



WELCOME

ADDRESS AT THE CEREMONIAL SITTING TO WELCOME HER HONOUR MAGISTRATE JACINTA DWYER UPON HER APPOINTMENT AS A MAGISTRATE BY DR MATTHEW COLLINS QC, SENIOR VICE-PRESIDENT OF THE VICTORIAN BAR, ON WEDNESDAY 5 APRIL 2017

May it please the Court.

I appear on behalf of the Victorian Bar to congratulate Your Honours Magistrates Jacinta Dwyer and Thérèse McCarthy on your appointments to this Court – now more than a month ago on the 28th of February.

Your Honour Magistrate Dwyer was educated at the Star of the Sea College under the always watchful aegis of the Presentation Sisters.

You graduated from the University of Melbourne in Arts and Law; and served Articles with the late Robert Umbers at McCluskys.

Your Honour was admitted to practice in 1993. You married Charles Power in Hereford, England in 1994 – and you have four active sons – the youngest in year 6 at school; the eldest, an Arts student at the University of Melbourne.

Your husband Charles is a Partner at Holding Redlich.

For a year, in 1994-95, Your Honour served as Research Associate to the late Honourable John Fogarty. Justice Fogarty was a towering Judge of the Family Court – serving more than 22 years on the Court, and regarded as one of the Court's outstanding jurists.

Charles' appointment as a Commonwealth Ministerial Advisor then took you to Canberra, where Your Honour worked as a solicitor in the Family Law Department of Clayton Utz.

Your Honour has, over some 24 years since your admission, done a considerable amount of appearance work in the Children's Court, this Court, and in the Federal Circuit Court and the Family Court.

In a recent case for the Women's Legal Service, in an appeal to the Supreme Court from a Children's Court interim accommodation order, when Legal Aid refused to fund counsel, Your Honour appeared *pro bono*, and conducted cross-examination in the Supreme Court.

As soon as Legal Aid funding permitted, Your Honour did brief counsel. One thing so many of Your Honour's solicitor colleagues all admire is your "can-do", "will-try" approach, for your client and for your colleagues, to pick up anything, and, remaining utterly calm, just do it – and do it well – in this case, cross-examination in the Supreme Court.

Your Honour's very substantial appearance work has, however, always been done as a solicitor-advocate and duty solicitor – not as a member of the Independent Bar.



Your Honour did brief when there were funds available to do so. The counsel you briefed praise Your Honour's meticulous preparation; your long hours of commitment; and your dedication to your client's cause.

And when one of your many complex and stressful cases really demanded Silk, and Legal Aid would not come to the party, Your Honour would occasionally persuade Senior Counsel to accept the brief *pro bono* – which they often did.

Your Honour having always practised as a solicitor, the Bar defers to the Law Institute President-Elect in relation to the details of Your Honour's professional biography – all as a solicitor and in law firms; and, of course, with the Women's Legal Service.

Your Honour has over the years achieved that most rare of jewels in our profession – a work life balance. For example, Your Honour 'took time away from paid work during 1997; 1999; and between 2004 to 2012 – to meet family responsibilities'.

There has, however, been significant continuity.

For example, having served as his Research Associate in 1994, Mr Justice Fogarty sought Your Honour out to work with him again in 1998, leading up to his retirement in October of that year. Then, in 2012, over a period of about 12 months, Your Honour worked with Justice Fogarty in His Honour's retirement and co-authored with him a significant article: *The First Aboriginal Land Rights Case*.

This was an account of the *Nabalco* Case in which His Honour had, 40 years earlier, appeared for the Aboriginal Lands Rights claimants.

Nabalco is a significant part in the history of Aboriginal Lands Rights claims, and in the history of our Country.

It was brought in the Northern Territory Supreme Court; the adverse decision in April 1971 was strongly criticised; and the article Your Honour co-authored with John Fogarty explains the strategy behind the hard decision not to appeal.

It took 9 long years before proceedings were issued in *Mabo*; and more than 10 years after that the High Court finally overruled *Nabalco* in the *Mabo* decision.

There is also great continuity in Your Honour's community service work. Your Honour re-joined Women's Legal Service Victoria in 2014, renewing an association that dates back to your service as a volunteer lawyer from 1994 to 1999; then as Volunteer Co-ordinator, Trainer, and Legal Advice Line Supervisor from 1999 to 2002.

The Victorian Bar also pays tribute to Your Honour's volunteer work, over several years, as a legal advisor for Mirabel Foundation – which addresses the needs of children orphaned or abandoned due to parental drug use, and who are in the care of extended family; and your work for the Seniors Rights Legal Clinic.

On behalf of the Victorian Bar, I wish Your Honour joy in your appointment, and long, distinguished, and satisfying service as a Victorian Magistrate.

May it please the Court.