



VICTORIAN BAR

WELCOME

**ADDRESS AT THE WELCOME TO
THE HONOURABLE JUSTICE JACINTA FORBES,
JUSTICE OF THE SUPREME COURT OF VICTORIA
IN THE BANCO COURT
OF THE SUPREME COURT,
210 WILLIAM STREET, MELBOURNE ON
FRIDAY 10 MAY 2019 AT 9:15 AM
BY DR MATT COLLINS QC,
PRESIDENT OF THE VICTORIAN BAR**

May it please the Court.

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

Your Honour was born and raised in Melbourne, completing your high school education at Star of the Sea School in Brighton.

However, your career in the law was not in any sense preordained. You took up ballet at a young age and throughout your high school years trained hard, with an ambition of becoming a professional ballet dancer. You competed in many dance competitions at a state and national level and won many titles. So it must have been disappointing when, close to finishing high school with a view to applying to the Australian Ballet, your Honour discovered that it was unlikely that you would be selected for a place: the recently appointed director of the Australian Ballet had a new vision, or rather lack of vision, to the effect that ballet dancers should be tall. Fortunately, for your Honour and many others in the room, myself included, the legal profession has never discriminated on the grounds of physical stature.

The ballet world's loss has been the legal profession's gain. The same dedication, tenacity and discipline that saw you apply yourself as a dancer – rehearsing as much as 20 hours a week while studying hard at school – resulted in your Honour being awarded dux of your school in your matriculating year.

On finishing high school, instead of joining the Australian Ballet, your Honour went to the University of Melbourne where you studied joint arts/law, graduating with Bachelor of Arts and Bachelor of Laws degrees in 1989. You went on to undertake articles at Slater & Gordon, and were admitted to practice in April 1990. You continued to work at Slater & Gordon for the next decade, making partner in 1996.

Your Honour practised predominantly in personal injury litigation, in both common law damages actions and actions under statutory compensation schemes. As a plaintiffs' solicitor, your Honour represented both individual litigants and classes in group action claims. Group action claims in which your Honour acted included actions for women



injured through silicone breast implants against the manufacturers based in the United States, and for native title holders in the West Kimberley before the then newly formed Native Title Tribunal.

In that last matter, on one occasion your Honour flew out to a remote area of the Kimberley in Western Australia to meet with the Aboriginal elders and to deal with the procedural matter of transferring the claim from the Supreme Court of Western Australia to the Native Title Tribunal.

Your Honour had travelled to the bush with the elders to be on country, and the plan was for you all to camp for the night on the beach in a remote spot, north of Derby. Your Honour rolled out your swag and prepared to go to sleep, but became concerned about potential danger. You asked one of the elders whether it was safe. The elder reassured you, "yes, yes -- no worries". So, your Honour crawled into your swag and went to sleep, one of five or so swags positioned close to one another. On waking, the group was horrified to discover the unmistakable footprints, and tail drag marks, of a very large (at least 6 foot long) saltwater crocodile.

Having survived a near miss, it cannot have been much comfort to be told that, to the croc, your Honour was only entrée size.

I promise that is the last time I will mention your Honour's height. And for anyone reading the transcript of this speech and not knowing your Honour, let me say this: there is nothing notable about your Honour's stature unless, apparently, one aspires to dance for the Australian Ballet or, for some bizarre reason, to be eaten by a semiaquatic reptile.

Your Honour came to the Bar in November 2000 where you read with David Martin. You quickly built a practice, establishing yourself as an expert in personal injury litigation. Your Honour, embracing the cab-rank rule, acted for both plaintiffs and defendants in damages trials and WorkCover and Transport Accident Commission matters, in judicial review matters arising from Medical Panel findings and in appellate work.

Your Honour is described as a calm, kind, compassionate and thoughtful advocate. Your Honour is skilled and highly engaged; as a mentor, leader or opponent, your Honour is equally highly regarded. Your Honour had an unusual but effective technique for settling cases: some of your opponents have admitted to feeling guilty when instructed to reject offers made by your Honour on behalf of your clients, because you are such a nice person and they did not want to disappoint you.

You Honour was known at the Bar for taking on difficult cases, often on a 'no win, no fee' basis even where the result was far from certain, out of a sense of fairness and a belief that all members of the community are entitled to access to justice and their day in court.

Your Honour's style as an advocate was dignified, but determined; quietly persistent but strong. It has been said that being opposed to your Honour was like "death by a thousand cuts": opposing Counsel would leave the bar table feeling that it had gone quite well, only to review the transcript to realise how effective, and destructive to their clients' case, your Honour's organised and thorough approach had been.

Your Honour has made an extraordinary contribution to the justice system by providing pro bono assistance. In your university years as a law student (also around the time you met your husband), you became involved in asylum seeker and refugee matters. Your Honour was a co-founder of what is now known as the Refugee Advice and Casework Service. Your Honour chaired that service, leaving a lasting legacy. In



more recent times, your Honour appeared, instructed by the Human Rights Law Centre, in cases seeking medical evacuation for refugees detained on Nauru and Manus Island.

Your Honour took silk in 2014. In one of your final cases, you appeared pro bono before the Court of Appeal in an application for leave to appeal in a workplace injury and serious injury application. While the Court of Appeal dismissed the appeal, it paid tribute to the efforts of your Honour and your team. The judgment acknowledged "the great assistance provided to the Court, and to the applicant, by Counsel who appeared pro bono on his behalf. They addressed, clearly and cogently, all of the arguments which could properly be advanced. In doing so, they upheld the highest standards of the Bar."

Your Honour's contribution to the college of the Bar has also been notable. You had four readers and are described as a wonderful mentor, generous to a fault with your time and knowledge.

You have been a member of the Common Law Bar Association since joining the Bar, and a member of the Executive since 2010. Your Honour has served as a member of what is now known as the Equality and Diversity Committee of the Victorian Bar since 2009, and as Chair since 2013.

And your Honour has served on the governing body of the Victorian Bar, the Bar Council, since November 2017.

Your Honour was elected at the time I became President of the Bar. One of my first actions as President was to convene a standing committee of the Bar Council on diversity and inclusion, which I asked your Honour to chair. That working group can boast already of a number of achievements that have made tangible improvements to equality and respect for diversity at the Victorian Bar. More Victorian barristers than in the rest of the country combined have committed to the Law Council of Australia's gender equitable briefing policy. The Bar has adopted best practice policies against discrimination of all forms, sexual harassment and bullying, making it clear that, as a profession, we have a zero-tolerance approach towards any conduct that diminishes the humanity, or retards the professional development, of our members. You chaired our inaugural group of Bar Conciliators, trained by the Australian Human Rights Commission to provide advice and resolve disputes between members in a co-operative and collegiate spirit. You became a foundation member of the Bar's LGBTI and cultural and linguistic diversity committees, devoting overdue attention to the impediments faced by members of those groups. In just a couple of weeks, the Bar will host for the first time an Iftar dinner, to mark the breaking of the fast during Ramadan.

Your Honour has been a champion for driving cultural change at the Bar, and can and should be proud of the strides that we have made as a result. Sometimes we are criticised for our focus on these kinds of initiatives. But your Honour and I share the profound view that equality of opportunity, regardless of background and circumstance, are not optional extras: they must be of central focus if we are to live up to our values as a college that believes in rewarding hard work and talent. I have been proud to work with your Honour on all of these any many other initiatives.

Your Honour has raised four children while building your career. Your eldest child, Joseph, who is now 20, was born not long before your Honour came to the Bar. You have since gone on to raise three more children, Kate who is 18, Bridie who is 16 and Frances who is 14. Your Honour clearly knows how to "multi-task", although I have been told that, at times, your Honour's home has seemed more than a little chaotic. But your Honour has always known exactly what was going on at all times; working at



VICTORIAN BAR

home from the kitchen table, rather than your study. You never missed a single school appointment, play or concert.

Along with Shane, your husband, and your children, you are a very tight family unit. Family is important to you: you are the eldest of six siblings, and between your children and theirs, there are 21 first cousins, many of whom are here to celebrate with you today. Your Honour and your family have spent a great deal of time at your family's other home near Beechworth, where Shane, at one time a member of our Bar, now runs a successful wine business from the property. Now there's a career change that more than rivals your Honour's.

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

May it please the Court.