

ADDRESS AT THE CEREMONIAL SITTING TO WELCOME  
HIS HONOUR MAGISTRATE RANDALL KUNE UPON HIS  
APPOINTMENT AS A MAGISTRATE BY WENDY HARRIS  
QC, SENIOR VICE-PRESIDENT OF THE VICTORIAN BAR,  
ON THURSDAY 6 DECEMBER 2018

May it please the Court.

I also acknowledge the Traditional Owners and  
Custodians of the land on which we meet, the  
Peoples of the Kulin Nation, and pay my respects to  
their Elders past and present.

I appear on behalf of the Victorian Bar to  
congratulate Your Honours Magistrates Billings and  
Kune on your appointments to this Court.

Your Honours were appointed and sworn-in some  
time ago and are therefore well into sitting on the  
Court.

In accordance with the practice in ceremonial sitting  
Welcomes in this Court, I defer to the Law Institute  
to address the Court in relation to Your Honour  
Magistrate Billings – Your Honour having been  
appointed from practice as a Solicitor; and I  
address myself to Your Honour Magistrate Kune –

Your Honour having been appointed from practice at the Independent Bar.

Your Honour Magistrate Kune practised Law for just short of 22½ years from your admission to practice in April 1996 to your appointment to this Court in September this year.

Of those 22½ years, you practised just short of 16½ years at the Independent Bar.

Since 2001 – when you began as a Sessional Lecturer at the Monash Law School; and as an Instructor in the Australian Advocacy Institute – Your Honour has been committed to serious teaching in the Academy – teaching major courses, such as Principles of Evidence and Principles of Civil Procedure.

Your Honour is a popular teacher; and known at Monash for your “cheeky” sense of humour – though, alas, no-one was willing to give me a single example of your “cheeky” one-liners.

One of your Instructing Solicitors says your humour has often a “gallows” flavour. It is always

appropriately light-hearted and cheeky in the moment – and people’s reluctance to give examples may be because, taken out of context, an example might give a misleading impression.

Your Honour was educated at Scotch College, where you achieved distinction in a range of subjects – not only in Legal Studies, but also in Politics, Mathematics, French and Computer Science.

You graduated from the University of Melbourne with an Honours Law Degree and, a few years later, Master of Laws.

You served Articles at Galbally & O’Bryan with Nicholas O’Bryan, the Managing Partner of the firm’s Personal Injuries Department; and remained with the firm after Admission the better part of a year, in the Commercial Department with Frank Di Iorio and Andrew O’Bryan.

Your Honour then returned to the University of Melbourne full-time and completed a Master of

Laws Degree, also taking courses outside the Law in Politics and Philosophy.

Your Honour had been accepted to serve as Associate to the Honourable Justice Hampel of the Supreme Court of Victoria in 1999. His Honour released you from that commitment to enable you to come to the Victorian Bar in the March Readers Course. You read with Helen Symon (now QC – and seated with me at the Bar Table).

Ms Symon says that Your Honour made your nine months in her Chambers as her Reader “one of [her] best [times] at the Bar”.

Early in your Reading, *Star Wars: The Phantom Menace* was released. Your Honour is steeped in *Star Wars*. Much hilarity ensued – it became a game – life at the Bar as a heroic *Star Wars* quest – with your Pupil Master (as Bar Mentors were then called) the Jedi Master.

Your Honour began largely in Civil practice. Your first case was in the Family Court; you then

developed a general Civil practice in this Court, in VCAT and in the County Court.

In 2001, still at the Bar, Your Honour began Sessional teaching at Monash; and as an Instructor with the Australian Advocacy Institute.

After more than 6 years at the Bar, Your Honour left to accept a call to be a full-time Clinical Supervisor at the Monash-Oakleigh Legal Service – also continuing your Sessional Teaching.

It was in those years that you won Commendations for your teaching in three courses: Advocacy & Trial Practice; Professional Legal Skills: and Lawyers, Ethics & Society.

Speaking of Commendations, years later, in 2013, Your Honour received a Faculty Commendation for having developed your course in *Advanced Evidence and Proof in Litigation* which you taught in the JD Program.

However, two years' commitment as a Solicitor at the Monash-Oakleigh Legal Service was enough; and you returned to the Independent Bar in 2008.

You came to practise primarily in Criminal Law; in the Children's Court in the Criminal and Welfare Divisions – appearing both for the Department of Human Services and for Parents, Children and other interested parties; and you practised in Family Law.

Your Honour appeared in all Victorian Courts and Tribunals; and you qualified and practised as a Nationally Accredited Mediator.

Your major work in the last about-5-years was as Counsel of Choice for the difficult and complex cases of the Department of Health & Human Services; their "Go-To" Expert in all aspects of the Children's Court Jurisdiction; Evidentiary Issues; and Appeals.

One major care and custody case ran for 115 days spread over 2 years. In parts of that case – in a Supreme Court appeal, and in a related case involving a sibling, the mother was represented by Counsel; and the Department was supporting the mother – but the father was self-represented; and at

pains to convince the Court that he was not, and I quote, a “vexatious alligator”. Your Honour was calm, considerate and fair. You treated the father with respect in what your senior and experienced Instructor describes as “often difficult and tedious circumstances”.

A discrete, spin-off part of the case was part of an application by the Australian Broadcasting Corporation under section 534 of the *Children, Youth and Families Act* seeking permission to publish reports of proceedings in the Children’s Court and interviews involving danger of identification of the children, in respect of whom there were allegations of physical and sexual abuse while they were in the care of the Department in residential care units.

The ABC application was heard by then-President of the Children’s Court, Judge Couzens – one of very few Children’s Court cases reported and published on the Court website.

Your Honour was led in that case by Richard Niall QC (later Solicitor-General for Victoria; now Judge

of Appeal of the Supreme Court of Victoria). Justice Niall remembers the case; and describes Your Honour's depth of knowledge and understanding of the Children's Court and the framework of Child Protection as "invaluable".

Your Honour has a keen eye for detail – and you had come to know the self-represented father so well that you saw, and were able to point out, that, although the identity of the child was "blacked-out" in the pixelated images the ABC got permission to show, the father's cowboy hat in the background was so distinctive and characteristic that anyone who knew him would immediately know who the child was – so that also needed pixelating.

Your Honour is a consummate Advocacy Instructor with the Australian Advocacy Institute. With Professor the Honourable George Hampel QC and Elizabeth Brimer (now SC) – and both in Court today, Your Honour co-authored both the 2008 First Edition and the 2016 Second Edition of the Australian Advocacy Institute *Advocacy Manual*.

In addition to being a Counsel of Choice, Your Honour conducted Advocacy Training Courses for the Solicitor-Advocates in the Department of Human Services.

Your Honour was also available on your mobile at all hours for urgent advice. Weekends and holidays, you'd be on your farm – and you'd interrupt fixing a fence, or on your ride-on mower – to take a call about an urgent Supreme Court Appeal (or some such) dictating on the spot on your mobile, while your Instructor struggled to scribble it all down.

Your last case for the Department, which your appointment prevented you from finishing, was also a mammoth. It involved a family of deaf people. There were multiple children. There were allegations of abuse. You had six Auslan Interpreters in Court for a month – and the further complication of some people not up to Auslan, but more free-form in their signing.

Your Honour served the Community of the Bar on the Student Engagement Committee; and on the Committee of the Children's Court Bar Association; and, of course, in the Bar Readers Course – in

Advocacy training and performance-review; and in teaching the cross-examination of expert witnesses.

Beyond the Victorian Bar, Your Honour was a Consultant to the Swinburne University Graduate School of Integrative Medicine; and a Legal Member of the Ethics Committee of the National Institute of Integrative Medicine. You were also a Legal Member and Deputy Chair of the Swinburne University Hospital Medical Ethics Committee.

Your Honour's father, Gabriel Kune, is a retired Professor of Surgery at the University of Melbourne – in Court today.

Your Honour has had the pleasure of co-authoring with your father articles on the intersection of law and medicine: *Proof of Cancer Causation and Expert Evidence*; *Expert Medico-Scientific Evidence before Tribunals: Approaches to Proof, Expertise and Conflicting Opinions*; and *Mainstream Medicine versus Complementary and Alternative Medicine in the Witness Box: Resolving the Clash of Ideologies*.

And each of these articles was the subject of a Conference presentation – in Prato, Italy; at the Victoria University Law School; and at an International Institute of Forensic Studies International Conference at Broome in Western Australia, respectively.

Your Honour is a leader and you are a stayer. You have, over the years, where you've taught in courses in which there have been a number of teachers, often been the Chief Examiner.

In 2001, you developed the Graduate Certificate in Forensic Studies (Accounting) – in the Monash Law School's Forensic Studies Program; and you taught that for 12 years, from 2001 to 2012.

As with the Australian Advocacy Institute *Advocacy Manual*, this Graduate Certificate in Forensic Studies (Accounting) was the product of the formidable team of Professor George Hampel, Elizabeth Brimer and Your Honour.

Lest this picture seem to be of one who, except for the “cheeky” sense of humour, is all work and no play – Your Honour sang, in your student-days, with

a band called “Leen” – the leather pants, silk shirts – even the eye-liner.

At your Readers Course Dinner, after signing the Bar Roll – in the days when we had a Readers’ Revue – with two fellow Readers, Your Honour played the guitar and sang a bowdlerised version of the Beatles Song “With a little help from my friends” – now rather prophetically – “With a little help from the Bench” – something Your Honour is now in a position to do – from the Bench, to give a little help to new and less experienced advocates appearing before you.

Ms Symon is a Tax Bar Leader Australia-wide. Your Honour’s Reading co-incided with the introduction of the GST – and she was, as she still is, much sought after for advice as well for Court.

Ms Symon says that you brought light into her Chambers – and that she also learned from your mastery of the paradox that you approached life at the Bar with a seriousness of *purpose* – but without *taking* it seriously.

That stood you in great stead in your practice as Counsel in the Children's Court and will surely be an important asset as you meet the challenges of the Bench.

I pass on from your Bar Jedi Master: "May the Force be with you."

On behalf of the Victorian Bar, I wish both Your Honours joy in your appointments, and long, distinguished, and satisfying service as Victorian Magistrates.

May it please the Court.