearing the guernsey of the Carlton Football

Club to which he maintained a lifelong devotion.

He signed the Bar Roll on 1 June 1981 and always professed that he was briefed in his first case at the age of 23.

Greg read with The Hon Alwynne Rowlands QC before his Honour took silk and was subsequently appointed to the Family Court of Australia. He read on the iconic fourth floor of Owen Dixon Chambers (now ODC East) which housed a mix of many renowned counsel of the era. This included Alwynne himself, whom Greg assisted in long hours’ preparation for the National Wage Cases of the early ‘80s on behalf of the Commonwealth. The floor at that time exposed Greg to the erudite and eccentric talents of Rhoden Pritchard, the irascible Lyn Opas (later her Honour Judge Shifton of the County Court), Denis Smith (whose criminal practice in the County Court and Magistrates’ Court was on occasion inspiring) and Rex (later Master) Patkin, whose laments about the cost of mooring his yacht at the Royal Brighton Yacht Club were hilarious. Greg absorbed many of the skills of that group and used them to great effect in dealing both with his colleagues and the judiciary.

He attended CBC St Kilda where he was a brilliant student, becoming dux of Humanities in 1973. He went on to Monash University where he completed a combined Arts/Law degree, returning there in 1980 to undertake a Masters.

Greg’s career at the Bar extended for more than 40 years. During most of this time he practised almost exclusively within the civil jurisdiction of the Magistrates’ Court. While by no means his exclusive source of work, he spent many years as a leader in the “crash and bash” field. In the early part of his career, Greg accepted work from all sources, although he was better known in latter decades as predominantly the champion of the uninsured plaintiff. His peers in that jurisdiction will remember him, not only for his sharp intellect and superb advocacy skills, but also his indomitable sense of

humour, both inside and outside the courtroom. Always popular with fellow counsel, his sometimes-acerbic wit was welcomed by all but those on its receiving end.

Greg was a foremost exponent of his craft, to which he brought the highest standards of integrity to his clients’ causes. While always promoting his clients’ best interests, he never lost sight of both the strengths and weaknesses of their cases. Yet, whatever personal view he may have taken of his brief, he unfailingly treated his clients with respect and dignity. As a true humanist, he was always alive to the implications of human frailty—Greg exploited his keen understanding of the real world both in advocating for his clients and in his cross-examination of contrary witnesses. His peers can recount innumerable stories of his prowess. His long stares into the eyes of some of his clients in court in evidence-in-chief were legendary. He appreciated the power that measured, reasonable argument brought to the persuasiveness of advocacy.

One more famous example involved his near-hopeless prosecution of a client’s case seeking indemnity from an insurer following the alleged theft of the client’s car. By the time closing submissions were due, Greg’s client had been ‘caught out’ telling multiple untruths under cross-examination. Immediately cutting to the chase, Greg commenced with an appeal to unassailable common sense: “Your Worship, even the most blatant liars have their cars stolen!” Needless to say, the court was ultimately won over.

Eccentricity is often said to be a prerequisite of those practising at the Bar and Greg was undoubtedly quirky to the delight of all. He had a penchant for *The Simpsons*, insisting that the moral lessons from each of the episodes (which he was able to quote verbatim) resonated within life in general. In the ‘lull’ of waiting for a case to be called, he regaled his opponents and anyone within earshot with his encyclopaedic

knowledge of history, events and individuals, going well beyond mere trivia. Woe betide anyone who would dare to wager against him. Greg was a great talker and loved to chat; the sixth floor of the Melbourne Magistrates’ Court must be abundant in three-legged chairs.

Possessed of a vocabulary worthy of a gameshow wordsmith, Greg often used it to great effect in court. On one occasion back in the ‘80s, he somewhat disingenuously remarked to a less than popular Magistrate, “Your Worship’s perspicuity is exceeded only by your Worship’s perspicacity”, leaving the bewildered judicial officer torn between smiling and snarling.

Greg often found himself overcome by the temptation to introduce moments of levity into a staid court atmosphere. When another Magistrate, unimpressed by Greg’s argument queried, “What is Plan B, Mr McDermott?”, he responded “Your Honour, Plan B is to revert to Plan A”.

He was also strangely superstitious. After leaving his car at the Mint carpark in the morning, he habitually refused to do up his shoelaces until settled in on the sixth floor of the Magistrates’ Court, despite the obvious risk to his personal safety. The fact that he insisted on using a particular elevator for fear of ‘mozzing’ his case was another little-known quirk. These endearing qualities were all extolled at his memorial ‘service’, attended by hundreds. Far from a sombre affair, it included musical interludes, just as Greg wanted. As Howard Friedman sang, in verses composed for the event, “he left us at the top of his game”.

His brothers, Paul and Peter, also long-standing members of our Bar share Greg’s passion for the Blues.

Greg might have rated as his greatest achievement the raising of his three wonderful children, Edward, Will and Amanda, following the premature passing of his beloved wife Dina in 2002. He was so proud to be able to move the admission to practice of each of them and watch them develop as successful members of the profession under his guidance.

In the adversarial environment of life at the Bar, few of our number could claim to have been more admired, respected and loved by their peers. He will be greatly missed by the many he touched.

VBN



John Greenwell

Bar Roll No 521

John Greenwell passed away peacefully on 22 February 2022, having turned 90 a few days earlier.

John began his career in the law in 1949 when he became an articulated law clerk, at age 16, to a solicitor based on Bourke Street. He studied law concurrently at Melbourne University.

John was admitted to the Bar in 1954 and developed a practice working mainly in commercial law. Shortly after he retired, he reflected on the atmosphere of the Bar in the 1950s:

It was like an exclusive club. All told the Victorian Bar, when I went there, was not so very different from that depicted in *Rumpole of the Bailey*. It was certainly olde world and abounded in ancient customs. Most barristers worked in the same building—Selbourne Chambers, which was erected in 1881 and ran between Chancery Lane and Bourke Street. Down it a broad central hall went the entire length of the building. On each side were small, identical and Dickensian chambers—a single room—each with a fireplace.

In the early 1960s, much of the Bar moved to Owen Dixon Chambers at 205 William Street. It was there, in March 1962, that John hosted a

small gathering that established the Victorian Branch of Amnesty International—the first in Australia. Shortly afterwards John became the branch president, and he remained actively involved in Amnesty throughout his life.

During the 1960s, John also joined the committee of the International Commission of Jurists, alongside Maurice Ashkanasy QC, John Kearney QC and its then-chair, Sir Zelman Cowan QC. In that role, they prepared a submission to a Victorian Parliamentary Committee on the establishment of an Administrative Appeals Tribunal, a novel institution for Australia at that time.

In 1970, John left the Bar and moved to Canberra to work in the Department of External Territories on the decolonisation of Papua New Guinea. Later he worked in the Attorney General’s Department and finally in the Australian Law Reform Commission, as Deputy President, before he retired in 1992.

John was known for his gentle and generous nature, his keen and thoughtful intellect, and his enduring commitment to the rule of law, human rights and social action. He is survived by his three children, Harry, Tom and Olivia, his daughter-in-law Yuri, and his granddaughter Sofia.

HARRY GREENWELL

David Bindon
Blackburn RfD

Bar Roll No 590

David Blackburn died on 6 January 2022, aged 90. He is survived by his wife Diana, four children and 10 grandchildren.

Born in Gisborne, New Zealand to Archie (later a Brigadier in the New Zealand Army) and Molly, he attended the local high school, repeating his final year after missing his exams with an arm that was so badly smashed that he spent time recuperating at the local military hospital, where the nurses kindly taught him to smoke.

The extra year was not all wasted,

as he won scholarships that enabled him to study law at Auckland University. There he supplemented his income with his prowess at the pool tables. An accomplished rugby player, he represented his university and later played for years with Harlequin when in Melbourne.

He practised briefly in New Zealand before he was lured to Melbourne by the 1956 Olympics. He did articles at Madden Butler Elder & Graham before coming to the Bar in 1959, reading with Hazie (Hazelwood) Ball.

On Dever’s List, he quickly developed a thriving practice in common law personal injury cases, ranging in seriousness from minor whiplashes to catastrophic spinal injury. He often juggled cases in more than one list on the same day, at times on both sides of William Street. For years his paperwork practice was enormous. Over 100 briefs a week left his chambers—the product of nightly homework, six hours of dictation on Sunday mornings, and devilling by hungry juniors.

In court, in the days before transcripts were routine, he had a remarkable recall of the evidence, aided only by industrious doodling in his notebook. His cross-examination style was economical. Once, in just three questions, he persuaded the defendant’s tram conductor to boast to the jury that he had never, ever, in his 30 years on W-class trams, known a passenger to be jerked or jolted by its motion. The jury laughed out loud! The plaintiff won.

Never one for lunch, whether in court or not, David spent lunch time playing billiards and eating the complimentary cheese at the Savage Club. For years he kept chambers on the third floor of East, in a suite shared with JW Burns and Philip Mandie.

Generous to his four readers, David once told a plaintiff who was demanding \$1 million for his neck strain that he didn’t do \$1 million cases, but that the young man at the small desk in the corner did little else. Soon after, the case settled.

In his later years at the Bar, he spent much of his time on circuit in workers compensation cases.

Away from the law, he was a man of remarkable energy—in the 1960s and 1970s he built no less than four mud brick houses on rural properties in the Panton Hills, Kangaroo Ground area. Each time the family moved to the new one, so too did his antique full-sized billiard table, often to the peril of the friends he enlisted to help with the move. When on the farm, his favourite machine was a small bulldozer, which spent most of its life wherever he had last bogged it!

David married Diana in the early ‘90s, and in retirement spent his time between South Yarra and Flinders.

HIS HONOUR JUDGE WISCHUSEN



Charles William George Wheeler

Bar Roll No 724

Charles Wheeler was born on 18 February 1935 and died on 22 April 2022 aged 87 years.

He is survived by his wife, Wendy and children, Greg and Prue.

He was educated at Brighton Grammar School. He studied Law part-time at the University of Melbourne, whilst working at the Department of Defence at Victoria Barracks and then at the Commonwealth Solicitor’s office in Melbourne.

In 1963, after obtaining his law degree, he served articles with Mr David Bell, the Commonwealth Deputy Crown Solicitor in Melbourne.

On 1 November 1963 he was admitted to practice.

On 20 April 1963 he commenced reading with the Honourable Justice Kenneth Jenkinson.

On 28 May 1963 he signed the Bar Roll. He initially had a wide practice, which developed into an expertise in compensation law, both state and federal. In addition to this he had a lot of work in the Practice Court in the Supreme Court.

Charles was a very proud member of the Bar and was strongly committed to the values, culture and traditions of the Bar. He had eight readers, Jacob Fronistas OAM, Lewis King, Bernard Sutherland, Thomas Topham, Michael Wilson, Hugh Burchill, Malcolm Park and Gerald Grabau.

Charles served on various Committees including: 1979–1981 The Joint Standing Committee on County Court Practice and Procedure; 1980–1988 County Court Rules Committee; and 1981–1990 Law Reform Committee (County Court Practice).

His expertise in County Court practice resulted in him editing and co-editing the Butterworths publication, *County Court Practice*, for 15 years. The third edition was Wheeler and Topham, *County Court Practice*.

On 31 July 1990, Charles was appointed as a Master of the Supreme Court. Throughout his fourteen and a half years as a Master, he maintained the zest, cheerfulness and good humour he showed throughout his 26 years at the Bar. His handling of applications to approve compromises attracted particular admiration as expert, expeditious and sensitive.

On 17 February 2005, he retired as Master. During my reading period with Charles in 1983 and 1984, I observed him to have a strong sense of fairness, treating all people equally and with respect. He had an encyclopaedic knowledge of the law in many areas and was able to recall precedents and rules without referring to any texts. He was very

professional in his preparation and attention to detail.

Charles had a great love of literature and sailing. He named his Boomaroo yacht *SWMBO*, spoken “Swimbo”—a reference to the fictional barrister, Rumpole of the Bailey’s appellation for his wife, “She who must be obeyed”.

Charles was also an active freemason over many decades supporting families and the community. He never boasted about his charitable work.

Charles suffered a long illness and was in aged care for over five years. He maintained his humour and showed great courage, particularly when he had to endure isolation during the many lockdowns as a result of the pandemic. His wife and children gave great support to Charles during this time. He will be greatly missed by his family, friends and many professional colleagues.

JACOB FRONISTAS

Gerald A. Lewis QC

Bar Roll No 955

Gerald (Gerry) Lewis QC passed away in the early hours of 26 February 2022, aged almost 76 years.

Gerry was born on 7 March 1946, and was educated at Scotch College. After completing his schooling, Gerry completed his Law Degree at the University of Melbourne graduating in 1968. In doing so, he followed three earlier generations of his family, whose degrees and family firm brass plaque proudly adorned the walls of his chambers.

Gerry completed Articles at Corrs Chambers Westgarth and was admitted to practice on 1 March 1969. He signed the Bar Roll on 22 April 1971, reading with William B Treyvaud.

Throughout his career at the Bar, Gerry practised extensively throughout the state, but particularly on the Geelong circuit and in Melbourne. He had a substantial common law jury and serious

injury practice. Gerry took Silk on 17 December 2002.

Gerry was a formidable advocate and opponent but always scrupulously fair in conduct of his cases.

In 1983, Gerry was a leader in founding the first privately-owned chambers, Seabrook Chambers, a group who placed great store upon their social life, conducting regular Friday lunches in the chamber’s basement (with its extensive wine cellar), dine-in nights and the Grand Final Lunch, to which many members of the Bar and Bench were invited over many years.

Gerry continued to conduct a busy practice until ill health forced his retirement in early 2020.

Gerry leaves behind five children including Harry Lewis, who is a member of our Bar, and three grandchildren to whom he was devoted. He will be missed by his former colleagues at Seabrook Chambers and the wider Bar community.

ANDREW INGRAM

The Hon Peter Vickery QC

Bar Roll No 1382

Peter Vickery QC died on 25 April 2022. He was 72 years old.

Peter attended Melbourne Grammar School where he was Captain of the School. He completed his law degree at Melbourne University in 1971. Peter served articles of clerkship with Hugh Graham of Madden, Butler, Elder & Graham and was admitted to practice in August 1973.

In 1974 he travelled to London from where he subsequently graduated from the University of London (Kings College) with a Master of Law degree. Peter completed a summer program at The Hague Academy of International Law, then returned to Melbourne and taught in the Legal Studies Department at La Trobe University from 1975–1977.

Peter signed the Bar Roll in March 1978 and read with the Hon Michael

Black QC. Peter had five readers. He was appointed Silk in December 1995 and as a judge of the Supreme Court of Victoria in May 2008. He retired on 8 May 2018.

In 30 years at the Victorian Bar Peter developed a wide-ranging practice in trial and appellate jurisdictions, in all areas of commercial and administrative law, focusing on engineering and construction law.

Whilst a member of the Supreme Court, Peter established and managed the Technology, Engineering and Construction List (TEC List). He developed the “Red Crest” electronic case management system, and in 2014 he was appointed to manage the Intellectual Property List and was a judge of the Commercial Court.

After retirement from the Supreme Court, Peter relocated to Sydney and was appointed as an occasional lecturer at the University of Technology, Sydney in Construction and “Law and Technology”.

Peter was a Fellow of the Chartered Institute of Arbitrators (UK) and a Fellow of the Australian Centre for International Commercial Arbitration (ACICA).

RICHARD MANLY

Beverley Marea Hooper

Bar Roll No 999

Beverley Hooper died on 8 March 2022 at the age of 89 years.

Beverley signed the Bar Roll on 2 March 1972. She was amongst the first intake of female barristers at the Bar. Beverley specialised in family law and worked voluntarily for the Children’s Protection Society for over a decade during her first years at the Bar.

Many of her colleagues will recall gathering in her chambers after work on a Friday night.

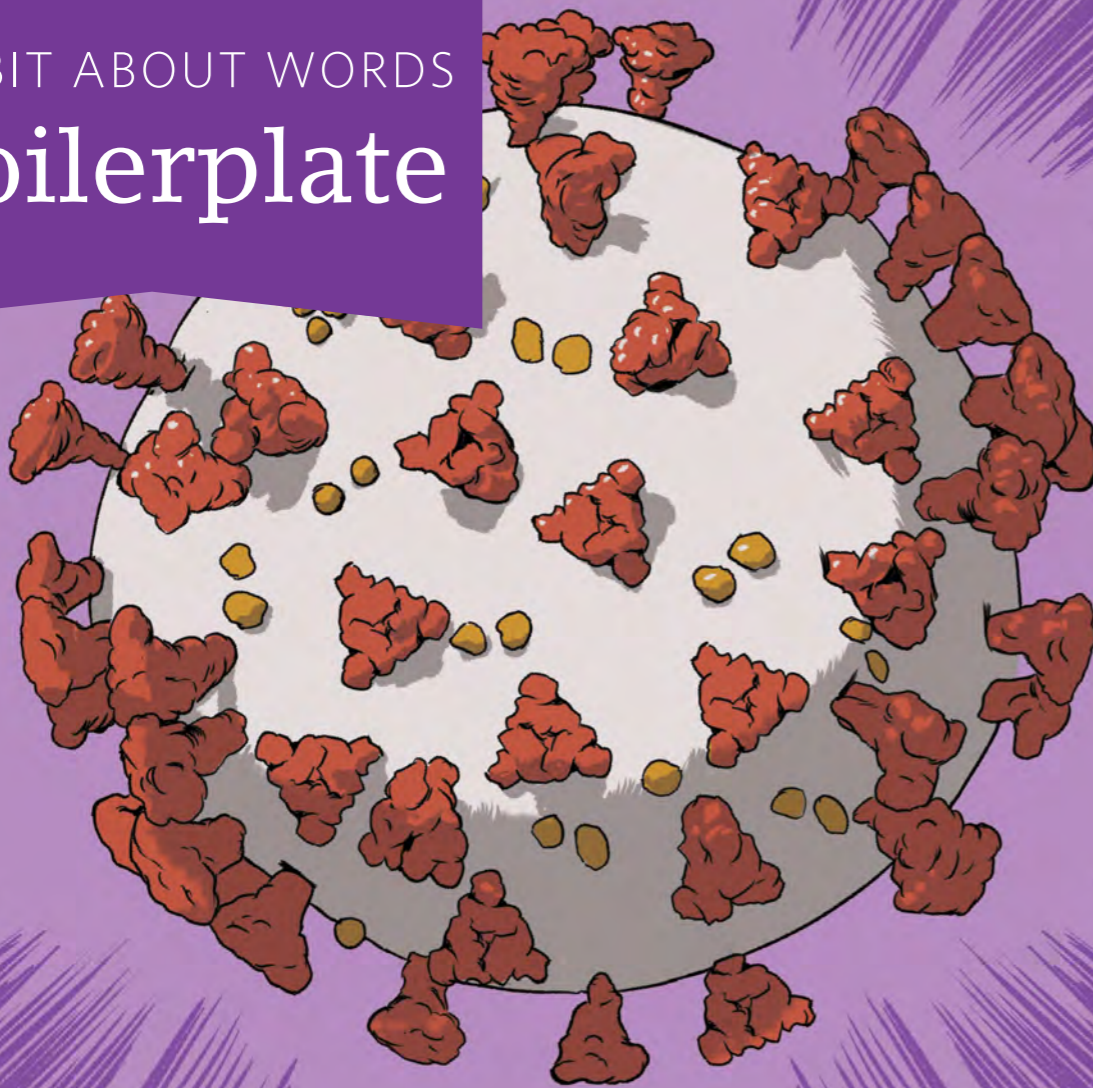
Beverley was bestowed the title of “Legend of the Bar” in 2012.

Beverley will be missed by her four children, Andrew, a member of the Bar, David, Samantha and Nick and her eight grandchildren.

VBN

A BIT ABOUT WORDS

Boilerplate



Coronavirus

JULIAN BURNSIDE

On 1 March, I received an email from Janine Gleeson. It included the following:

“... I am one of the three new editors of the VBN. Nico Burmeister and Alex Golding are the other two and we have an energetic new committee, we have each taken on a particular section of the magazine and my sub-committee has the Back of the Lift. I have the Boilerplate section.

We have decided the theme for the Winter 2022 edition will be “Welcome back from COVID” hopefully with lots of positive articles, photos, and content. We hope that you will continue with your ‘A Bit about Words’ contributions. It is always an interesting read. Our first deadline is Thursday 18 May 2022.”

It is the first time the VBN has directed my attention to a subject for “A Bit About Words”. The Coronavirus shutdown has meant (for most of us, at least) a reduced diet of language, apart from words like *Coronavirus*, *COVID-19*, *pandemic* and the miserable diet of language on Netflix.

Coronavirus has interesting origins. Literally (and obviously) it is a combination of *corona* and *virus*. We tend to think of the regal associations of *corona*, because of the association between *corona* and *crown*. In its definition of *corona*, *OED4* starts with “cor na crown, chaplet or wreath, fillet or circlet of gold or other material”. But *OED4* gives, as its first two definitions of the word:

1. A small circle or disc of light (usually prismatically coloured) appearing round the sun or moon. Also applied to a similar appearance opposite the sun, an anthelion; and more widely, to similar phenomena in optical instruments, etc.
2. Astron. The halo of radiating white light seen around the disc of the moon in a total eclipse of the sun; now known to belong to the sun.

It is also defined (in *OED*’s 3rd definition) as “a circular chandelier suspended from the roof of a church; more fully *corona lucis* (crown of light).”

The word has very literal application in its modern context. If you look at the sun during a solar eclipse (the only time it is safe to look at the sun) you will see that the outermost part of the sun emits sparks of fire. Coronaviruses are a family of enveloped RNA viruses which are fairly common, but not all are as dangerous as the one which shut us down over the past two years. The outermost layer of the coronavirus is a protein membrane, punctured by a number of protein spikes: hence the similarity with the first two definitions in *OED*.

Johnson (1709-1794) in his 1785 edition of *A Dictionary of the English Language* defines *corona* as:

A large flat member of the cornice, so called because it crowns the entablature and the whole order.

His 1818 edition (the first posthumous edition) defines it identically.

And *virus* comes from the Latin, meaning “slimy liquid, poison, offensive odour or taste” is defined as follows:

1. Venom, such as is emitted by a poisonous animal.
2. Path. 2.a A morbid principle or poisonous substance produced in the body as the result of some disease, esp. one capable of being

introduced into other persons or animals by inoculations or otherwise and of developing the same disease in them. Now superseded by the next sense.

3. fig. A moral or intellectual poison, or poisonous influence. Also in weakened use, an infectious fear, anxiety, etc.

Johnson lived in less-threatened times. The word *virus* does not appear in his dictionary, which is curious, because the *OED4* definition is supported by quotations from 1599 on. So, the word existed, but the thing was less of a concern.

There are seven documented coronaviruses to date: four are relatively harmless (229E, NL63, OC43 and HKU1). Others are more serious:

MERS (Middle East Respiratory Syndrome, registered in Saudi Arabia in 2012),

SARS (Severe Acute Respiratory Syndrome, tracing its origin to China in 2002) and

SARS-CoV-2.

When the danger associated with the last one was recognised, it was named COVID-19, which means COroNaVIrusDisease (20)19. So: all fairly simple.

Pandemic comes from the Greek “of or pertaining to all the people”. The *OED4* defines it as follows:

1. A General, universal. esp. Of a disease: Prevalent over the whole of a country or continent, or over the whole world. Distinguished from epidemic, which may connote limitation to a smaller area.

It is also defined as meaning “of or pertaining to vulgar or sensual love.” That’s a meaning which comes from Shelley, but was comprehensively overtaken by COVID-19.

Arguably the first *pandemic* was the Spanish flu of 1919. It emerged as people were, for the first time in history, leaving Europe (after the end of the First World War) and going to other countries.

However, a quotation for the *OED4* definition of *pandemic* reads:

1892 *Times* 2 Sept. 9/1 We are face to face with a pandemic outbreak of cholera similar to those which fell upon Europe in 1830, 1847, 1853, and 1866.

So, the Spanish flu *pandemic* of 1919 might not have been the world’s first *pandemic*, or perhaps things were assessed locally; or perhaps COVID gave pandemic the universal flavour inherent in its definition.

As with *virus*, Johnson does not define *pandemic* (perhaps not surprising, if the first *pandemic* happened about 125 years after his death, but he does include a definition of *epidemick* as follows:

That which falls at once upon a large number of people.

One of the supporting quotes for *pandemic* in *OED4* dates from 1666, but the rest are from after Johnson’s time.

The supporting quotations include this:

1666 Harvey Morb. Angl. i. 2 Some [diseases] do more generally haunt a Country...whence such diseases are termed Endemick or Pandemick.

So, Harvey was probably referring to endemics.

Plainly the word *pandemick* existed in Johnson’s time, but probably not the thing it referred to. One of the quotations cited by *OED4* for *pandemic* says it is a synonym for epidemic.

So, we are told that the COVID-19 pandemic is over. Time will tell. Is it possible that Fate has more surprises in store for us? Which brings me back to Janine Gleeson’s email. She says that the next edition of *VBN* is to be themed “Welcome back from COVID”. That theme assumes that we have defeated the pandemic. Is it too pessimistic to say that the theme might be more accurate if we delete the word “from”?

So: Welcome back COVID. ■

LANGUAGE MATTERS

You do not have to say anything...

PETER GRAY

The common law abhors self-incrimination. This stems from revulsion against torture, which was used centuries ago to force people to admit their guilt, especially in the dreaded Court of Star Chamber. The common law has developed the principle that, if a confessional statement is to be evidence, it must have been a voluntary statement.

Since at least the mid-19th century, police have routinely cautioned those they arrest, or those they are about to interview.¹ The elements of the caution have usually included a right to maintain silence, a warning that anything said will be used in evidence, and the right to consult a lawyer. Cautions of this kind have become established in popular culture. We are all used to the television crime drama, in which the senior police officer instructs the arresting officer to *read him his rights*.

If there is such widespread understanding that we have a right not to tell the police anything, why do so many people answer police questions and, in doing so, incriminate themselves? American experts² estimate that 80 per cent of adult and 90 per cent of juvenile suspects waive their *Miranda*³ rights and talk to police without a lawyer present. I suspect that numbers in

Australia would be similar. Surely, if the right to silence is part of folklore, more people would exercise that right. The answer might be found in the language of the caution and the manner in which it is delivered.

First, let's look at what is required. Before questioning a person who has been arrested, or asking them to participate in an investigation, an investigating officer must *inform the person in custody that he or she does not have to say or do anything but that anything the person does say or do may be given in evidence*.⁴ The relevant Commonwealth legislation requires that an investigating official must *before starting to question the person, caution the person that he or she does not have to say or do anything, but that anything the person does say or do may be used in evidence*.⁵

Notice that the caution is not required on arrest, but before questioning (or, in the case of the Victorian Act, an investigation in which the person participates) begins. It seems that police use the caution on arrest, however. For an example, see the video of police entering the home of a Ballarat woman, to arrest her for a Facebook post telling people to attend an anti-lockdown protest, and to execute a search warrant.⁶ A police officer twice recites the caution to her, once while she tries to speak over him. The police do

not mention questioning and do not ask the woman to participate in any investigation. Later, the police officer asks the woman to hand over her phone and to put her hands behind her back, so that he can handcuff her. What if she had refused, on the basis that she had been told that she did not have to do anything?

Notice also that there are problems with the language of the caution formula. There is no requirement for the officer to tell the suspect that questioning, or an investigation, is about to start. Administering the caution without linking it with what is to come would turn it into an abstract and somewhat meaningless utterance.

There is also the agentless passive voice construction *given in evidence* or *used in evidence*. This is easy enough for us to understand as lawyers, but most people who find themselves in police custody are not lawyers. They are not a true cross-section of society. They are more likely to be from disadvantaged groups: those with intellectual or cognitive disabilities, mental illnesses, limited education, no experience of interaction with police, or brain functions affected by alcohol or other drugs. Being a suspect in a police station is very stressful. All these factors can limit cognitive capacity. In addition, there are likely to be many suspects who do not have English as a first language.

The formal language of a police caution will be daunting. Speculating about who will do the giving or using, and what *in evidence* might mean will not help. Linguists say that the language of standard police cautions is difficult, even for native English speakers, to understand.⁷ How much more difficult will it be for people who do not speak English, for people with limited English, or for people from cultures in which it is simply impossible to understand that anyone could ever refuse to answer police questions?

Linguists see police cautions as an example of the two-audience dilemma. The ostensible audience for the caution is the suspect, but the real audience is the court. For police, the caution is important only to ensure that any confessional statement that results from the ensuing interview will be admissible as evidence.⁸ The caution is a box to be ticked, a prerequisite to the interrogation which the police hope will produce a confession. Police don't want the suspect to understand, much less to exercise, the right to maintain silence. Without confessional evidence, many charges could not be proved. The police have every incentive to recite or read the caution in the most perfunctory way possible.

Even worse, police may want to use the caution to convey a social meaning that expresses the power relationship they wish to establish with the suspect. It means, and is often understood to mean, *you are a suspect, you are in my custody and I am about to interrogate you*. This is one very likely result of the folklore aspect of cautions. It is hard not to see the double recitation of the caution as part of the establishment of a power relationship in the Ballarat case.⁹

Most importantly the obligation of the police is to *inform* the suspect that they do not have to say or do anything, but that anything they say or do may be given or used in evidence. The word *inform*, used as a transitive verb, means *to impart knowledge of a fact or circumstance to*.¹⁰ Does mere recitation of the formula of the caution impart knowledge of the right to silence? What of someone who does not understand what has been recited? The police will often follow up with the question, *do you understand that?* To ask this question, and to accept the answer *yes* as evidence of understanding, is widely recognised as the most ineffective way to ensure that a person understands. Very few people are prepared to admit that

“It seems odd that a suspect should have to say something in order to exercise the right to say nothing.”

they do not understand. Many will think that they do understand, even though they may not understand fully. Some will want to appear to cooperate with police. Some will simply want to bring the stressful situation to an end as soon as possible.

Aboriginal people have been found to be particularly prone to answering *yes* to every question from a person in authority, a phenomenon known as gratuitous concurrence. The *Anunga* guidelines¹¹ originated in the Northern Territory in the 1970s and have been adopted elsewhere for the interrogation of Aboriginal people. They require that a police officer ask the suspect to restate the caution in their own words, phrase by phrase. If not satisfied that the suspect understands the caution, the police officer should explain the caution and repeat the process until satisfied that the suspect truly does understand it. There is no reason why this requirement should not apply to everybody to whom the caution is administered. At the very least it should apply to all those who show any indication that their English is limited.¹²

There are other problems. There is no established procedure for claiming the right to remain silent. It seems odd that a suspect should have to say something in order to exercise the right to say nothing. In the United States, the courts have been extremely pedantic, and have ignored all the pragmatics of conversations in English, in saying that people who have clearly been claiming the right to silence have not succeeded in doing so.¹³ If someone does expressly claim the right, and then engages in idle chatter with the police about the weather or football, or asks for a drink of water, do they thereby waive the right? Can the police try to persuade someone who has claimed the right to then waive it?

How serious are lawyers about the right to silence? Should there

be more investigation of whether suspects have been truly informed of their rights and therefore whether they have really confessed voluntarily? ■

- 1 See *R v Baldry* (1852) 2 Den 430.
- 2 Pavlenko, A, Hepford, E and Jarvis, S, (2019), An illusion of understanding: how native and non-native speakers of English understand (and misunderstand) their *Miranda* rights. *The International Journal of Speech, Language and the Law* 26.2, 181-207.
- 3 *Miranda v Arizona* 384 US 436 (1966), at 437.
- 4 *Crimes Act 1958* (Vic), s 464A(3).
- 5 *Crimes Act 1914* (Cth), s 23F(1).
- 6 <https://t.co/2qPQ5W9t0H>.
- 7 Pavlenko et al, 183.
- 8 *Uniform Evidence Acts*, ss 138 and 139.
- 9 See note 6 above.
- 10 *Macquarie Dictionary*, 2017 ed, 778.
- 11 *R v Anunga* (1976) 11 ALR 412.
- 12 Communication of Rights Group (2015), Guidelines for communicating rights to non-native speakers of English in Australia, England and Wales, and the USA, <https://www.iafl.org/resources/>.
- 13 Ainsworth, J, (2020), *Miranda rights: Curtailing coercion in police interrogation: the failed promise of Miranda v Arizona*, in M Coulthard, A May and R Sousa-Silva, *The Routledge Handbook of Forensic Linguistics* (2nd ed), pp 95-111, London and New York: Routledge.

The Hon Professor Peter Gray AM was a judge of the Federal Court of Australia from 1984 until 2013. Peter's long-term interest in language and communication was enhanced by his experience as an advocate and a judge. His work among Aboriginal Australians sparked a particular interest in cross-cultural communication, particularly in the legal system. This interest has led him to forensic linguistics, and to membership and roles on the Executive Committee of the peak body, the International Association of Forensic Linguistics, since 2003. Peter is an Honorary Professor at Monash University.



TEST DRIVE Volkswagen Golf Mk 8

JOHN LAVERY

The onset of our first Covid normal Autumn, and the ramping up of criminal case listings brought the opportunity for a trip to the Latrobe Valley court. My practice has taken me to the Latrobe Valley many times since I first worked in Traralgon as a freshly minted solicitor almost 40 years ago! This time as I set out in a Volkswagen Golf, I looked forward to revisiting some of the features of the Valley!

The thought of exiting Melbourne via the M1 was not a pleasant one, but I reasoned that by adding an hour or so to my travel time I could take a much better route. Setting out early, and travelling out through Yarra Glen,

Healesville, Yarra Junction and towards the Great Divide is slow but picturesque. Past Powelltown, the road climbs up into thick eucalypt forest and the drive to Noojee is the antithesis of the M1. From Noojee through to Hill End and Willow Grove the views are wonderful; the road varies between tight twisting mountain and valley roads, and sweeping medium speed ridge-top roads, many with pockmarked and uneven surfaces, and the traffic is light. The car proved itself to be well up to these conditions, steering comfortably through the twisty parts, and dismissing the road irregularities with aplomb.

Approaching Moe, I recalled the Moe courthouse of the '90s: a grim, lightless, chocolate brick building. The cases from the time seemed to reflect what had happened to the Valley. The townships from Warragul through to Traralgon, had thrived for decades on bountiful farming income and the handsomely paid employees of the power generation industry. The area had suffered badly from the recession of the early '90s, the restructuring of the power industry and the changing demographic which followed.

Driving past the Yallourn Power station, with its massive cooling tower dominating the roadside, I wondered what the inevitable transition away from coal fired power will do to the region. Arriving at court I was

able to grab one of my favourite parking spots in front of the Always Welcome Motel.

The new Latrobe Valley Court complex is a vast improvement on the old Morwell County Court building which featured lacquered pine wood linings that had provided nourishment to many generations of wood borer. The upper story court rooms in the new building have picture window views to the south of Morwell which now provide a bird's eye view of a doomed industry. The abandoned open cut coal mine which previously fed Hazelwood power station is not a thing of beauty. Looking at it, I recall reading an article in which it was proposed that the open cut should be filled with water and transformed into a Victorian equivalent of Italy's Lake Como! There may be something in that—I think I saw George and Amal

“Approaching Moe, I recalled the Moe courthouse of the 90's: a grim, chocolate brick building. The cases from the time seemed to reflect what had happened to the Valley.”

Clooney when I had my morning coffee in the Latrobe Regional Gallery cafe (you must have regard to *Jury Directions Act 2015* section 36(3)a, b and c(i) and c(ii) when considering this assertion). An early finish at court allowed me enough time to dash down the highway to Traralgon. Unsurprisingly, the township has grown a lot since the early 1980s. The old Magistrates' Court building is still standing but has been converted into a historical society building. Stepping inside brought back memories of Magistrates' Court sitting days before the mention system. Defendants would plead guilty or not guilty on the day, and informants, witnesses and defendants would mill about outside the court until their case was called. Telling the clerk that you were pleading guilty usually moved you up the queue.

Heading home again was an uneventful trip as far as Warragul. The Golf proved to be a comfortable freeway cruiser. The cabin was quiet, and the Bluetooth excellent. Taking and returning work calls made the kilometres pass quickly, however I still could not bring myself to travel back up to Melbourne all the way on the M1.

At Warragul I took the C425 turn off to Korumburra. If you have the time, this is also a great drive as it crosses over the western end of the Strezlecki Ranges. As I travelled south, I was even tempted to revisit Mount Worth State Park. A former timber milling area, it features walking tracks through remnant temperate rainforest, bits and pieces of the former timber mills which operated there, and photo information boards showing a long-gone timber milling settlement in what is now a maturing eucalypt forest.

Pushing on to Korumburra and a quick stop at the Magistrates' Court there refreshed my memory of a

building which appears to be of a similar vintage to the Moe court, but which always had a happier atmosphere. Travelling back towards Melbourne is a pleasant drive until the outskirts of greater Melbourne where it is difficult to be enthusiastic about the driving conditions.

The latest Volkswagen Golf, the Mark 8, is an evolution of a design first released almost 50 years ago. It is refined and quiet, rides well and steers and handles with precision and composure. It has Apple and Android wireless connectivity. The traditional dashboard instruments have been replaced by a digital display, and there is a large digital touch screen atop a clean minimalist dashboard. The gear selector is a toggle switch, the parking brake is electronic, and there are paddle shifters on the steering wheel. The engine is a modern small capacity (1.4 litre) turbo, which provides amazing torque (in this context, accessible power throughout the engine's operating speeds) together with excellent fuel economy.

One of the big changes with this model is that Volkswagen have reverted to a traditional automatic transmission. The previous model DSG (twin clutch transmission) that is still used in some models did not enjoy a reputation for reliability or refinement at low speeds and parking. The new eight-speed torque converter transmission is certainly refined and the technology in it is well proven.

The R-line model Golf provided to me is just shy of \$44,000 on the road (not including the comfort and style package of sport seats and electric sunroof optioned on the car I drove). Unfortunately, new cars are in short supply at present, and you will struggle to find dealers with stock of this model (the test car was provided courtesy of Bayford Volkswagen in Fairfield). ■

Red Bag – Blue Bag

Dear Mr/Ms Red Bag,

Now that we are finally starting to see the inside of Court Rooms again, although still not often enough, I blush to confess that I sometimes find myself rather rusty on some of the finer points of Bar and court etiquette. I suppose that with the distraction of having to now don both upper and lower body business wear (oh how I miss my comfy ‘trakky-dacks’) and proper shoes, rather than just my Disney themed fluffy slippers, and amidst the sheer all-too belated bliss of seeing and being in a hearing in 3D, much of this arcane but apparently vital detail simply slips from my fevered brow. Indeed, I now find myself often trying to hold back my tears of shame at the serried frowns and sniffs of my peers at each increasingly egregious faux pas of which I am evidently found guilty without the inconvenience of a trial. Help... please!

*Yours &c.
Blue Bag*

My dear Blue Bag,

May I observe immediately, and with abiding regret, that the very form of salutation with which you commenced your epistle under reply is proof positive of the grievous sins to which you thereafter confessed. Oh, young one, you still have so much to learn... This would never have happened if Mentors were still called Masters regardless of their sex, as it was in happier days ante bellum! We barristers as honoured siblings of one another ought never commence correspondence to a member of counsel with a title prefixed to the name of barrister addressee and, strictly speaking, we ought never to include Christian names before the surname. This is in part to avoid embarrassment if one gets the precise appellation wrong, and in part to reflect the fact that, save for we elite of the Inner Bar, all barristers are, at least in theory, equals, whether we be of aristocratic or elevated origin (as needless to say all of my forebears, and the odd fore-wolves and one or two fore-reptiles, were) or from lesser more mechanical origins, such as your own, as the Bard himself would have put it.

I also read with considerable dismay your reference to your current garb in court and the grave potential for

confusion and mistake which you evinced thereby. Now I trust that all wise judges of good sense (as I am sure all judges are) now insist that all counsel at trial must appear in-person and properly robed (stifling a deep sigh as I look at my long disused wig, still gathering dust atop its perch on my phrenology head bust). And it is as well to always remember the basics. If appearing in a directions or interlocutory hearing, counsel of refinement always wears dark hued professional clothing that would be appropriate for business, and not garbed as for a fashion parade or a rakish cocktail party at Flemington in Springtime, let alone a pirate themed fancy dress evening. You are never to appear clad as “Our person in Havana” and nor as a latter-day Beau Brummel. Let “sober and refined” be your watch words, if only in connection with your attire. Indeed, I am deeply gratified to note that on recent review Legalpediaqld.org.au helpfully advised that “Thongs and singlets must not be worn” in court.

Now that is a mistake that just about all young barristers are ineluctably doomed to make sooner or later, if only ever once.

And as for proper robes which must be worn, well we all, or at least most of us, know what they are. Although that being said, I regret to recollect that a distant relative (although bearing a quite different surname I am relieved to state), not too long ago, came sadly a cropper in the Motherland. I refer of course to the chap who boldly described himself as “Dr The Rt Honourable The Lord Harley of Senior Counsel”, a solicitor, who chose on 28 August 2014 to appear in The Law Courts,

Cathays Park, Cardiff before his Honour, the most aptly named, Judge David Wynn Morgan. Now Harley, at least as we would call him was he a genuine member of our Bar, was pleased to announce his appearance as “Senior Counsel” without ever incurring the apparently unnecessary inconvenience of being called to the Bar (in either England or Wales, let alone, in God’s Own Country of Australia) or troubling to actually take silk.

Worse, poor Harley, with more courage than judgment, had chosen on his lavish letterhead in his correspondence with the learned judge to describe his relatively humble

solicitor’s garret as the “Chambers of The Right Honourable The Lord Harley, Senior Counsel”. And worst of all, for dear, lamentable Harley, he chose to stitch onto his hitherto plain stuff junior’s gown a series of garish medals. No doubt, seeking thereby to add a dash of colour and élan that the noble Lord thought that they lacked. When, at the conclusion of the criminal trial, which Harley to his own surprise if that of no one else, lost, Judge Wynn Morgan enquired as to the nature and origin of these medal ribbons, Harley’s bold, if poorly gaged, response was that they were “service medal ribbons, your Honour, for voluntary medical service...



“One can never laugh too hard at a Judge’s joke, the lamer the better, and no barrister was ever once disbarred due to a surfeit of flattery directed at the bench.”

Medical service. I have been an officer in both the St John’s Ambulance Brigade and in the Emergency Response Service”. His Honour then spent some considerable time, musing in great detail on the sufficiency of this explanation. His Honour reflected on how other counsel, most of whom had first troubled themselves to actually read at the Bar, some of whom were even genuinely appointed as Queen’s Counsel, and who had actually won medals of almost as great distinction as Harley’s, including such baubles as the Victoria Cross, had habitually disdained from sewing any medal ribbons to their robes before proudly marching into Court. Judge Wynn Morgan concluded his helpful and most heartfelt words to Harley as follows:

If you ever appear before this court again dressed as you are at the moment, I shall exercise my right to decline to hear you. I did not raise any of these matters before this case started, although I wanted to, because I am mindful of the fact that a young man has died and I did not want to interfere with the dignity of the proceedings, but if you want to come into court looking like something out of Harry Potter, you can forget coming into this court ever again. Do I make myself clear?

It later transpired that “Dr The Rt Honourable The Lord Harley of Senior Counsel”, had no authentic doctorate, his name was in fact Alan Blacker, his claim to have somehow acquired a defunct Irish peerage was attached with some doubt, and in 2016 he was struck off the Roll of Solicitors, among other reasons, for making “inaccurate and misleading” statements about his academic qualifications and professional memberships. Undeterred by these, to him, inconsequential set-backs,

the would-be Lord Harley, then later made an abortive bid to return to the legal profession as a chartered legal executive. In late 2021 the CILEx Regulation website reported the failure of this bid, for stated reasons, inter alia, that:

...Mr Blacker failed to disclose that he had been struck off the roll of solicitors in 2016, made bankrupt in 2018, convicted in 2019 of dishonestly making a false statement contrary to section 111A(1)(a) of the Social Security Administration Act 1992 and removed from being a trustee or being concerned with the management of or control of a charity.

Now whilst all of that could easily happen to any one of us, my dear Blue Bag, I sincerely implore you to cast away that assortment of Scout, or were they Guides, badges you have concealed in your robing cabinet. Do not succumb to the temptation, sweet though it may seem, to tart up one’s gown, because, as we all know, usually all that which goes up, must invariably one-day come down!

Alas, unlike me I know, I seem to be waxing too lyrical, and so I must make haste to conclude this too long letter of instruction, admitting to the same vice as that of Mark Twain’s letter to a friend.

In court, opposing counsel should always be referred to as “my learned friend Mr or Ms X”. Never, I repeat never, describe them as your “colleague” or just as “my friend”. That is very low Church indeed! Barristers ought to be, and are presumed, “learned in the law” no matter how silly they may truly be. Traditionally speaking, an opposing solicitor advocate or “amalgam” (sniff), was once referred to simply as “my friend” and never as “my learned friend”. But I doubt that you will cause grave offence to any

opposing solicitor in the 21st Century if you apply the epithet “learned” when referring to them too. After all, the poor sweethearts could do with a bit of geeing up now and then. It may even garner you a brief or two! Goody!

Always remember too that there is no royal “we” in court. Unless you are Senior Counsel or Queen’s Counsel or maybe Lord Harley, Heaven forefend, it is inappropriate for junior counsel to say “we” as a reference to your team or firm. “My learned leader and I”, is always a safe way to start, and spreads the blame should you err! Also, always bear in mind that courtesy and common-sense are your best allies in court (although a bit of preparation never hurts either)!

Be sure to avoid over-familiarity with the bench—it is extremely poor form to say “good morning” or to express or show undue familiarity with the judge. I never once did that in all of my many contested trials before my doting Daddy! That being said, however, one can never laugh too hard at a judge’s joke, the lamer the better, and no barrister was ever once disbarred due to a surfeit of flattery directed at the bench.

And let my final words, for now, be these: remember Blue Bag that angry advocacy is almost always bad advocacy. A case may still be hard fought with patience and courtesy. A cool and calm demeanour projects confidence by counsel, no matter how one’s legs tremble below bar-table-level, and will give the bench greater confidence in your submissions. And most importantly, every present-day opponent, humble though they may now seem and probably are, might one day be a future judge before whom you then have the unalloyed delight to appear. Note too that the human memory for perceived slights or insults is invariably very longevous and is relentlessly unforgiving....

Yours ever...
Red Bag

MUSIC REVIEW

Pandemic be damned!
Nothing shall halt King
Gizzard and the Lizard Wizard



ED HEEREY

On 22 April 2022, East Brunswick’s own **King Gizzard and the Lizard Wizard** released their 20th studio album, *Omnium Gatherum*. If you are not yet familiar with this local musical phenomenon, I’ll do my best to bring you up to speed.

KGLW’s 20 full-length albums have been produced in just over 10 years (and that’s not counting a further 10 live albums, two compilations and three EPs), see table:

Year	Album	Styles, themes
2012	<i>12 Bar Bruise</i>	Surf/garage rock
2013	<i>Eyes Like the Sky</i>	Western audio book (narrated by Broderick Smith)
2013	<i>Float Along—Fill your Lungs</i>	60s/psychedelic
2014	<i>Oddments</i>	Microtonal funk/rock
2014	<i>I’m In Your Mind Fuzz</i>	Garage/psychedelic
2015	<i>Quarters</i>	Conceptual prog-rock
2015	<i>Paper Mâché Dream Balloon</i>	Acoustic folk
2016	<i>Nonagon Infinity</i>	Progressive, hard-driving jams
2017	<i>Flying Microtonal Banana</i>	Experimental microtonality
2017	<i>Murder of the Universe</i>	Sci-fi heavy metal audiobook
2017	<i>Sketches of Brunswick East</i>	Improvised jazz
2017	<i>Polygondwanaland</i>	Mystical
2017	<i>Gumboot Soup</i>	Eclectic
2019	<i>Flying for Fishies</i>	Skiffle/boogie/blues
2019	<i>Infest the Rats’ Nest</i>	Metal
2020	<i>K.G.</i>	70s/medieval
2021	<i>L.W.</i>	Experimental microtonality
2021	<i>Butterfly 3000</i>	Synth dream-pop, with arhythmic twists
2022	<i>Made in Timeland</i>	Vinyl-only release (two 15-min tracks)
2022	<i>Omnium Gatherum</i>	All of the above!

I have not checked if this prolific output qualifies for some category in the *Guinness Book of Records*. If it doesn’t, it should.



By comparison, it took the Rolling Stones 17 years to release their 19th studio album *Tattoo You* in 1981, after which they have played a further 40-plus years and released seven more (let’s face it) shite albums. The reality is, most bands either run out of new ideas and end up recycling old ones, or fall apart under the weight of inter-personal tensions. KGLW suffer neither of those problems. The band still has six of its original seven members, and their latest album is as good as any!

KGLW’s prodigious creativity has garnered legions of fans worldwide. As I write, the band is grinding its way through a seven-month tour of North America

and Europe (twice cancelled and rescheduled during the pandemic), including some high-profile slots at major festivals including Coachella in California and Primavera in Barcelona.

As the above table indicates, the sheer volume of KGLW's creativity is matched by its diversity. While often categorised as "psychedelic", their vast body of work meanders through all manner of genres: garage, surf, jazz, prog-rock, folk, boogie, thrash, punk, fusion, synth pop, French noir cinema—even the odd touch of bossa nova. The new album debuts a couple of old school rap songs which would not be out of place on the Beastie Boys' *Paul's Boutique*. These guys throw all sorts of ingredients into the mix. They have often explored microtonal scales—using the tones falling between the 12 notes of the traditional Western scale. Many of their songs involve unconventional time signatures, often changing. Never a dull moment!

And buried in all this creativity are lots of concepts, quirks and in-jokes for the band and its fans. *Eyes Like the Sky* (2013) is described as a "cult western audio book", gravely narrated by Aussie blues legend Broderick Smith (father of KGLW keyboardist Ambrose Kenny-Smith). *Quarters* (2015) comprises four songs, each exactly 10 minutes and 10 seconds long. After that concept-heavy project, their next album *Paper Mâché Dream Balloon* (2015) was billed as a "concept-less concept album", featuring only acoustic instruments, recorded at front-man Stu Mackenzie's parents' farm in rural Victoria. The amplifiers were firmly switched back on again for *Nonagon Infinity* (2016), with nine interconnected tracks forming an infinite loop, which won the ARIA Award for Best Hard Rock or Heavy Metal Album.

But eight albums in six years was just warming up. In 2017, the band delivered on a promise to release five studio albums within the year.

Mackenzie explained this five album project:

We had this random batch of songs. It was not a cohesive record at all. So we thought we'd split it up, and split again until it became five. We worked on *Nonagon Infinity* pretty intensely in 2015 and 2016. We came close to burning ourselves out, or at least wringing each other's necks. We took a break, and then all these random, disparate song ideas came out of that void of not recording for a little while. Then we worked on everything one album at a time.

Again, those five albums released throughout 2017 continued to showcase the band's diversity. *Flying Microtonal Banana*, uses custom-made microtonal instruments. *Murder of the Universe* is another audiobook, this time with a sci-fi theme, set in three narrated chapters. *Sketches of Brunswick East* is an improvised jazz collaboration with local friends Mild High Club, named with a cheeky wink to Miles Davis's *Sketches of Spain*. *Polygondwanaland*, was released as a free download with this exhortation to raise the eyebrows of copyright lawyers:

Polygondwanaland is FREE. Free as in, free. Free to download and if you wish, free to make copies. Make tapes, make CD's, make records . . . Ever wanted to start your own record label? GO for it! Employ your mates, press wax, pack boxes. We do not own this record. You do. Go forth, share, enjoy.

(As of March 2022, 325 different versions of the album have been recorded by fans around the world.)

If any band deserved a break from releasing a new album, it was KGLW in 2018, although they continued to play live and tour far and wide. 2019 saw two vastly different new albums, the shuffling, bluesy *Flying for Fishies* and the heavy metal *Infest the Rats' Nest*.

In January 2020, the band released three live albums, donating all proceeds to bushfire relief. But then came the Covid disaster with unprecedented lockdowns and the

complete abeyance of live music—nowhere more than their home town of Melbourne. The band could not even rehearse in a room together, let alone play to a crowd.

But, retreating individually into make-shift home studios, KGLW defied the pandemic to record two further albums in 2020. As KGLW's Mackenzie explains:

We wrote both of those records and recorded almost all of it in a pretty strict Melbourne, 'iso' kind of period where we couldn't see each other. It was definitely strange. We just had to learn to work in a new way, which we had never done. . . we've never made a record where literally everyone is in a different room for the entire process, and just kind of sending stuff online to each other constantly and sort of chipping away at songs that way.

Some band members found it easier than others:

So, for instance, Cavs, our drummer, had never really recorded a lot of stuff [alone]. I guess he wasn't super interested until he kind of had to with lockdown and everything. We were just like, 'Dude, we need drum recordings.' And he's like, 'I don't know how.' We kind of helped online and stuff, or over the phone, or whatever, set up a few mics around his drum kit, kind of get him set up to record, and he kind of overdubbed all the drums on both records. There's a lot of cool things that happened like that, that feel nice and sort of wholesome amongst the darkness I suppose.

Recording like that would normally compromise the chemistry and natural rhythmic cohesion of a band, but you would never know from listening to those albums, which have been eagerly received by fans and critics alike.

Still battling off-and-on lockdowns in 2021, KGLW took a different direction with *Butterfly 3000*, my personal favourite. In some ways this album is quite atypical of the band, using far more synthesisers than other albums, but they employ

their trademark unpredictably with constantly changing time signatures to achieve an intriguing and hypnotic effect. If you don't know where to start with such a large body of work, this is a good place to begin with some immediately catchy tracks such as "Interior People", "Dreams" and "Catching Smoke". Do yourself a favour!

Another great track to try out is the latest single "Magenta Mountain". My 17-year-old daughter describes it as "a straight up banger". I agree, and between the two of us we represent a fairly wide demographic! Starting with an ethereal synth melody, the vocals tell a story from a dream, and the drums, bass and guitars kick in to take us on an odyssey to the summit of that Magenta Mountain.

Indeed, it is well worth watching a recent video of the band performing this track live—search "Magenta Mountain" on YouTube. The video is one continuous shot, which starts

by focussing on each band member, then follows a somewhat menacing security guard as he wades into the crowd.

A striking aspect of this video is the band's endearing lack of pretension—almost in spite of their audacious creativity. They look like six local lads who have come straight from watching a game at the MCG.

Indeed, having grown up in Deniliquin, Anglesea and suburban Melbourne, these boys are very happy to weave some AFL themes into their music, notably the surf-punk "Dustbin Fletcher" on their debut EP *Willoughby's Beach*, followed up in a similar vein by "Footy Footy" at the end of 2012's *12 Bar Bruise*. The latter song includes a long list of the bands' favourite footy stars from the '80s and '90s. One wonders what the hipsters at Coachella would make of "Sticks Kernahan" and "Bruce Doull the Flying Doormat".

Post script

After I submitted this article, I noted this update from the band's Instagram account as they plough through the European leg of their sold-out tour:

kinggizzard: Unfortunately our absolute juggernaut of a drummer has tested positive to Covid. Though he is irreplaceable, the show must go on. We are going to piece together 2 weird and unique shows in Athens without him. Might be a bit acoustic, maybe some drum machines. Honestly got no idea what we're gonna do, but we gonna do... something. Can't wait to get to Athens. We love you. Get well soon Miceys Cavs xox
We understand this is a big change and refunds will be available for anyone who wants them

I'm sure their loyal Greek fans will turn up nonetheless. Pandemic be damned!



BMW PROFESSIONAL PROGRAMME.



Feel the thrill of owning a BMW with the BMW Professional Programme. With exclusive benefits, perks and greater value, now is the time to finally experience the ultimate driving machine.

Contact Corporate Sales Manager Carmel Shaddock at Brighton BMW, ph (03) 9524 4000 or email corporate@brightonbmw.com.au.

Brighton BMW 795 Nepean Highway, Bentleigh.
Ph (03) 9524 4000. brightonbmw.com.au LMCT 7674



Supreme Court nearing completion in late 1883

BOOK REVIEW

Vic Bar: A History of the Victorian Bar

by Peter Yule

ANDREW GODWIN*

“Institutions matter”. So begins the foreword to *Vic Bar* by KM Hayne, QC. “They matter because they are the framework within which individuals join to make a collective contribution to our society. That collective contribution is often larger than the sum of its parts.”

This comprehensive and engaging book demonstrates that institutions do in fact matter. It traces the history of the Victorian Bar as an institution that has retained its resilience and relevance since the establishment of its colonial predecessor in the 1840s, despite manifold challenges along the way.

Vic Bar had its genesis in 2015, when the Bar history committee chaired by Peter Jopling considered it timely to “commit to engaging a professional historian to write

the history of the Bar.” *Vic Bar* is the third history of the Victorian Bar, following John Leonard Forde, *The Story of the Bar of Victoria* (originally published in 1893), and Arthur Dean, *A multitude of counsellors: A history of the bar of Victoria* (published in 1968).

A review of Dean’s book by JG Norris, a former judge of the County Court of Victoria, appeared in Volume 7(2) of the *Melbourne University Law Review* of 1969. That review highlighted the dependency of the Bench upon the Bar and suggested that:

“This comprehensive and engaging book demonstrates that institutions do in fact matter.”

unless succeeding generations of counsel know of what manner of men their predecessors were, under what conditions their work was done and what the nature of the society in which they lived was, much of what is essential to a proper understanding of the law as stated in the authorities cannot be known.

Fast forward to 2022 and there are at least two significant developments that Norris did not anticipate in 1969. First, the dependency of the Bench upon the Bar is now less absolute than it used to be since the first solicitor, Bernard Teague, was appointed to the Bench of the Supreme Court of Victoria in 1987. Secondly, no longer is the Bar (or the Bench for that matter) an overwhelmingly male-dominated profession. Norris might, however, be forgiven for failing to use gender-neutral language in his review. After all, as *Vic Bar* suggests, “it was not until the 1980s that women came to the Bar in large enough numbers to be regarded as more than curiosities.”

Importantly, one point made by Norris rings true to this day and resonates with the foreword of *Vic Bar*—namely, the importance of the Victorian Bar as an institution. As Norris wrote:

the members of the Victorian Bar in particular, when they think of the future, need to know the history of their Bar as an institution. It has in remarkable fashion succeeded in preserving itself de facto as a separate entity despite the statutory amalgamation of the two branches of the profession in 1891 and various attempts in the succeeding years to make that amalgamation a fact.’

The challenges brought about by amalgamation are well documented by *Vic Bar* in Chapter 7 and other chapters.

As *Vic Bar* notes, Norris himself was of historical significance.

He and Maurice Ashkanasy were “the first students from Melbourne High School to sign the bar roll in 1925.” This was an important development in times when the greatest number of entrants to the Bar came from private schools such as Melbourne Grammar and Scotch College.

Vic Bar is structured chronologically in five parts, each with its own thematic focus: The Colonial Bar (1841–1880); Land Boom and Federation (1880–1914); War and Depression (1914–1945); The Post-War Boom and After (1945–1980); and The Modern Bar (1980–2020).

Following these five parts is a section about the Peter O’Callaghan QC Gallery portrait collection, which was officially opened in 2014 and has grown rapidly as a result of gifts, loans and commissions. As noted by Peter Jopling and Siobhán Ryan in the introduction to this section, the collection “acts as a mirror, framing the individuals who our community wish to recognise. Its back stories form part of the folklore of our Bar.”

The portraits selected by *Vic Bar* are noteworthy not just because of the prominence of the barristers represented, many of whom were subsequently appointed to the Bench, but also because of the diversity in the background and practice of members of the Bar. Obvious examples in this regard are the portraits of Joan Rosanove QC, who became Victoria’s first woman QC, and her daughter, the Honourable Margaret Lusink, who became the first Victorian woman to be appointed to a superior court of record when she was appointed a judge of the Family Court in 1976. The portrait of Julian McMahon SC by Myuran Sukumaran provides another compelling example.

In addition to the notes, bibliography and index, *Vic Bar* includes a comprehensive list of Victorian Bar members since 1900 as of 6 May 2021. To the knowledge of

this reviewer, such a list has not previously been made public, at least not in this form. *Vic Bar* has thus made it possible to research the members of the Victorian Bar by reference to their roll number and the dates on which they signed the roll. How else could this reviewer have discovered that the roll number of William Ah Ket, the first barrister of Chinese origin, was 88? And how else could this reviewer have speculated that such an auspicious number came about more through design than luck by virtue of the fact that each of William – Walter St George H Walker (89) – signed the roll the weekday before, and signed the roll?

Together with the chronological themes as outlined above, several cross-cutting themes weave their way through *Vic Bar* and underpin its historical narrative. These include the growth of the Bar and ongoing efforts to accommodate growth both in terms of physical chambers and also in terms of the increased competition that barristers have faced (particularly as the national law firms have grown and undertaken more advocacy); changes to legal education and admission requirements; reforms to the ways in which barristers practise (including the removal in 1979 of the rule that junior counsel briefed with a silk had to be paid two-thirds of the silk's fee and the removal in 1992 of the two-counsel rule); and the inevitable challenges in modernising and innovating a profession that is, by its very nature, conservative and tradition-bound.

Vic Bar records an amusing anecdote from Henry Jolson in relation to the rise of mediation since the 1980s:

It was fortuitous that in 1985, or thereabouts, I got a call from Judge Leo Lazarus of the County Court. He was in charge of the Building Cases List, which was bogged down with a backlog of cases waiting to be heard...

Our conversation on the phone went something like this:

LL: Hey, Henry. Are you familiar with these new Building Cases Rules?

HJ: No, Judge.



LL: Do you know they've given me the power to order the parties to a building dispute to mediation?

HJ: No, Judge.

LL: Do you know that they give the power to appoint mediators to mediate the dispute?

HJ: No, Judge.

LL: Do you know what a mediator does?

HJ: No, Judge.

LL: You'd better find out, because I'm appointing you, George Golvan and Maurie Phipps as mediators in the list.

In this reviewer's opinion, the challenges of reconciling modernity with tradition reach their apotheosis in two chapters: Chapter 17 (Radicals at the Bar), and Chapter 20 (A Diverse Bar). Particularly memorable in Chapter 17 is *Vic Bar's* account of the valiant, but ultimately unsuccessful, efforts of Phil Opas to save Ronald Ryan from the hangman's noose, and the stories behind the establishment of the Fitzroy Legal Service and the Aboriginal legal aid services. Chapter 20 encapsulates the challenges of achieving diversity in the following statements:

It has been a long, hard struggle for gender equality at the Bar, but less heralded have been the even slower moves towards ethnic and cultural diversity. In the first 120 years of the Victorian Bar, William Ah Ket is believed to have been the only member of the Bar of non-European background... Since 2000 there has been a steady increase in the number of barristers of non-European background... By 2020 there had been six silks from non-European backgrounds: Nimal Wikramanayake, John Karkar, Nemeer Mukhtar, Suresh Senitharajah, William Lye and Cam Truong.

In a short review of this nature, it is impossible to do full justice to *Vic Bar* and the historical lens and insights that it offers into the institution of the Victorian Bar. The Bar History Committee, Dr Peter Yule, supported by the research assistance of Dr Gonzalo Villanueva, and the publisher, Nick Walker of Australian Scholarly Publishing Pty Ltd, can be proud of their efforts in bringing the third history of the Victorian Bar to life. 🟣

** Dr Andrew Godwin is a Principal Fellow at Melbourne Law School and Special Counsel at the Australian Law Reform Commission. Andrew is researching the life and legacy of William Ah Ket, the first Australian lawyer of Chinese descent to practise as a barrister at the independent Bar in the State of Victoria.*

Vic Bar: A History of the Victorian Bar
by Peter Yule
Australian Scholarly Publishing Pty Ltd, 2021.
363 pp. Large format, hardcover, illustrated



Publication of Vic Bar: A History of the Victorian Bar was made possible by the generosity of these donors

The Hon. Justice Helen M J Rofe
The Honourable Chris N Jessup
The Honourable Alastair B Nicholson AO
RFD The Honourable Peter C Heerey AM
The Honourable Shane R Marshall AM
The Hon. Justice Chris M Maxwell AC
The Hon. Justice Terry Forrest
The Hon. Justice Karin L Emerton
The Honourable R Clive Tadgell AO
The Honourable John M Batt AM
The Honourable Alex Chernov AC
The Honourable Geoffrey M Eames AM
The Honourable Robert F Redlich AM
The Honourable Murray B Kellam AO
The Honourable David L Harper AM
The Honourable Paul A Coghlan AO
The Honourable Joseph G Santamaria
The Honourable Kim W S Hargrave
The Honourable Pamela M Tate
The Hon. Justice Elizabeth J Hollingworth
The Hon. Justice Anthony L Cavanough
The Hon. Justice Kate McMillan
The Hon. Justice Christopher W Beale
The Hon. Justice Michael P McDonald
The Hon. Justice Jane A Dixon
The Hon. Justice Melinda J Richards
The Hon. Justice Andrew J Tinney
The Hon. Justice Mandy Fox
The Hon. Justice Gregory H Garde AO RFD
The Hon. Justice Stephen W Kaye AM
The Hon. Associate Justice Mark Derham
Professor The Honourable George Hampel AM
The Honourable Howard T Nathan AM
The Honourable Tim Smith AM
The Honourable David J Habersberger
The Honourable Betty J King
The Honourable Elizabeth H Curtain AM
The Honourable James G Judd
His Honour Judge Phillip J Coish

His Honour Judge M Damian Murphy
His Honour Judge Paul G Lacava
His Honour Judge Mark E Dean
His Honour Judge John F Carmody
His Honour Judge Gavan F Meredith
His Honour Judge Robert W Dyer
Her Honour Judge Samantha L Marks
His Honour Judge Michael G O'Connell
His Honour Judge Scott R Johns
His Honour Judge George A Georgiou
His Honour Judge Kevin J Doyle
His Honour Judge P Justin Hannebery
His Honour Michael Rozenes AO QC
His Honour Michael G McInerney
Her Honour Margaret A Rizkalla
Her Honour Rachelle A Lewitan AM
His Honour Geoffrey T Chettle
His Honour Anthony Howard AM
His Honour Chris O'Neill
His Honour Christopher J Ryan
Coroner Simon K McGregor
Mr John G Larkins QC
Mr Allan J Myers AC QC
Mr Charles Gunst QC
Mr O Paul Holdenson QC
Dr Richard J Manly QC
Mr Terry Murphy QC
Mr Paul D Santamaria QC
Mr Simon E. Marks QC
Mr Christopher M Caleo QC
Dr Ian R L Freckelton AO QC
Mr Adrian J Ryan S.C.
Mr Samuel R Horgan QC
Mr Philip D Crutchfield QC
Mr Philip H Solomon QC
Ms Wendy A Harris QC
Mr Martin R Scott QC
Mr Stuart J Wood AM, QC
Dr Matthew J Collins AM QC

Dr Suzanne B McNicol AM QC
Mr A Neill Murdoch QC
Mr Adrian J Finanzio S.C.
Ms Susan M Brennan S.C.
Mr Jason D Pizer QC
Mr Peter G Willis S.C.
Mr Michael T Flynn QC
Mr Scott W Stuckey QC
Ms Minal Vohra S.C.
Ms Claire M Harris QC
Mr Stewart J Maiden QC
Dr Michael D Rush QC
Mr Eugene F Wheelahan QC
Dr Oren Bigos QC
Mr Sam Hay QC
Mr Donald J Farrands QC
Mr Daniel J McInerney QC
Mr Justin S Graham S.C.
Mr Peter H Wallis QC
Dr Paul T Vout QC
Ms Elizabeth H Ruddle QC
Ms Siobhán Ryan S.C.
Ms Meg O'Sullivan S.C.
Ms Kathleen E Foley S.C.
Ms Margaret M Lodge
Mr William F Rimmer
Ms Gabi Crafti
Ms Sarah J Keating
Mr Daniel D Nguyen
Ms Fiona Cameron
Ms Raini Zambelli
Ms Reegan Grayson Morison
Ms Rabea M Khan
The Victorian Bar Inc
Barristers' Chambers Limited
Common Law Bar Association
Tax Bar Association
Anon



VICTORIAN BAR
MEDIATION CENTRE

VICTORIAN BAR MEDIATION CENTRE



Purpose-built mediation and conference rooms in the heart of Melbourne's legal precinct.

The Victorian Bar knows how important the mediation process is. We've put our experience and knowledge into creating the right space to support parties through mediation.



WE OFFER

- Modern neutral decor with abundant natural light
- Business room and printing facilities
- Reception and administration services
- Fully equipped kitchen with tea & coffee making facilities
- After hours operation available
- Video and teleconferencing facilities
- Central location within Melbourne's legal and business precinct
- Secure free Wi-Fi



vicbarmediation.com.au

P 03 9225 6930 E mediation.centre@vicbar.com.au

Level 1 & 3, Douglas Menzies Chambers, 180 William Street Melbourne 3000