



## Opening of the Geelong legal year 2020

The Hon. Justice Quigley

Remarks of the Hon. Justice Quigley at the opening of the Geelong legal year 2020, Geelong

29 January 2020

### Welcome and acknowledgement to guests

1. Good morning and welcome to you all - to this ceremony to celebrate the opening of the legal year in Geelong.
2. I am Justice Michelle Quigley, a member of the trial division of the Supreme Court of Victoria and I am also the President of the Victorian Civil and Administrative Tribunal.
3. Thank you to Nikki McKenzie and Norm Stanley for their Welcome to Country.
4. I also acknowledge the traditional owners of the land on which we meet the Wadawurrung people of the Kulin Nations and pay my respects to elders past and present and any Aboriginal and Torres Strait Islander people who are with us today.
5. I especially acknowledge Aunty Fay Muir, Aunty Koolmatrie and Uncle Sam Fry.
6. I also welcome:
  - a. all members of the judiciary (Judge Mullaly, Judge Misso, Judge Johns, Regional Coordinating Magistrate McGarvie, Magistrate Mellas, Magistrate Guthrie);
  - b. members of the Victorian Bar, in particular, Dr Freckleton QC; and
  - c. solicitors and members of the Geelong Law Association and the Law Institute of Victoria, including Mr Aaron Jolly, GLA President and the President of the LIV Mr Sam Pandya.
7. We also have in attendance many leaders in the Geelong community across many sectors – Councilors from the City of Greater Geelong and leaders from the education, arts, health, religious and other community organizations.
8. I especially thank Deakin University for hosting us today and welcome Professor Iain Martin and the many members of Deakin University who are present today.
9. I would also like to acknowledge retired Justice Clyde Croft, who over the past decade has been the driving force in ensuring the new legal year was appropriately acknowledged.

### The history of the opening of the legal year

10. To those who have joined us in previous years, this ceremony to acknowledge the new legal year is a little different to those which we have conducted in Geelong in the past.



11. The Supreme Court has conducted a ceremonial opening of the legal year – the commencement of court sittings for many years.
12. It was a ceremony which was traditionally conducted by the Supreme Court judge who was visiting the town for circuit sittings which generally occurred in January or February each year.
13. Things had changed in recent times under Justice Croft's leadership and oversight, and they continue to change as the courts and the law's engagement with the community continues to change.
14. Specialization of the courts, in particular in the Magistrates Court (and the County Court) with the introduction of the Koori Court, family violence courts and drug courts, the specialist lists within the courts and in VCAT all seek to engage with the community both in a more realistic and relevant sense but in a way which has reflected societal change while continuing the prized concept of the rule of law.
15. The ceremony for the opening of the legal year has ancient antecedents. That said, nowhere near the 60,000 years of lore/law of our First Nations people.
16. Before the Reformation, the custom of celebrating the opening of the judicial year, a Red Mass, attended by judges and lawyers had originated on the Continent, the first recorded instance being at Notre Dame Cathedral in Paris in 1245. From the time of Edward I (1272–1307) such a Mass was offered in Westminster Abbey at the opening of the Michaelmas Term at the beginning of October, which is the beginning of the legal year in England.
17. A Red Mass is a solemn votive Mass in honour of the Holy Spirit, offered to invoke divine guidance for the new court term, the Holy Spirit being the source of wisdom, understanding and counsel, qualities required for the administration of justice. It is so called for the red vestments, representing the tongues of fire symbolizing the spirit of the Holy Spirit.
18. The judges of the Supreme Court also wear red robes.
19. The Red Mass is, of course, not to be confused with the Red Wedding – a ceremony with which many more of the younger amongst us will be familiar, than the legal and ecclesiastical traditions of the 13<sup>th</sup> Century.
20. And if we are of course concerned with colours - here in Geelong no doubt - blue and white would need to be the colour theme of choice.
21. Lest I be accused of lacking judicial independence by reference to my football team, I need to say something more about the operation of the courts and the impact the rule of law has on a civil society.

### **The importance of the law in the community- the rule of law**

22. The operation of the law touches and affects every aspect of our lives, whether we are aware of it or not.
23. In a modern democracy such as ours, we operate in accordance with the Rule of Law.



24. Rule of law is important because:
  - a. It checks abuse of power by authorities.
  - b. It empowers individuals with rights which cannot be easily taken-away.
  - c. It treats everyone equally without discrimination.
  - d. Its supremacy ensures no person can claim to be above law and that every person is entitled to equal protection of the law.
25. Most people in the community do not have a 'run in' with the law in the sense of coming before the courts on a criminal charge. However, they may come in to contact with the law in various other ways. In criminal matters, they may be the victim of a crime or a witness. Or they may know someone who falls into one of these categories.
26. People in the community may also come before the civil courts in all kinds of ways. They may be in a workplace or traffic accident and either through personal injury or culpability find themselves in a court or tribunal. Or the matter may involve unpaid debt, a contractual dispute, unpaid rent, the making of a guardianship or administration order, a dispute between members of a body corporate, or under a retail lease, where such matters can't be settled between citizens. In all these cases, the independence and expertise of the courts and tribunal come into play.
27. My jurisdictions – the Tribunal and the Supreme Court – also review government decisions by which a citizen is aggrieved – be it a refusal of a license to practice in certain professions; a planning decision; or disputes about access to documents through FOI legislation. The Courts and the Tribunal stand between the government and the citizen to ensure the rule of law is applied.
28. The mutually respectful interaction between members of the community and the Courts and Tribunal is important to modern civilized society and a well-functioning democracy. Access to justice and the manner in which justice is delivered in the community is important to all of us.
29. Of course, you cannot access justice if there is no Court or Tribunal to go to. It is important that justice can be done in local communities and I note that the Supreme Court, County Court, Magistrates' Court and VCAT all sit in Geelong. This year, the Court of Appeal will also sit here in September.
30. Access to justice is not just about where the Courts and Tribunal buildings are. It is also about what goes on inside those buildings: how our communities engage with the justice system and the efforts made to improve engagement. In the Geelong region, these efforts are truly on display in initiatives like:
  - a. the Magistrates' Court pilot program for victims of family violence to give evidence by videolink to minimize the trauma of giving evidence and provide those victims with options for participating in hearings that will affect them;
  - b. Koori Court programs in the Magistrates' Court and (from later this year) the County Court, which provide Aboriginal and Torres Strait Islander communities with a



culturally informed criminal justice process with the invaluable participation of Koori elders and respected persons from local communities;

- c. VCAT's Fast Track Mediation and Hearing program which allows civil claims to be mediated and, if mediation is unsuccessful, heard and determined on the same day. This program allows matters to be resolved more quickly and with fewer days at the Tribunal. Demand for this program has been so high in Geelong that VCAT has expanded the program here;
- d. providing information to the community about how Courts and Tribunal work through media and more targeted community engagement programs. For example, I am aware that VCAT will be holding a Residential Tenancies information session in Geelong (and other regional centres) in 2020.

- 31. The work of the County Court continues to grow. 106 criminal trials and pleas were heard in Geelong in 2019 up from 60 matters in 2017 and 88 in 2018. The number of matters finalised in Geelong's County Court Civil List is second only to Melbourne in terms of volume, with 23% of all regional finalisations being made in Geelong.
- 32. In the Magistrates Court last year 12,308 matters were finalized across the criminal, civil, IVO, children's and the family divisions of the Court.
- 33. From a regional perspective, last year a Koori County Court at Warrnambool was announced by the County Court. Last February marked the 15<sup>th</sup> anniversary of the Magistrates Court Koori Court at Warrnambool, together with the launch of the Elders and Respected Persons Honour Roll.
- 34. This year also marks the first occasion that a Deputy Chief Magistrate has been assigned to any regional court for an extended period with Deputy Chief Magistrate Franz Holzer being based herein Geelong for 2020. DCM Holzer is sitting at Hamilton so unfortunately he is not able to be with us today.
- 35. The Supreme Court has scheduled two circuits each for both the Common Law and Criminal Divisions and as I have mentioned the Court of Appeal will also sit in Geelong later this year.
- 36. Each of these initiatives, which are not an exhaustive list, and the data to which I have referred, demonstrate the commitment to improving and facilitating access to justice to this region.
- 37. Before concluding, I also wanted to note that access to justice is not just about the processes of the Courts and Tribunal. It is also about those who assist litigants in navigating the complexities of the justice system. This includes legal practitioners and those who support unrepresented litigants and witnesses with information, support and referrals. The courts and Tribunal depend upon the efforts of those who are familiar with the system where litigants and witnesses are not.

## Other speakers

- 38. This morning you will also hear briefly from



- a. Mr Aaron Jolly, President of the Geelong Law Association on behalf of the Legal Institute of Victoria;
- b. Dr Ian Freckleton QC Victorian Bar, on behalf of the Victorian Bar;
- c. Professor Iain Martin, VC of Deakin University.

## **Conclusion**

39. I want to thank you for attending today to assist with the celebration of the new year. I wish all the very best for 2020.
40. At the conclusion of this ceremony, please join us for morning tea.

Justice Michelle Quigley

Supreme Court of Victoria

President of the Victorian Civil and Administrative Tribunal

Delivered at Geelong, Deakin University Waterfront Campus

29 January, 2020