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TRANSCRIPT OF PROCEEDINGS

O/N 121978

FEDERAL COURT OF AUSTRALIA
CEREMONIAL SITTING OF THE FULL COURT
FOR THE SWEARING IN AND WELCOME OF
THE HONOURABLE JUSTICE YATES

THE HONOURABLE MICHAEL BLACK AC, CHIEF JUSTICE

THE HONOURABLE JUSTICE MOORE
THE HONOURABLE JUSTICE LINDGREN
THE HONOURABLE JUSTICE MANSFIELD AM
THE HONOURABLE JUSTICE EMMETT
THE HONOURABLE JUSTICE DOWSETT
THE HONOURABLE JUSTICE STONE
THE HONOURABLE JUSTICE BENNETT AO
THE HONOURABLE JUSTICE LANDER
THE HONOURABLE JUSTICE EDMONDS
THE HONOURABLE JUSTICE GRAHAM
THE HONOURABLE JUSTICE RARES
THE HONOURABLE JUSTICE COWDROY OAM
THE HONOURABLE JUSTICE BUCHANAN
THE HONOURABLE JUSTICE FLICK
THE HONOURABLE JUSTICE PERRAM
THE HONOURABLE JUSTICE JAGOT
THE HONOURABLE JUSTICE FOSTER
THE HONOURABLE JUSTICE NICHOLAS
THE HONOURABLE JUSTICE YATES

SYDNEY

9.30 AM, WEDNESDAY, 2 DECEMBER 2009

YATES J: Chief Justice, I have the honour to announce that I have received a commission from Her Excellency, the Governor-General, appointing me a judge of the Federal Court of Australia. I now present my commission.

BLACK CJ: Thank you. Mr District Registrar, would you, please, read aloud Her Excellency's commission?

DISTRICT REGISTRAR WALL:

Commission of appointment of a judge of the Federal Court of Australia, I, Quentin Bryce, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 72 of the Constitution and subsection 6(1) of the Federal Court of Australia Act 1976 appoint David Markey Yates, Senior Counsel, learned in the law, to be a judge of the Federal Court of Australia beginning on 30 November 2009 until he attains the age of 70 years.

Signed and sealed with the great seal of Australia on 22 October 2009, Quentin Bryce, Governor-General, by Her Excellency's command, Robert McClelland, Attorney-General.

BLACK CJ: Justice Yates, I now invite you to take the oath of office.

YATES J: I, David Markey Yates, do swear that I will bear true allegiance to her Majesty, Queen Elizabeth II, her heirs and successors according to law, that I will well and truly serve her in the office of judge of the Federal Court of Australia and that I will do right to all manner of people according to law without fear or favour, affection or ill-will, so help me God.

BLACK CJ: I now invite you to subscribe to the form of oath that you've taken. Mr District Registrar, would you please take the commission and the subscribed oath of office and keep them in the records of the court? Yates J, I extend to you a very warm welcome on behalf of all your colleagues throughout Australia and invite you to take your seat.

YATES J: Thank you, Chief Justice.

BLACK CJ: Mr Govey, do you move?

MR I. GOVEY: First may I acknowledge the traditional owners of the land we meet on and pay my respects to their elders both past and present. The Attorney-General, the Honourable Robert McClelland MP, regrets that he is unable to attend this morning's special sitting, but has asked that I convey his congratulations to your Honour on your appointment as a judge of this court. Your Honour's distinguished legal ability, skills and outstanding achievements over your career have led to your elevation to judicial office today. Not only is your Honour's appointment a well-

deserved and fitting recognition of these attributes, but it also reflects the high esteem in which your friends and colleagues in the legal profession hold you.

5 It's pleasing to see so many of your Honour's family here today, your mother, Joyce, and mother-in-law, Jane, and brother-in-law, Andrew, your wife, Leonie and daughters Imogen and Sophie. Also present, I understand, are your brother, Ray, and niece, Jessica, who I'm told is completing her law degree. Although your Honour was born in Sydney I understand that your parents moved to Wollongong when you were very young and that you went on to complete the trifecta of having attended 10 Wollongong Infants, Wollongong Primary and Wollongong High School, the latter in 1972 as school captain. I believe your Honour was keenly interested in hockey during this time, representing the Illawarra District in various age groups. In 1971 your Honour was selected to play in the New South Wales Combined High Schools Convener's XI and the following year you were awarded a Hockey Blue by 15 Wollongong High School.

These were, no doubt, formative experiences for your Honour, instructive not only for the intrinsic value of team spirit and cooperation, but for the relative ease with which hockey players seem to sustain injuries on the field. I'm sure your Honour 20 would have adopted a particular adversarial strategy for such encounters, something that would obviously equip you well in the years ahead. Among your many passions your Honour also has an interest in music. In particular, piano and singing, having been a chorister in St Michael's Pro-Cathedral in Wollongong during your younger years. Your Honour studied law at the Sydney University Law School between 1973 25 and 1976, graduating in 1977.

I'm reliably informed that your Honour's interest in the law was aroused by your grandfather, Arnold Markey, who was a Tipstaff to the Honourable Justice Hugh Maguire, a Supreme Court Justice in New South Wales for over 20 years. As it 30 turned out, your Honour's first head of chambers at Blackstone Chambers was the late Dan Horton QC, who was an Associate to Justice Maguire and who knew your grandfather very well. Your Honour was also encouraged to study law by the late Noel Lamerton, a family friend who was a well-known and highly regarded solicitor in private practice in Wollongong and who acted for many years as the solicitor to 35 the Wollongong City Council and then Shellharbour City Council.

It was Noel who moved your Honour's admission as a solicitor in 1977. In that same year your Honour commenced work at Sly & Russell solicitors, initially as a solicitor and then as an Associate Partner. In 1982 your Honour went to the New South 40 Wales Bar. Your Honour's areas of practice have included administrative, commercial, equity, intellectual property, trade practices and competition law. Your Honour's published contributions to the pool of knowledge on intellectual property include your co-authoring of the chapter and precedents on intellectual property in Court Forms, Precedents and Pleadings of New South Wales and authoring of the 45 chapter and precedents on Intellectual Property in Federal Civil Litigation Precedents.

Between 1990 and 1992 your Honour was a member of the Intellectual Property Committee of the Law Council of Australia and participated as a nominee of the Law Council in the Working Party to Review Trade Marks Legislation. This Working Party was established in March 1989 by the then Minister for Science, Customs and Small Business, the Honourable Barry Jones MP. The Law Council and the Institute of Patent Attorneys of Australia participated in this Working Party with the Trade Marks Office and had the task of reviewing and streamlining the trade marks legislation. The Working Party reported in 1992 to the then Minister for Science and Technology, the Honourable Ross Free MP. The report of the Working Party was, I understand, quite influential in the ultimate enactment of the Trade Marks Act of 1995.

In 1997 your Honour was appointed Senior Counsel and between 1998 and 2003 you were the head of the Intellectual Property Section of the New South Wales Bar Association. In 2008 your Honour was also a member of a New South Wales Committee for the Intellectual Property Society of Australia and New Zealand. It should come as no surprise then that your Honour is listed in relation to intellectual property law in the 2008 and 2009 editions of the Best Lawyers in Australia. I should add that this list is based on an evaluation conducted from a survey of more than 66,000 lawyers. Although not widely known your Honour is very committed to the preventative drug and health education activities of Life Education New South Wales Limited.

You've been a director of this not-for-profit organisation since 2003, having been invited to participate in its activities by the former Attorney-General and Federal Court Judge, the Honourable Bob Ellicott QC, who was, for many years, the Chairman of Life Education Australia. Your Honour is highly regarded amongst those who know you for your professionalism, honesty, integrity and skill. You are also renowned for your very strong work ethic and for dedicating yourself completely to the interests of your clients in every case in which your Honour has been involved. Your Honour has been described by colleagues as a special human being who will be irreplaceable at the Bar.

Although a great loss in that regard your appointment is seen by your colleagues as a very substantial benefit to the community and to the nation as a whole. On behalf of the Australian Government and the Australian people I extend to your Honour warm congratulations on your appointment and welcome you to the Bench of the Federal Court of Australia. May it please the court.

BLACK CJ: Thank you, Mr Govey. Mr Catanzariti?

MR J. CATANZARITI: May it please the court. It is an honour and a pleasure to speak on behalf of the solicitors of this state on this auspicious occasion. I am also pleased to speak on behalf of the President of the Law Council of Australia, John Corcoran, who is unable to join us today and to congratulate your Honour on the appointment to the Federal Court bench. Your Honour, perhaps I should address you as Justice David Markey Yates to avoid any confusion with another David, David L. Yates, a partner at Allens Arthur Robinson who has not only been your instructing

solicitor in the past but also the unwitting recipient of your emails and other instances of mistaken identity, hence the use of the middle initial. Your namesake did suggest, however, that your Honour had more to lose in the event of any confusion.

5

Born and raised in Wollongong, your Honour's late father, Dick, was a newsagent, and like your mother, Joyce, and brother, Ray, would have been extremely proud to have been here for today's ceremony. Your Honour attended Wollongong High School before moving to Sydney to undertake a law degree at the University of Sydney in residence at St Paul's College. Your Honour started practice in 1977 with the firm Sly & Russell, as it was then known, working primarily in the area of trade practices. Your Honour became an Associate Partner in 1980. Testament to the high esteem in which you are held, Sly & Russell offered to fund a Masters at Harvard but your Honour chose instead to go to the Bar in 1982 where you practised from Blackstone Chambers and subsequently took silk in 1997.

From 1990 to 1992 your Honour was a member of the Intellectual Property Committee of the Law Council of Australia and a member of a Working Party formed to review the Trade Marks Legislation which led to the enactment of the Trade Marks Act 1995. Since coming to the Bar your Honour has worked for large and small firms and been a trusted adviser to specialists in their field as well as to those needing guidance. Your Honour is considered to be one of the leading barristers in patent and copyright cases. Your litigation work encompassing a diverse range of intellectual property cases and trade practices cases has seen your Honour appear in the High Court of Australia, the Federal Court, the Australian Copyright Tribunal, the Australian Competition Tribunal, the Patents Office and Trade Marks Office.

Your Honour has appeared extensively both on behalf of and against the Australian Competition and Consumer Competition. Your Honour's work has extended to federal law, general commercial law and corporate law. Described by colleagues as one of the true gentlemen of the Bar, your reputation is one of both gracious mentor and inspiring role model. Intelligent, caring, thoughtful and considerate in your approach, your Honour has the capacity to apply the letter of the law while maintaining a balance of empathy and compassion. Your Honour holds an enviable reputation amongst the solicitors of this country.

Scott Sloan, Intellectual Property Partner and National Chairman of Dibbs Barker, pointed out that it is not only your technical skill but also your considered, considerate and collegiate manner of working that has made you such a sought after adviser for so many years. He said:

Whether partner, client or paralegal, David respects both the person and their contribution to the team. It is a measure of both his character and breadth of skills that he could be found, three weeks out from his appointment, as the most proficient typist in the room, busily typing out a settlement agreement at 10.30 pm with good humour and without complaint.

With your Honour's appointment he said:

5 *Practitioners look forward with confidence to enjoying a continuing, even-handed and considered approach to decision making with every confidence in both the precision and wisdom of these decisions.*

10 Your Honour also has some other fine attributes that will stand you in good stead for the task ahead. In particular, I would like to note the following. First, generosity of spirit; your Honour declared October alcohol free to participate in Oscober and raise money for Life Education Australia. Second, ability to roll with the punches; no doubt this has been assisted by your Honour's success in acquiring a black belt in judo during your university days. Third, well developed listening skills; your Honour is a very accomplished pianist with the ability to pick up any tune and play it by ear. Next, excellent retentive abilities; in the early days at the Bar your Honour managed to pack your Queen's Park garage from floor to ceiling with empty pizza boxes, pizza being your staple diet at the time. Ability to paddle his own canoe; a keen kayaker, your Honour can be seen most weekends on Middle Harbour, often on your way to the heads.

20 Demonstrated tolerance and patience; Abby and Tess, the gorgeous Beagle puppies, destroyed your Honour's Lindfield gardens while you were on holidays causing many thousands of dollars of damage. No longer puppies, the dogs remain members of your household. As for the gardens, they come and go. Honest and compassionate; evidence on your first trip to Europe when you were about to be robbed by - in your own words - endearing little urchins at the Spanish Steps. On the subject of travel, one of your travelling companions, Robert Anderson, solicitor at Kimberly-Clark Australia described you as very easy to travel with, well read and possessing a good sense of humour, which brings me to the final attribute and one that is vital to your role on the bench - the ability to perform in public.

30 During your Honour's inaugural visit to Italy, staying at three-star hotels, a morning ritual was maintained. Upon pulling back the window shutters your Honour and Robert Anderson - also known as Ponti Max and Cardinale - would bless the crowd with the toilet brush. One night in Umbria, having parked the hire car in the main square, Ponti Max and Cardinale were a little perturbed upon commencing the morning blessing to find their car surrounded by markets and chooks and displaying numerous parking tickets. These upstanding members of the public remained stranded and unable to rescue the vehicle until the markets had closed. Of course, most of these tales pre-date your marriage to your wife, Dr Leonie Marquis and the birth of your daughters Imogen and Sophie who are today sharing in your celebration and success.

45 On behalf of the solicitors of New South Wales and the Law Council of Australia, I wish you well in your new role, and should your Honour choose to raise a toilet brush in the courtroom, I have no doubt you will command everyone's unwavering attention. As the court pleases.

BLACK CJ: Thank you, Mr Catanzariti. Mr Bathurst?

MR T. BATHURST QC: May it please the court. It gives me great pleasure to congratulate your Honour, Justice Yates, on your appointment. It is an appointment
5 which has been acclaimed not only by the members of the Bar in this state but throughout the country. As those who spoke before me said, your Honour was educated at Wollongong High School and went to Sydney University, initially to study music. How one could possibly forsake a musical career for the law is beyond
10 me but the Bar and the judiciary are very lucky that you made that choice. I should add, in fairness, that, unlike many people who abandon a musical career to the lasting benefit of the musical industry, your Honour was and is a very fine pianist.

Your Honour found law study very easy, so much so that to occupy your time in your final year you invented a fictitious character. It seems to be your Honour's habit.
15 This one was called Bernard St Clair Black. Bernard St Clair Black was a person who used to write scurrilous notices on the St Paul's College noticeboard whilst challenging college members to find out his true identity. I understand they never did. You no doubt inherited this sense of humour from your father who, for many years, held a regular spot on Wollongong radio under the pseudonym, Dickie the
20 Paper Boy, expressing humorous views on local events. Mr Catanzariti has given some other instances of this this morning.

Your Honour, after graduation, practised as a solicitor at Sly & Russell, was called to the Bar in 1982 and has practised continuously since that time at Blackstone
25 Chambers. Your Honour read with Mr Joe Campbell QC - as his Honour then was - and two of your early mentors were Mr Ellicott QC, and Mr Handley QC. Your Honour certainly has done justice to such distinguished mentors. Your Honour, of course, appeared in the High Court with Mr Ellicott in the Project Blue Sky case. Your Honour will no doubt hear much more of that in recent times - in the future - as
30 it is probably the most cited case in this court today. Your Honour's talents were immediately recognised and you rapidly built up a very substantial practice taking silk in 1997.

It is a tribute to your Honour's unassuming nature that although you have, for a
35 considerable period of time, been recognised as one of the leading intellectual property lawyers in this state and in this country, only those lucky enough to be in the know were aware of your talents in other fields, particularly trade practices law and even the criminal law. So far as the criminal law was concerned, some people had difficulty accepting that you had these talents. On one occasion there was a
40 debate before Young J as to when a patent case should be set down. You said you were unavailable on a particular date because you had a prior commitment in a criminal matter in which you were briefed. Young J's only comment was, "Someone stole a patent."

45 Your Honour was always popular with, and respected by, your juniors and your Honour also had a real ability to empathise with your clients whilst maintaining your independence. A good example was in a trade mark case in which you were

involved in Melbourne for a bakery company. Your Honour was almost always impeccably dressed, both in and out of court, but on this occasion you arrived in what can only be politely described as a somewhat dishevelled state. Your opponent inquired, “What was the problem?” and you informed him that, because your client
5 was short of money, you had come with him to court in his bakery truck at the end of his rounds.

It’s a tribute to your Honour’s humility that your Honour was prepared to do that and also a tribute to the fact that, notwithstanding that, by the end of the day you were
10 your usual impeccable self. Your Honour’s appointment represents a significant gain to the bench and to the Australian community, albeit a corresponding loss to the Bar. On behalf of all the barristers in this country, I congratulate you on your appointment. May it please the court.

15 **BLACK CJ:** Thank you, Mr Bathurst. Justice Yates?

YATES J: Your Honours, ladies and gentlemen. Thank you for attending this ceremonial sitting this morning to mark the occasion of the presentation of my commission and swearing-in as a judge of the Court. I am particularly honoured by
20 the presence today of the Chief Justice of New South Wales, the President of the Court of Appeal of New South Wales, Judges of Appeal and Judges of the Supreme Court of New South Wales, Federal Magistrates, and former judges of this Court before whom I had the great honour to appear. In addition to those who have spoken this morning, I am also honoured by the presence at the bar table of the Solicitor-
25 General for New South Wales and David Bennett QC, who exercised supreme wisdom to appoint me as Senior Counsel in 1997 when he was President of the New South Wales Bar Association.

I have received, over the last few weeks, many wonderful letters and other
30 communications expressing congratulations, best wishes, and words of encouragement from present and past members of the judiciary, from colleagues, and from friends. It is wonderful to be recognised in this way and to be buoyed by the support of so many. Thank you Mr Govey, Mr Catanzariti and Mr Bathurst for your very kind and very generous remarks this morning concerning me.

35 On the first occasion that I have to make an address as a judge, I have no profound words to say. But the occasion does give me the opportunity to reflect on a number of things, particularly the opportunities in professional life that have been provided to me over the years. These opportunities have been gifts without which I am sure my
40 life generally and certainly my life in the law would have been quite different.

Before commencing practice as a solicitor, I had no significant contact with the legal profession or the way in which the law was practised. All I had was the firm idea
45 that I wanted to be a lawyer, and that idea, I think, had been engendered by my grandfather, Arnold Markey, who was a long-serving tipstaff to Mr Justice Maguire on the Supreme Court of New South Wales in the 1950s and 1960s. And, as Mr Govey said this morning, I was also encouraged to pursue a career in law by a very dear family friend, the late Noel Lamerton, who was well-known and highly-

respected in Wollongong as a solicitor. He was also very active in the musical life of that city.

5 The first opportunity that was presented to me in professional life was employment as a junior solicitor at Sly & Russell after I completed my practical legal training at the College of Law. It was a time when employment was not particularly easy to get, and I suspect, although I don't know, that it was a Wollongong connection that provided that opportunity. It was a terrific firm to work in. It had great clients and it gave me the best start in professional life that I could have hoped for.

10 I was fortunate to be placed in the care of one of the then junior partners, Mick Wynter, who I am pleased to say is here today. I cannot begin to describe the careful supervision he exercised over me and the extreme patience with which he did it. No doubt he had a keen eye on the PI premium, but I know his interest in me was greater
15 than that. He was for me a great teacher and communicator of how law should be practised and of the professional responsibilities that practitioners owe not only to their clients but also to their fellow practitioners. He showed great interest in me and came to be a solid supporter of my advancement in the firm. For that start, I have always been truly grateful, but I have never had the opportunity to express my
20 gratitude in a public way until now.

I loved being at the firm. It was a place where I came to form many strong and long-standing friendships. It led to many other friendships that remain strong today.

25 I loved practising as a solicitor. I have always valued highly the work that solicitors do in our system of legal practice, and I hold in high regard those who strive for excellence in that branch of the profession. But my own deep desire was to practise at the Bar, and so that was the choice I made. As things turned out, it was a good choice.

30 When I started out as a barrister I was also given a number of great opportunities. I was given the opportunity very early on to work with some wonderful senior counsel. When I first came to the Bar I was generously given a brief to appear as the second junior in what was then a very large auditors' negligence action. Justice
35 Rares was the other junior, and 18 months my senior. I will digress and say that his Honour has always tenaciously held to the view, and, I might add, has never stopped reminding me over 27 years, that he was truly my first leader. It was in that context, however, that I first came into contact with the late Theo Simos QC, who is known to many of you. That was the start of a terrific professional relationship with him. He
40 took me under his wing and we did many cases together, right up until the time of his appointment to the Supreme Court of New South Wales.

45 Very early on I also started to be briefed in patent cases. That was a most wonderful gift. That area of work came to be the most treasured part of my practice. I have never made any secret of the fact that, whether as junior counsel or senior counsel, I would crawl over broken glass for a patent brief. At that time Ken Handley QC was a giant in many areas of practice. Patent law was one of his areas. It was a great privilege to work with him on a number of patent cases throughout the

1980s. Although I was always sleep-deprived by the process, I learnt many lessons at his feet, and they were not just lessons about patents. I value greatly the opportunity I had to work with him.

5 It was in one of those cases that I met John Emmerson. It was an extension of term case for a pharmaceutical patent. He took silk in the course of that case, and for many years after I then had the privilege of working as his junior in a variety of intellectual property cases, but principally patent cases. He has been a valued colleague and friend for many years now. We have been opponents on occasions,
10 but, mercifully for me and for my clients, those occasions have been few.

Last, but certainly not least, I want to acknowledge my great friend Bob Ellicott QC. My association with him commenced when I was a fairly senior junior barrister. He too took me under his wing, and over the years we did many exciting cases with each
15 other and, indeed, quite a few against each other. He has been a wonderful mentor and guide for me in so many ways, as only he will know.

There's a risk in singling out practitioners as I've done. There are many other very dedicated and very talented senior counsel that I had the privilege of working with
20 when I was a junior. But I've mentioned these senior counsel because I readily associate with them the passage of my own journey as a barrister. And although all four were completely different in personality and presentation as advocates, all shared a number of very important qualities which I admire.

25 Each was assiduous in the preparation of a case. Each shouldered the burden of the workload of the case and never once shirked the responsibility to do so. Each took, unreservedly, the responsibility for the strategic direction of the case. And each was protective of all of those who were more junior, never brooking any public or
30 intemperate criticism of a lapse, even though the temptation to do so must have been there. As a junior it is wonderful to be able to practise with such colleagues. Each of them has been a role model for me. In my own role as senior counsel I tried to act in a way that would attain the ideal that they represented.

I should also say that one of the great joys of practising as senior counsel has been
35 the opportunity to work with many talented, dedicated and hard-working junior counsel, many of whom have now distinguished themselves in practice as senior counsel. It would be true to say that not a case has gone by without my having learnt something from the juniors with whom I've worked. I include within that cohort the
40 readers I had over many years. You all know who you are.

It has also been my good fortune that a substantial part of my life as a barrister has been spent practising in this Court. I've been fortunate to spend a great deal of that
45 time practising in two areas of law that have always greatly interested me - intellectual property law and trade practices law - although other cases, some very different cases in different courts, have intruded from time to time. Apart from their inherently interesting subject matter, these cases lend themselves to practising as part of a team, and often a multidisciplinary team. This is particularly so in patent work.

5 In the Federal sphere there is the added bonus of practising across State borders. The result of all of this has been that I've been able to form many wonderful professional associations and friendships with not only local counsel, solicitors and patent attorneys, but also those practising interstate. I'm delighted that a number of my interstate colleagues have travelled to Sydney today to share this morning with me.

10 When he was counsel, Justice Handley had a number of sayings, one of which was: "None of us is as good as all of us". I've always found those words to be true. Time and time again I've seen an idea spawned by one member of the team taken up, collectively fashioned and made into a cogent proposition that has had importance for the case. Without the team the full potential for that dynamic is just not possible. I will miss that interaction although, presumably, as a judge, I will become the beneficiary, or perhaps the victim, of it.

15 For the entirety of my life as a practising barrister I've resided at Blackstone Chambers, which were established just a few months before I came to the Bar. I cannot claim to be a founding member, but it feels as if I have been one. I've enjoyed every moment of the 27 years that I've practised from there. I can think of no finer set of chambers to be in and I've been very proud to have been associated
20 with all my colleagues who have practised there over the years.

I want to thank my clerk, Lynette MacDonald, for the great assistance she has given me over the years and particularly for her efforts in recent times to assist in the smooth transition from being a practising barrister to my new life as a sitting judge. I
25 also want to thank the staff at Blackstone Chambers for the willing assistance they have provided to me over the years. I particularly want to acknowledge Annette Collibee, who was my PA for the last few years, and, before her, Maureen Brack, who was with me for many years before her retirement. Both offered loyal and dedicated service and managed to keep me in order to allow me to focus on my work.
30 I'm very grateful for their work and their friendship.

I've heard in recent times that a linear career path is a thing of the past. That may be so. But I do not regret my own linear career path. It has provided me with a wonderful professional life for over 32 years and, knowing what I know now, I do
35 not think I could have followed any calling that was as interesting or as challenging or that would have suited me better. I suppose I'm just moving into another phase. For those who are scientifically inclined, I trust this won't be seen as my gaseous phase.

40 I'm very conscious of the great honour that has been bestowed on me by my appointment to this Court. I'm very conscious of the great responsibility that is entrusted in those who judge, a responsibility that is reflected in the oath that I've taken this morning. I'm looking forward to participating in, and sharing in, the work of the Court. And may I say, quite selfishly, that it's work that I want to do. And
45 I've been made to feel most welcome. So I leave private practice with no regrets, but with excitement and great enthusiasm for this new phase of my life.

Finally, the occasion should not pass without me saying that what makes today's ceremony particularly enjoyable for me is that I can share it not only with those who
50 have been my colleagues, but with my family and friends, many of whom have

5 travelled great distances to be here. It's a particular joy to me that my wife, Leonie, who I adore, and our two cherished daughters, Imogen and Sophie, are sharing every moment with me. The three of them are my great rock and support in life. My brother Ray and his daughter, my eldest niece, Jessica, have travelled a long way from the northern parts of Queensland to be here. I'm so very glad and happy that they could be present.

10 My mother, Joyce Yates, is here. Sadly my father, Dick Yates, passed away eight years ago. I wish he were here today. My parents worked hard and made many sacrifices for their children, the kind of sacrifices that are difficult to repay. That's why it's the duty of all children, regardless of their age, to make their parents proud. I hope I've done that today.

15 Thank you all once again.

BLACK CJ: Adjourn the court, please.

20 **MATTER ADJOURNED at 10.07 am INDEFINITELY**