

VALEDICTORY SPEECH

Justice Keane; Justices and Judges of the Federal courts; Chief Justice Holmes; Justices and Judges of the Queensland Court of Appeal, Supreme, and District Court, Magistrates; Other distinguished guests including, importantly, fellow retirees; Members of the legal profession; Friends. Ms Lye; Ms Treston; Mrs Jackson.

My brother Geoff, who with his wife Kym has kindly travelled to be here today, will retire about six months after me.

Why is it that my retirement is attended with all this public fuss while the retirement of someone who, for 35 years, has been a talented, caring and dedicated teacher, is attended by no public fuss?

The answer, as most here today will know, lies in the fact that today's ceremony - and other ceremonies like it in other courts - are not so much about me or any individual judge as they are about marking, indeed celebrating, something fundamental to our democracy.

We are incredibly lucky to have woven into the fabric of this lucky country courts that stand fiercely independent of elected governments.

Courts must not ever be the playthings of governments. Nor should they be the repositories of favours for partisan mates or other political largesse.

Merit is observable and notorious. It is capable of verification through due diligence. It is not found refracted through the prism of party political favours.

Equally, judges who are finger puppets for politicians and governments - of any persuasion - do more than sacrifice their self-respect. They do more than abdicate all that they have been taught as lawyers and as judges.

They sow the seeds for public cynicism that - eventually and inevitably - undermines the rule of law.

That should be resisted, and resisted vigorously, by any judge – indeed, any lawyer.

So thank you all for attending today to honour this particular **court** and its crucial place in Australian society. More of which in a moment.

Ms Lye Thank you for speaking on behalf of the Attorney-General.

Ms Treston, as I said to you privately upon your election as President of the Bar, I am very confident that there will soon come a day when we will not need to use the phrase “the first” to describe a woman being appointed to **any** position.

Yet, I am delighted that the first woman President in the Queensland Bar’s history appears today on behalf of the Queensland and Australian Bars.

Mrs Jackson, I am not sure that you have ever given much thought to any firsts you achieved as a woman although there have been very many.

You have simply spent a career getting on with the business of being one of this State’s finest family law solicitors and with being the epitome of integrity.

It was always a delight to be briefed by you. I didn’t at all mind pushing you through the streets of Rockhampton with your leg encased in plaster. Despite your concerns, it is a measure of your standing in that community that I was the one who looked silly.

Thank you for agreeing to travel to Brisbane to speak today on behalf of the State’s solicitors; the Law Council of Australia and the Family Law Practitioners Association of Queensland.

Sadly, it would seem that each of you has some very unreliable informants. I may shortly need to correct some of the things they have told you.

Can I thank Justice Greenwood and the judges of the Federal Court for making this Court and the overflow court available for this ceremony. It is much appreciated.

I am joined on the Bench not only by my Brisbane colleagues but also by colleagues from interstate who are also friends.

Justice Cronin joins us from Melbourne; Justices Loughlan and Johnston from Sydney and Justice O’Brien from a quaint provincial town on the west coast called Perth. Senior Registrar Fitzgibbon joins us from Melbourne at the desk below.

So, too, others here this afternoon have travelled from Adelaide; Melbourne, Sydney, the Darling Downs; and the Sunshine and Gold Coasts. I will be mortified if I have missed anyone.

All have travelled at their own expense and at significant inconvenience. I am truly humbled and honoured and I thank each and every one of you.

I am delighted to see other colleagues on the Family Court and the Federal Circuit Court joining us by video.

It is nearing 6 o'clock on a Friday in those less civilised parts of Australia. Those of you of faith in the audience should rejoice. I am reliably informed that, on at least one Bench, water has been turned into wine.

I have spent a significant proportion of the last five years, occupying a chair next to the Honourable Steven Thackray who has travelled with Janet from Perth. His friendship and professional companionship have been as valuable to me as his integrity, leadership and legal abilities were to the court. Thanks for coming Steve – it would not have been the same without you.

I am delighted and honoured to see so many Judges from the Queensland courts – or, as I like to call them, the colonial cousins.

Your Honours honour this court and its work by your attendance.

Of course, many of you are friends, in some cases friends for a very long time and it is particularly pleasing to see you here.

I want to turn in a moment to a primary purpose of today which is to thank a number of people who deserve **the court's** thanks and my thanks.

First, however, I want to mention some matters that have been, and remain, of grave concern to me.

I have thought long and hard about raising them. Some may disagree with me doing so. Yet, there is a line beyond which silence becomes dishonest and insincere and I am not prepared to be either in the presence of so many people whom I respect and admire.

The opinions I express do not purport to be anyones other than my own.

Criticism, including criticism in the press, comes with the judicial territory. Indeed criticism, in the true sense of the word, is to be welcomed if it is thoughtful, considered and accurate.

However, while criticism – even ill-informed criticism – comes with the judicial territory, serious defamation of judges does not.

Towards the end of last year, serious defamatory slurs were published on three separate occasions by The Australian newspaper. Those slurs were directed to the judges of the appeal division of this court. The articles relied, it was said, on information from two alleged judges of the Family Court. Quotes were attributed to those two judges.

Those **alleged** judges had neither the courage nor the integrity to identify themselves.

As might be expected of people lacking both courage and integrity, they offered not a single shred of evidence for their outrageous lies. Of course, no judge worthy of the name should have – or would have - made such comments.

The blatant lies - and the defamations they founded - should have been loudly, and immediately, condemned by those charged with that responsibility. They were not. Either publicly **or privately**.

Those who failed the court and the integrity of family law system so miserably by their silence - and, in other cases, their support for that silence - should hang their heads in shame.

I am grateful to the judges of this and other courts - both Federal and State and both here and elsewhere in Australia - who expressed proper outrage both at the publication of these slanderous slurs **and** the shameful silence that followed it.

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I want to say a few words about reform.

Most of you will have heard the word bandied about frequently over the last few months.

The many and various misleading statements, and in some cases blatant lies, about the Family Court spewing forth in the press and elsewhere insults not only the past and present judges of this court but also past and present dedicated and talented Registrars and staff.

Chaos is not an effective case management system, however many false and misleading so-called statistics are sought to justify it.

Reform is a concept quite distinct from change. The proverbial bulls in china shops effect change; they do no effect reform. Reform is a process that all too often occurs so as to mop up the mess created by ill-considered change.

Genuine reform is a careful and deliberative process requiring the application of intelligent and constructive analysis by those with sufficient talent and goodwill for the task.

It has at its core at least three requirements. First, complete honesty and integrity. Secondly, complete transparency. And, thirdly, adherence to the adage that one should not criticise what one does not first seek to understand.

To more pleasant things.

Going by the comments received over the last few weeks, there are many people more troubled by what I will do in retirement than I am.

I am quietly confident that the Brisbane Lions are on the up and up. And I don't say that merely because we **flogged** Hawthorn in a trial match. Sure, it was a good win, but, Keith and Maureen, it was, after all, only Hawthorn.

The Lions can always do with support when playing interstate and Tracey and I will be happy to oblige.

And, on matters football, I am pleased to say that my talents are still required by the mighty Mount Gravatt Vultures.

Let me define "talents" a little more closely. As some of you will know - because I have been bragging about it - after 20 or so years on the bbq, I was last year promoted to the can bar.

How anyone at the club thought it was a good idea to have me in charge of the responsible service of alcohol I do not know. But, suffice to say, I have enjoyed my new role and plan to enjoy it some more now that I don't have to go to work on Monday mornings.

It is true that I possess particular skills as a fisherman. It is a deceptively simple approach much like Master Po instructing the grasshopper to remove the pebble from his hand. It **invites** the fish onto the hook. It is beautiful to watch.

I am of course delighted that Captain Wedgy is, finally, buying a bigger boat and that I will continue as his decky. But, really Captain, the burden of being the

only one on the boat catching fish is proving very onerous. **Of course** I don't mind feeding your delightful children. I just think it would be good for **them** to **occasionally** see Daddy bring home a fish.

Tracey says that we will play golf together. That comes with some conditions from her which I need not go into in detail here except to say that they involve adopting a more Zen-like state and refraining from the use of certain language.

Sadly, I confess that among many distortions perpetrated by informants for the speakers here this afternoon, the comments about my actual golf swing may approach the truth.

It has always seemed to me that I should be able to take out every ounce of pent up frustration from the day job on a little white ball while maintaining a swing that is a thing of beauty and grace. It would seem others think otherwise.

Perhaps I should heed Clive James who wrote that he “realised at an early age that he was very bad at the things he wasn't good at” – a statement which, in my case, many of you here today will think has a more universal application than my golf swing.

I want to pay tribute publicly to the dedicated hard work of this court's staff - and all the more so because they have, in recent times, worked hard under very considerable difficulties and in the shadow of uncertainty about their positions and future employment.

I acknowledge immediately that it is unfair to single out some of the court's staff and not others. Forgive me. The fact that my attention naturally turns to those within my regular orbit does not mean that I do not appreciate the loyalty and hard work of all of you. I can assure you that I do. I am delighted that so many of you have attended today and I have been genuinely surprised but very touched by messages that I have received.

Jamie Crew and Keith Schull – the latter reprising an earlier role as our court officer this morning – have offered enormous support to the judges generally and support and friendship to me personally. Kym Hopwood, you have been fantastic for the whole eleven and a half years. Jane Turnbull has had to put up with me **and** Justice Kent in very recent times – an almost **intolerable** cruelty. Thank you all.

Very few people apart from Steve Thackray and one or two others will know just how dependant the appeal division has been on the skills and hard work of our

National Appeals Registrar, Teresa Kane. Teresa, this court owes you a very considerable debt.

Due to Teresa's tireless efforts, a process of very significant reform – genuine reform, conducted in a thoughtful, consultative and inclusive way – has seen us commence the transition to entirely paperless appeals.

I thank the members of both branches of the profession for attending today.

I loved my time at the Bar. Some who have appeared before me might say that that I never quite lost the taste.

What is not said anywhere near often enough is that the profession plays, and has always played, a crucial role in settling cases. The system would completely collapse without your efforts.

The profession in this State can be particularly proud of its historical and current role in that respect.

Despite what has been said recently by people ignorant of both history and present facts, the Family Court and family lawyers have been pioneers in alternative dispute resolution.

The senior counsel who sit in the Brisbane registry had at the Bar extensive practices as mediators. Between us, we have conducted, quite literally, hundreds and hundreds of mediations.

And again, at the risk of disabusing those who, bizarrely, believe they are inventing the wheel, it has always been the case that all but a **very** small percentage of the cases that enter the Family Court resolve.

They do so, and have for over 40 years done so, through the hard work of honest and committed family law practitioners; registrars of the court and private mediators.

It may be new found for some, but it is not a new phenomenon.

Geoff Wilson has kindly permitted me to quote from a paper he authored where he in turn quotes David Hodgson. You might think that a proud English lawyer with an international reputation would be a tad reluctant to praise we Australians. But David said this:

From the 1975 reforms which brought Australia originally to the attention of the world, through to the continuing reforms in law and practice and

the development of ADR processes and up to recent years, many foreign lawyers and jurisdictions have looked to Australia for inspiration and ideas ...

As with so many things in life, it pays to know, and to learn from, history.

The profession have been very kind and courteous to me over the years. I have appreciated it. You may not miss appearing in front of me, but I will miss you and jousts various.

By the way, I'm told that some members of the profession and others are in the overflow court. Because we are in the Federal Court rather than the Family Court there is a reasonable chance that you are able to see and hear the proceedings. Thank you for being there. I have spent the majority of my life in the cheap seats – I can assure you that you are not forgotten.

My long-term associate Leanne and I had a pact that she and I would leave together. She almost made it. Instead she threw me over so as to care for her beautiful and much adored grandchildren.

Some people - not a long way removed from **my** family – have suggested that looking after her grandchildren bears significant similarities to looking after me.

Thank you Lee-Anne, I have always greatly appreciated your loyalty, hard work and unbelievable organisational skills.

Thank you, Kate for stepping into Lee-Anne's big shoes and doing so admirably and with good humour. I hope you soon redress a great wrong and get a Labrador.

One of the very real and genuine joys of the last 11½ years has been working with my legal associates: Jean; Stevie, Mia, Georgia and Maria. Unfortunately, neither Stevie nor Mia could be here. Stevie is completing her PhD at Cambridge and Mia is working as a solicitor in Sydney.

I'm delighted that Jean and Georgia are in the audience and that Maria has kindly been given time off to sit quietly one last time at the desk below. While all of my legal associates have had to bear the considerable burden of working with me, Maria has had the added burden of working with me during a particularly difficult time.

All of my legal associates are strong, fiercely intelligent, independent young women who have offered me their loyalty, dedication, legal talents and

friendship. Fortunately, all have also had a great sense of humour. Even more fortunately, none have needed a strong language warning.

Isaac is not a strong independent woman but he does possess all of the other characteristics I have just mentioned and I am grateful for him filling in for a few months subsequent to Maria's exit to the real world.

I am immensely grateful to all of you. You will all succeed admirably in whatever you choose to do in the future.

And now to the bit dearest to my heart.

Like every parent, I have rejoiced in our sons' various professional and sporting achievements – however that over-used concept might be seen to apply.

Mostly, however, I rejoice in who Joe and Chris are as people. I am intensely proud of their values, their attitudes and their belief systems. Interestingly, each of Joe and Chris is also calm and patient. There are no prizes for guessing from which side of the gene pool that derives.

They have given me joy every single day, albeit now mostly in absentia.

In a couple of weeks time, Tracey and I will celebrate 30 years together. I have used the word "celebrate"; Tracey may well choose a different word.

Many, many years ago it was thought that, because I didn't mind a chat I should, at Tracey's work functions, sit next to the extremely quiet and extremely shy Chief Intensivist of a major hospital. At that time, Tracey worked as a nurse in his intensive care / cardiac care unit. At one dinner, he described Tracey as the best nurse he had **ever** worked with. I have never doubted it.

Later, the introduction into our lives of the refugee families, including in particular survivors of trauma, with whom you did amazing work added great joy, some significant sadness and a new dimension to otherwise theoretical constructs.

Unfortunately, endless night shifts; split shifts and the like do not sit well with nurturing one's children if one has a partner stupidly much more obsessive about his work than he ever should have been.

The sacrifice of a career – even in a job that is not **even close** to being as well remunerated as it should be – was immense. I have never ceased to feel guilty, embarrassed and eternally grateful.

Trace, your love and support has been unwavering. I honestly couldn't have done it without you. You, too, give me joy every single day.

I asked someone whose opinion I respect enormously: "how do you know when it's time to retire"? The answer was simple: "you will simply wake up one morning and know that it is the right time to go".

That is what happened to him and it is what happened to me.

However, I know we were using different criteria. I am not so much retiring as resigning.

I have always seen occupying this position as an enormous privilege and, whatever my many and varied manifest sins and inadequacies, I have always sought to treat this position with a respect commensurate with that privilege.

I am immensely grateful to have been given the opportunity. I thank you all for the part you have played.

And now, you will be very glad to hear, I am going to shut up.

Thank you all once again for your attendance and for indulging me this one last time by listening patiently.