

President, Court of Appeal

Justice Chris Maxwell



ON 21 June 2005 the Honourable Chris Maxwell was appointed the second President of the Victorian Court of Appeal with effect from 16 July 2005.

Like his predecessor in office, the Honourable John Winneke, Chris Maxwell was an outstanding Australian Rules player. He played in the University Blues 1971 Premiership team and was a member of the 1972 All-Australian University side.

However, His Honour, like his predecessor, brings to his appointment more than mere sporting skills. He brings also a combination of broad education, intellectual integrity, a history of dedicated pro bono work and an innate sense of justice.

His Honour was educated at Melbourne Grammar, the University of Melbourne and Oxford University, and at the Inns of Court School of Law in London. At Melbourne Grammar he was a member of the First Eleven, the First Eighteen and the Athletics Team. At Melbourne University he played for University Blues and was a member of the Blues 1971 A Grade Grand Final Team.

After completing a first class honours degree in Philosophy and History, his Honour interrupted his LLB studies at Melbourne to take up the Rhodes Scholarship. He obtained a BPhil at Oxford before studying for the English Bar. He was called to the Bar as a member

of Lincoln's Inn in 1978 and practised at the English Bar for a short time before returning to Melbourne in 1979, to be admitted in Victoria on the strength of his English admission.

In March 1983 he commenced reading with Kenneth Hayne (now Justice Hayne of the High Court), but deferred his reading to take up appointment as Principal Private Secretary to Gareth Evans when, after the 1983 election, Gareth Evans became Commonwealth Attorney-General.

Shortly after his Honour returned to the Bar, Ken Hayne took silk. His Honour completed reading with Ross Robson QC and signed the Bar Roll in 1984. He then completed his Melbourne Law Degree, which had been interrupted by his taking up the Rhodes Scholarship, and graduated in December 1984. He took silk in 1998.

He is a supporter of government schools. His children attend St Kilda Park Primary School, where he served a three-year term as President of the School Council. He has (to quote Victoria Strong, the President of the Law Institute) "devoted considerable time, energy and enthusiasm to developing an after-hours sports program" at that school and has been "a passionate coach of the Under 15 team".

He is a vigorous defender of the rights of the individual. He spent some seven years as Legal Aid Commissioner and served on the Board of Liberty Victoria for six years, two of them as President.

In his involvement with Liberty Victoria, he appeared with Julian Burnside QC and John Minetta in the *Tampa* case, claiming that the Commonwealth had unlawfully detained people rescued by the captain of the Norwegian container ship, *Tampa*.

The proceeding succeeded at first instance but the decision of North J was set aside by a majority of the Full Court; and the Commonwealth passed legislation to prevent an appeal to the High Court.

The Commonwealth then proceeded to seek costs against Liberty Victoria (i.e. against the Board Members of that body, including Chris Maxwell). The Full Federal Court denied the application for costs, Beaumont J saying:

The counsel and solicitors acting in the interests of the rescuees in this case have evidently done so pro bono. They have acted according to the highest ideals of the law. They have sought to give voices to those who are ... voiceless and, on their behalf, to hold the Executive accountable for the lawfulness of its actions. In so doing, even if ultimately unsuccessful in the litigation, they have served the rule of law and so the whole community.

High profile cases, such as the *Tampa* are, however, just the tip of the iceberg. His Honour has at all times been prepared to put his concern for human rights and the interests of justice before his own professional or pecuniary interests. If there is injustice, he believes that it should be fought; if the rights of the individual are eroded by legislation, then the ambit of that legislation and its validity should be tested.

The current President of Liberty Victoria, Brian Walters S.C., is quoted as saying that Justice Maxwell's "characteristics of legal acumen, a clear understanding of human rights and rare courage made him the perfect choice to replace Justice Winneke".

His Honour has worked tirelessly and without financial reward in the interests of those who could be seen to be oppressed. His sense of justice and fair play are manifest. He is not, however, a Don Quixote tilting at windmills. His Honour is an excellent black letter lawyer, a man of precise legal thought and tight logical analysis. He could be described, perhaps, as a "pragmatic idealist". He is also a man of total intellectual honesty. He was not as counsel prepared at any time to present any argument which might, as a result of dubious logic, mislead the court.

Perhaps the best insight into his Honour's thought process is to be found in remarks which he made in his reply to the addresses of welcome on 25 July this year, where his Honour, having referred to the average delay in the hearing of appeals in the Court of Appeal, said:

There is a very serious problem of delays in the Court of Appeal ... These delays are

clearly unacceptable. Reducing them is my first and most urgent project. But one thing is already clear. There is no scope for the judges of the Appeal Division to be asked to work any harder than they do now.

I have been shocked to discover that many already work seven days a week, and late into the night and most nights. Such a punishing regime is unsustainable and it is unsafe. I simply do not see how it can be reconciled with the Crown's undoubted obligation to ensure a safe working environment.

My first priority will be to investigate how the business of the Court can be dispatched more expeditiously. I will be looking to achieve greater efficiency without sacrificing the quality of justice — for example, by being more selective about the cases in which judgment is reserved and lengthy judgments are written.

It is fortunate that, at a time when, by reason of the growth of international terrorism, there is a temptation for government to override individual rights in the interests of community safety, a man such as described by Brian Walters should be appointed President of the Court of Appeal.

We welcome his Honour's appointment and wish him well in his new role.

Court of Appeal

Justice Ashley



Those of us who have appeared before Justice Ashley whether, in the Trial Division or in the old Appeal Division of the Supreme Court, are very conscious that those words apply equally to his Honour's performance on the Bench.

His Honour has always come into Court fully apprised of the issues and, so far as the court papers permit, fully armed with the facts — the "Boycott-like solidity". He has displayed a detailed familiarity with the relevant law which cannot be attributed solely to an encyclopaedic knowledge of all aspects of the law — the "technical correctness". Trials before Justice Ashley have always proceeded at a brisk pace. His Honour has tended to keep counsel to the point and has discouraged any wandering from the main road of the argument. Sometimes, perhaps, one could detect in his Honour's questions the "thirst for runs".

His Honour was the principal judge of the Common Law Division of the court from the inception of the three divisions on 1 January 2000 until his elevation to the Court of Appeal.

His Honour's capacity for hard work, his enthusiasm to identify the key issues, his incisive mind and his impatience with humbug make a welcome addition to the Court of Appeal. But that appointment is a loss to the Trial Division of the Court where his talents, not least his facility to assess witnesses and to master complex fact situations will be sorely missed.

We welcome his Honour's appointment with enthusiasm.

ON 21 June 2005 David John Ashley was appointed a Justice of Appeal of the Supreme Court of Victoria. At that time he had served almost 15 years as a Justice of the Supreme Court.

At his Honour's welcome to the Supreme Court on 21 August 1990, David Harper QC (now Justice Harper) commented at length on his Honour's academic, sporting and cattle breeding achievements. Of his Honour's sporting achievements David Harper said: "You left school noted for the technical correctness, Boycott-like solidity, and thirst for runs, which marked your career as an opening batsman in the First 11."

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Supreme Court

Justice Kim Hargrave



THE Honourable Justice Kim William Spencer Hargrave was appointed to the Supreme Court of Victoria on March 2005. His Honour's qualifications for appointment are highlighted by two statements made at his welcome on March 2005.

Kate McMillan S.C., welcoming him on behalf of the Bar, said that he has been described "as a persuasive advocate, an excellent cross-examiner, calm under pressure, clear and insightful and just plain clever". The immediate past President of the Law Institute, Christopher Dale, described his Honour as "outrageously polite, methodical and ordered, compassionate, thoughtful and intellectual". To this list of his Honour's characteristics, many who know him would add that his Honour is a "man of pragmatic good sense".

His Honour is probably the first member of the Supreme Court to have sailed in the Sydney to Hobart Yacht Race. While still a schoolboy he sailed on the *Winston Churchill*, the only yacht from the original 1945 field which is still afloat.

He was educated at Brighton Grammar and the University of Melbourne. After graduating with Honours in 1977, he served his articles at Corr & Corr (as it then was) and remained with that firm until 1980 when he came to the Bar. He

read with David Harper (as he then was). He himself had two readers, Dr Karen Emerton and Kevin Lyons. He took silk in 1994.

His Honour's practice at the Bar was largely in the commercial area. He appeared in major large-scale commissions and enquiries and in most of the major take-over litigation. His Honour was from 1989 to 1990 heavily involved in the National Companies and Securities Commission enquiry into dealings between Bond Corporation Holdings Limited and the Bell Group Limited. From 1991 to 1992 he was involved in the Royal Commission into the collapse of the Tri-Continental Group of Companies. He was also engaged in the Royal Commission into the Metropolitan Ambulance Service.

In the Bond Brewing litigation he was junior to Alex Chernov QC (as he then was). In this context, Kate McMillan adverted to another characteristic possessed by his Honour:

After the case, there was time for some skiing — where but Vail? Your Honour was a reasonable sportsman — you had been a good footballer, you had sailed and you had done some skiing. Chernov, however, was an elegant and excellent skier. Seduced by his elegance and excellence, after a few runs, you gained false confidence and followed him. You may not have been elegant but you were up there with him — until you came across that sheet of ice. Determined not to admit that you had over-reached yourself, you made no admissions and skied on with cracked ribs — calm under pressure, alternatively, a streak of stubborn determination.

If Christopher Dale's assessment of his Honour's performance in the Intergraph inquiry is any guide, it would seem that Kate's first alternative, "calm under pressure" is the correct interpretation. Of Kim Hargrave and the Intergraph inquiry Christopher Dale said:

One of the continuing themes that emerged was your Honour's patience and ability to relate to both clients and to junior practitioners ... It was your Honour's advocacy skills and calm reasoned approach to deci-

sion-making that was greatly lauded. In fact you were described as being somewhat of an "island in the storm" for your ability to maintain a cool head and calm manner even in the most chaotic and trying of circumstances.

When, some ten years ago, *Bar News* asked Kim Hargrave his reaction to taking silk, he replied: "Delight, pride and apprehension". There was no need for apprehension then. There is certainly no basis for apprehension now.

His Honour is a man who can deal with the finer points of the law across the spectrum and at the same time maintain a capacity to see the whole picture. He will dispense commonsense justice according to law.

His Honour has the dubious distinction of being twice required to sing for his supper at Bar dinners. When he took silk in 1995 he was the junior silk for that year, with the consequence that he was required to perform to the delight and/or anguish of the twenty honoured guests. At the 2005 Bar dinner he was the most recently appointed member of the judiciary and once again was required to speak, this time on behalf of the guests.

One of the matters mentioned at his Honour's welcome was his interest in contemporary music and his habit of using extracts from contemporary music as Rumpole would use classic texts. This was evidenced by his Honour's speech at the 2005 Bar dinner where his Honour said:

When Ross Ray telephoned me, I went "A Whiter Shade of Pale". "Don't Let Me Be Misunderstood", it was an honour, and not a poisoned chalice, to be asked. However, having given the junior silk speech nine years ago, I would have hoped to avoid the burden of the junior judge speech.

So, as this "New Kid in Town" what are my aspirations for judicial life? First to avoid the "Lonely Days" of judicial life. I will try to maintain my friendships at the Bar and not retreat to my Chambers feeling "Alone Again, Naturally". Second, I will seek "Help" ... I look forward to getting by "With a Little Help from my Friends" I am sure that together "We Can Work it Out".

This last paragraph accurately reflects his Honour's approach to life and to his judicial role. Self-importance is not in his vocabulary. His Honour's court will be a pleasant one in which arguments will be considered carefully and, where appropri-

ate, discussed at length. There will be no a priori assumption that the judge knows best.

We welcome his Honour's appointment and wish him well.

Supreme Court

Justice Betty King



Welcome speech by Ross Ray QC, Tuesday 19 July 2005, upon the appointment of the Honourable Betty King to the Supreme Court of Victoria

MAY it please the Court. I appear on behalf of the Victorian Bar to offer our warm congratulations on Your Honour's appointment to this Court.

This appointment crowns a career of service to the Law, the State and the Commonwealth. In the course of Your Honour's 25 years at the Bar, you served as a Prosecutor for the Queen in right of the State, and in right of the Commonwealth. You were a member, and sometime Acting Chairman, of the National Crime Authority. And, of course, for more than five years, have graced the bench of the County Court.

Typically, Your Honour did not stand

on ceremony, or wait around bashfully to be welcomed to this Court. The afternoon the appointment was announced, you threw your own welcome with drinks and savouries in the Essoign. You were sworn in the next day, and celebrated American Independence Day sitting in a criminal mention.

Your Honour was educated at University High School, and the University of Melbourne. You were just a couple of years ahead of Justice Dodds-Streeton at University High. It may be a few years before University High rivals the men's public schools on the Court, but Your Honours are certainly a dynamic start.

You served articles with Keith Hercules and certainly were not introduced to crime in that office. Very soon after admission, Your Honour came to the Bar, and read with John Kaufman QC, not because of any fascination with the discretionary trusts about which John has written, but because you'd briefed him in a common law matter while with Keith Hercules, and he was the only barrister you knew.

At Your Honour's welcome to the County Court, you described Ramon Lopez as your "other master". Despite your mutual devotion to matters criminal, Ray Lopez appeared before Your Honour only once in your five years on the County Court. Your Honour presided over what was to have been the first trial in the new courthouse at Wodonga, that of a locally notorious alleged sex offender. And that was the problem. Time after time, jurors realised that they knew one of the witnesses — and one juror, after the opening address, went to pieces at the bizarre nature of what was alleged. Ray can't remember whether it was four or five juries that had to be discharged.

In the end, the trial had to be moved to Melbourne.

In 25 years at the Bar, Your Honour practiced almost exclusively in Criminal Law — though, remarkably, after you'd taken silk, and not long before your appointment to the County Court, you developed a practice in the arcane world of taxation and administrative law, appearing in the Federal Court.

In earlier days, you were the Bar representative on the Police/Lawyers Liaison Committee, and were a member of the Criminal Bar Association executive committee — perhaps the single most active Bar committee in making submissions on legislation and proposed legislation to governments, both State and Federal.

Your Honour was an active member of the organising committees, and of the Papers Committees, of the two International Criminal Law Congresses held in Melbourne — the sixth International Criminal Law Congress in 1996 and the eighth in 2002. Your Honour was always ready and willing to take on the difficult jobs on those committees.

Your Honour taught for many years, both at the Leo Cussen Institute and in the Bar Readers' Course. It was a particular pleasure to have you at the Readers' Dinner in May, celebrating your daughter Elizabeth's signing of the Bar Roll. Elizabeth, by the way, had been a member of the Deakin University moot court team that competed internationally in Europe.

Your Honour and the late Lillian Lieder were pioneer women criminal advocates and criminal silks. You both took silk the same year, in 1992, as did your Master, John Kaufman.

There were only 12 silks that year, a good number for a photo — individuals rather than a crowd scene. And the *Bar News* photo is great. Lillian is front and centre, flanked by Your Honour and Noel Ackman. Lillian is standing tall, her rather small wig perched precariously awry, atop her unruly mane of red hair.

Justice Nettle is behind and to the left of Your Honour, standing very tall, the gravitas of a Justice of Appeal already visible in His Honour's rather solemn gaze. Lillian, Your Honour and John Kaufman are all smiling.

David Curtain, the Bar's resident arbiter of fashion and suavity, and also Bar Chairman that year, spoke at Your Honour's welcome. He described Your Honour as "the best dressed silk at the Bar, having had your silk robes hand-tailored".

Curtain failed to mention Your Honour's flair and skill as your own coutourier. Each year, for the Bar Dinner, you created your own ensemble. On the County Court, Your Honour began as you intended to, and did, continue — as an individual. You declined to wear your wig in the photograph for the Judges' gallery, again demonstrating your sense of style before protocol.

On the County Court, Your Honour distinguished yourself as a trial judge, specialising in crime, but also taking your share of civil cases.

Amongst your County Court judicial colleagues, Your Honour is known not only for leopard skin boots, and bright-coloured spectacles frames, but you are also known for sound judgment and industry — and for open-door approachability — called on by junior, and more senior, judicial colleagues alike to discuss difficult cases.

Your Honour personifies judicial independence and does not shy away from hard decisions. You recently imposed life without parole when the prosecutor had asked for something less.

leave to appeal from the Magistrates' Court or VCAT.

One of the few fields in which he did not practise at any time was bankruptcy. As Deputy Registrar of the Federal Court, one of his prime functions was to deal with bankruptcy matters. It is a comment on his capacity as a lawyer that those who appeared before him in the bankruptcy jurisdiction in the Federal Court have nothing but the highest praise for him as a lawyer. As a human being, of course, anyone who knows John Efthim cannot speak too highly of him. He is one of those people who have the gift of empathy. He will listen sympathetically, but he will analyse critically.

It was rare for any mediation that he undertook while with the Federal Court not to reach a settlement on at least some of the issues if not total settlement. He disclaims credit, saying that statistics are irrelevant and the purpose of mediation is to empower the parties. But his record in mediation, particularly in Native Title cases was amazingly successful. The Full Federal Court referred one such case to him for mediation and, when it settled, the three judges gave him a framed photograph of that Full Court panel, inscribed and signed in thanks for his mediation and its result.

In the Ansett Superannuation proceeding the respective parties appeared to have taken intractable stances. Justice Goldberg, wholly frustrated by the attitude of the parties, ordered four days of mediation, concurrent with the trial. With John Efthim as the mediator settlement was achieved and payment of entitlements was made prior to Christmas. Greg Combet, the ACTU Secretary is reported to have stated: "If you can't beat them, 'Ef-Them!"

John Efthim is a supporter of the Carlton Football Club and also an enthusiastic race-goer. When one looks at Carlton's performance this year, one must hope that his choice of horses is better than his choice of football teams. Apparently, he had the capacity, in his own warm way, to explain Carlton's lack of success week by week. To quote Kate McMillan once again:

Your friends and colleagues at the Federal Court, the Judges and others will miss you. They will miss the Monday morning analysis of why Carlton failed that weekend. They will miss your good humour and friendly gossip that was described as interesting and useful and "made us understand one another better". Your "news" was a subtle

Supreme Court

Master Efthim



presence, you have instigated a change that sets an important and welcome precedent in this court.

John Efthim comes to the Supreme Court after eleven-and-a-half years service as Deputy Registrar of the Federal Court.

He graduated as a Bachelor of Science and Bachelor of Laws from Monash University and subsequently obtained the degree of Master of Business Administration from Monash and a Master of Laws Degree from Melbourne University.

He was admitted to practice in 1977 and, in the 15 years before his appointment as Deputy Registrar of the Federal Court, practised across almost the whole ambit of the law. As (effectively) in-house corporate counsel at Nortel Australia he was involved in the drafting of multi-million dollar supply contracts and the drafting of licensing agreements for software products involving complex intellectual property issues.

He was the inaugural legal officer of the State Superannuation Board and established the legal section attached to that body. He was involved in personal injuries work with the State Insurance Office. He then went to the Crown Solicitor's Office (as that office was then known) and was there involved in common law litigation. While at Crown Law he was also involved with numerous orders to review both as applicant and respondent. This should give him a sympathy for those who now make applications before him seeking

ON 21 July 2005 John Efthim was welcomed as a Master of the Supreme Court of Victoria. He is the first Master to be formally welcomed by the profession. As Kate McMillan S.C. said at his welcome:

Your appointment as a Master of this Court was widely acclaimed by the profession. It prompted a number of our members to ask why the profession had not previously given ceremonial welcomes to Masters. The Bar approached the Chief Justice and her Honour enthusiastically approved the proposal.

Your welcome today is the first ceremonial sitting to welcome a Master to the court, at least in modern times. Thus by virtue of your esteemed reputation and

influence in building collegiality within the Court. It has not gone unnoticed that in some quarters you are addressed affectionately as “Chief Poo Bear” and “Spiro”.

One has to meet or appear before John Efthim to appreciate properly the significance of this statement. Unassuming, perceptive with no sense of self-importance or of judicial infallibility, John Efthim generates warmth and informality. Except that he lacks the “heavily built Falstaffian figure”, John Efthim on

the Bench, whether as Deputy Registrar of the Federal Court or as Master of the Supreme Court reminds one of Yates’ “affable irregular”. Without detracting from the dignity of the court, he generates an informality which puts everyone, including litigants at ease.

We are delighted at John Efthim’s appointment and in closing cannot do better than Kate McMillan: “The Federal Court’s loss is the Supreme Court’s gain. The profession and the Court are well aware of that.”

Your Honour served for two years as in-house counsel to the Commonwealth Director of Public Prosecutions in Melbourne, working on a variety of matters including immigration and extraditions, taxation, social security fraud, corporations law prosecutions, asset confiscations, conspiracies and large-scale narcotics importations.

Your Honour returned to private practice at the Bar.

Shortly after returning to private practice, Your Honour appeared on behalf of the Crown in the Court of Appeal against an unrepresented applicant for leave to appeal against conviction.

Your Honour agreed to review, overnight, whether there was any arguable case for the unrepresented applicant, who spoke no English.

Justice Tadgell, speaking for the Court, commended the extraordinary thoroughness of Your Honour’s overnight review.

I quote Justice Tadgell: “Neither the Court nor the applicant was entitled to put [Your Honour] to the trouble to which [you] had evidently gone.”

Your very thorough review of the best arguments that could be made for the unrepresented applicant was, and again I quote Justice Tadgell, “in the best traditions both of the Bar, and of the administration of justice in this State”.

Your Honour was appointed one of Her Majesty’s Counsel in 1999.

Your Honour had been about to take a reader, but that was forestalled by taking silk. You have, however, participated actively in the senior mentor schemes, both at the Bar and with the Office of Public Prosecutions — being senior mentor to Sharon Lacy, Ursa Masood and Joanne Smith.

As Senior Counsel, Your Honour moved deliberately to broaden your practice, appearing in commercial and administrative law cases, as well as in crime; and in family law, confiscation of assets, inquests, and professional conduct disciplinary hearings.

From Your Honour’s earliest days in the law, you have done pro bono work. You worked as a volunteer at the St Kilda Legal Service. At the Bar, you did pro bono work, both through the Public Interest Law Clearing House and privately.

There is an example of Your Honour’s meticulous attention to detail in a rape case which Your Honour took pro bono in the ACT.

A husband was accused of an allegedly brutal assault and rape of his estranged wife. The husband denied the whole

County Court

Judge Morrish



Welcome speech by Ross Ray QC, Monday 15 August 2005, upon the appointment of Her Honour Judge Morrish to the County Court of Victoria

MAY it please the Court. I appear on behalf of the Victorian Bar to offer our warm congratulations on the appointment of Judge Morrish to this Court. I address my remarks to Her Honour.

At the Bar, Your Honour is known for thorough preparation and meticulous attention to detail — qualities Your

Honour brings to the wider service of the community as a Judge of this Court.

Your Honour was educated at Beth Rivka Ladies College, and at Monash University — graduating Bachelor of Jurisprudence and Bachelor of Laws. You are also a graduate of the National Theatre Drama School.

Your Honour served articles with David Miles at Maddock Lonie & Chisolm. You were admitted to practice on the motion of George Hampel QC and Michael Rozenes — now Professor the Honourable George Hampel, and His Honour Chief Judge Rozenes.

Your Honour practised as a solicitor very briefly with Maddocks, and then with Cohen Frenkel Berkovitch & New.

Your Honour then worked as a solicitor-advocate for the Legal Aid Commission, appearing in criminal matters in the Magistrates’ Court, and serving as the first duty lawyer at the Family Court at Dandenong.

Your Honour signed the Roll of Counsel in 1985 and read with His Honour Chief Judge Rozenes.

Your Honour began in the usual way, with a broad mix of work including crash-and-bash, crime and family law. You developed a more specialised practice in criminal law, appearing regularly to prosecute on behalf of the Crown (both State and Commonwealth), but also maintaining a defence practice — both legal aid and private clients. Your Honour was regularly briefed by the Victorian Government Solicitor.

incident. There was no physical or DNA evidence.

Your Honour was examining photographs of the crime scene, which included the prosecutrix wife's suitcase — closed in one photograph, but open in another.

Your Honour examined the photograph carefully with a magnifying glass. In the wife's open suitcase, you were able to identify a paperback novel — *If Tomorrow Comes* by Sidney Sheldon. You went to the trouble of obtaining and reading that novel. You struck gold!

The heroine of the novel, released from prison, exacts revenge on the men who framed her, by framing them. One of them, she frames for a brutal assault and rape.

Astonishingly, the evidence of the prosecutrix in Your Honour's real-life case was, in every detail, identical to that in the novel — even to the colour of her lingerie.

Knowing the fictional base, Your Honour set your female junior to work on establishing that a particular sex-act alleged was the product of Mr Sheldon's lurid imagination, and not physically possible — not something a male criminal silk could easily ask of his female junior.

For three years, Your Honour served on the Committee of the Criminal Bar Association. The Chairman of the CBA, Lex Lasry QC, is with me at the Bar table today in honour of your appointment.

Both for the Criminal Bar Association, and for the Bar as a whole, Your Honour has been the principal author of, or a major contributor to, a number of very substantial submissions to law reform agencies and governments.

In December 2003, Your Honour was appointed to the Bar Legal Education & Training Committee chaired by Justice Nettle. Your Honour worked on the design, development and implementation of the criminal law aspects, as well as on the overall new mandatory CLE course as a whole.

Your Honour has taught in the Bar Readers' Course, in numerous other advocacy training courses for various bodies, and was a member of the Bench and Bar team that taught in Papua New Guinea last October.

Your Honour has also served on the Bar's Aboriginal Law Students' Mentoring Committee.

Your Honour established and headed a new set of chambers, "Gaudron Chambers". Justice Gaudron officially opened those chambers in March last year. Alas, with Your Honour's appoint-

ment to the Court, those chambers are no more.

Your Honour is an accomplished classical pianist, and is fluent in a number of languages. The collegiality and loyalty between Your Honour and those with whom you work is demonstrated in Your Honour bringing with you to the Court, your long-serving secretary, Marlene.

Your Honour was a solicitor when the Director of the Bar 1984 Centenary Review, Simon Wilson — the Bar's own

Max Bialystock — recruited you for the *Corps de Dance*.

Hits from that review include "I'm one of the girls who's one of the boys" and — now prophetically — the finale (stolen from the Broadway musical, "See Saw"): "It's not where you start; it's where you finish".

The Bar wishes Your Honour long and satisfying service as a Judge of this Court.

May it please the Court.

County Court

Judge Leckie



**Welcome speech by Ross Ray QC,
Tuesday 16 August 2005, upon the
appointment of His Honour Judge
Leckie to the County Court of
Victoria**

MAY it please the Court.

I appear on behalf of the Victorian Bar to offer our warm congratulations on the appointment of Judge Leckie to this Court. I address my remarks to His Honour.

In more than 30 years at the Bar, Your Honour has earned the respect of all with whom you have come into contact. You have been an effective and fair Senior

Prosecutor for the Queen, and the Bar welcomes your appointment to this Court.

Your Honour's secondary education was at Ivanhoe Grammar School. You sampled a number of alternatives in your legal education. You began at the Australian National University. You returned to Melbourne and transferred to long articles with the late Max Ham at Mallesons. Your lecturers in the articulated clerks' course at RMIT included Sir Daryl Dawson, the late Neil Forsyth QC and Haddon Storey QC.

Max Ham practised in wills, trusts and estates, and in family law. One might speculate that, had Your Honour served the full five years long articles with him, Your Honour's career might have followed a very different path.

However, a scholarship took you to Monash, where you completed the degree course, graduating Bachelor of Jurisprudence and Bachelor of Laws.

Your Honour then served short articles with the late Barney Campbell, senior partner of Campbell & Shaw, and an experienced and formidable solicitor-advocate.

You worked as an employee solicitor at Campbell & Shaw for a year, then took a year off travelling, as did many of that generation of Australians.

Upon returning to Australia in 1973, Your Honour signed the Bar Roll and read with Cairns Villeneuve-Smith, one of the great advocates of our Bar, and a distinguished Judge of this Court.

Your Honour was a member of what

was, I believe, the first set of specialist criminal chambers at this Bar — not merely adjacent rooms, but a shared library, and deliberate common purpose. This was in the 70s, and the suite of chambers was on the 12th floor of National Bank House — Latham Chambers.

After five years, that set moved to the 27th floor of Aickin Chambers, joining with some of the criminal counsel from the 1st floor of Owen Dixon East.

The 27th floor of Aickin consisted, then, of 12 criminal counsel and six commercial counsel. It was a dynamic and collegial environment that included the late Ron Castan QC and Justices Merkel, Goldberg and Finkelstein on the commercial side (“the Golan Heights”) and included Chief Judge Rozenes, Your Honour, the late Graeme Morrish QC, and Richter QC, Dunn QC, Howard QC and Parsons S.C. on the criminal side — later joined by Judge Hampel (“the West Bank”). Richter, Dunn, Howard and Parsons are all here today, as is Ed Lorkin, the Secretary of the Criminal Bar Association, representing the Association.

While in Aickin Chambers, Your Honour had one reader, Ken McGowan.

Your Honour was the Melbourne member for the National Crime Authority from 1989 to 1993. You were, in that time, Acting Chairman of the Authority for some 18 months.

Your Honour resumed practice at the Bar for a few years. In December 1997, you were appointed a Crown Prosecutor for the State of Victoria.

Your Honour was appointed a Senior Crown Prosecutor in March 2002, and Senior Counsel in December 2002.

From Your Honour’s early days at the Bar, you specialised in the criminal jurisdiction, prosecuting for the State and Commonwealth Directors of Public Prosecutions, and defending.

Your Honour is modest and quiet. Like the Phantom, you emerge from the mists, do your work, and then vanish again into the mists.

You are known as a fair prosecutor. The fair prosecutor — quiet, thoughtful, measured and personable — is, of course, the most dangerous. Juries like them.

Your Honour is of Scottish extraction. The Leckies are part of the clan McGregor. It is therefore no great surprise that there is something of the canny Scot in Your Honour’s personality.

Shirley Bassey’s hit recording of “Hey, Big Spender” came out when you were a student at Monash. She was not singing about Your Honour.

On circuit, prosecuting a culpable driving case, Your Honour attended for a view on the Coryong Road, on the banks of Lake Hume. It was bitterly cold. Everyone, including the judge and jury, was in overcoats, hats and scarves and gloves, except Your Honour. You were in a mid-weight autumn suit — elegant, but surely freezing! Your instructor asked if he could get your coat from the car. “No, thanks.” You later explained that your coat was a military-disposals German army greatcoat, and you didn’t want the jury to see you in that light.

It was, I hasten to add, a post-war German army greatcoat — warm, and at a good price, but, on that occasion, useless.

When on a lengthy circuit, Your Honour generally leases accommodation out of town. One such place has a deck, with sweeping views of the Ovens Valley to Mount Buffalo and the Alps. In the late afternoon and early evening — a Garden of Eden setting — Your Honour would retire to the deck with refreshments and your .22 rifle.

The eyes of eight Jack Russell Terriers belonging to a local solicitor light up, and they wag their tails with delight, each time Your Honour comes on circuit. They know your bag of fresh rabbits will be theirs.

Indeed, although we can’t see his tail, I see His Honour Chief Judge Rozenes’ eyes light up at the realisation that he now has a judge who truly loves circuit work.

It’s said that Your Honour has one photograph of yourself in shorts, bush hat and boots, holding a freshly caught barramundi. On the reverse, for friends

with stronger stomachs, is a photograph of Your Honour in the same costume, but with your foot on the corpse of a freshly shot wild boar — a troubling image in the light of Your Honour’s newly acquired sentencing powers.

Your Honour is also a member of a book club, of which Deputy Chief Magistrate Paul Grant is the secretary. Other members include Chief Judge Rozenes, Chief Magistrate Gray, and Judges Howie, Punshon and Morgan-Payler. The book club has been going some five years, so that its record of appointments to the bench is quite remarkable. Paul Grant may need to brace himself for a flood of new members with high expectations.

The book club meets every couple of months at a restaurant, and if there’s not much to say about the book, its members have an abiding interest in food to discuss.

Your Honour and your brother and sister continue the Heathcote vineyard begun by your father, and produce, with a little help from John Ellis at Hanging Rock, the Sheoke Hill Shiraz. I’m sure your new judicial colleagues will be hoping for a continuation of the car-boot-sale prices offered to your former colleagues at the OPP.

Your Honour is a good lawyer and advocate — thoughtful and insightful. Your Honour will add to both the humanity and the distinction of this Court.

The Bar wishes Your Honour long and satisfying service as a Judge of this Court.

May it please the Court.



THE ESSOIGN

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Happy hour every Friday night: 5.00–7.00 p.m. Half-price drinks

Great Food • Quick Service • Take-away food and alcohol. Ask about our catering.