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TRANSCRIPT OF PROCEEDINGS

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(Unrevised)

TRANSCRIPT OF SPEECHES DELIVERED BY:

1. MR R. CARTER  
(on behalf of the Dja Dja Wurrung Clans Aboriginal Cooperation)
2. MR S. HAY  
(on behalf of the Victorian Bar)
3. MS J. SMITH  
(on behalf of the Law Institute of Victoria)
4. CHIEF JUSTICE FERGUSON
5. PRESIDENT EMERTON

AT A GATHERING IN THE SUPREME COURT OF VICTORIA

on

WEDNESDAY 05 APRIL 2023

of

BARRISTERS, SOLICITORS, LAW OFFICIALS AND OTHERS

NOTICES TO THE PROFESSION AND OTHER SUPREME COURT USERS

CHIEF JUSTICE FERGUSON: It is my great pleasure to invite Rodney Carter who is the Chief Executive Officer of the Dja Dja Wurrung Clans Aboriginal Corporation to address the sitting.

MR CARTER: Thank you, your Honours and thanks to the Court for sharing in the wisdom of my ancestors. As you would understand, wisdom comes from experience and experience can only be gathered, I think, through time.

Australia, as you'd be aware, and the state of Victoria, is still very young in terms of the spirit that's embedded in country from my ancestors and where they cared for loved country, faced their own challenges, I guess, and had to be responsible, capable and administer their own laws.

I think what we're seeing now with this new house, the Bendigo Law Courts have created, here at country, is a unique opportunity. I think a first for justice in Victoria to share in the beauty of culture and ancestral knowledge. Throughout this house there's many influences of Dja Dja Wurrung people to embed spirit into this building, Muruput.

If I may share with you in my language [words spoken]. The Dja Dja Wurrung people are very honoured to be invited to be here today to share in our language our welcome to country for your Honours and we wish the court very good spirit, Muruput. Thank you.

CHIEF JUSTICE FERGUSON: Thank you. Mr Hay KC, President of the Victorian Bar.

MR HAY: If the court pleases. I appear on behalf of the Victorian Bar to make the court's first sitting in this magnificent new building. I also acknowledge the traditional owners of the land on which we meet today and pay my respects to their Elders past and present and I extend those respects to any First Nations people who may be in court with us today.

This is a remarkable building, built in a city that rightly takes great pride

in its outstanding legal pedigree. Bendigo has a legal history that stretches back through Federation to the gold rush era and even earlier. Today we are in a structure that is a unique initiative for justice in Victoria and probably in Australia.

From the concept of having all courts and support services in one building, to the eye-catching façade featuring Bracknell curs, hammered copper wedgetail eagle bungle, this building is a genuine gamechanger. This innovative court is the first in Victoria to feature a full suite of specialist courts in one location, including central Victoria's first Koori Court.

As a result, residents of Bendigo and its surrounding regional areas now have ready access to the best possible court services. No longer will they need to travel to Melbourne to gain access to justice. Apart from reducing travel times this building will minimise delays in finalising court matters through enhanced facilities and staffing levels. This will result in a better outcome for all concerned.

I would like to specifically highlight the occasion of the Court of Appeal sitting in Bendigo. As Victoria's apex court, the Court of Appeal determines the state's most important and difficult legal controversies. Having it undertake its hearings in public in the places where some of the disputes arise is an important aspect of justice not only being done but being seen to be done by those directly affected. Whenever possible it is how justice should be delivered.

Having one building service the needs of the Magistrates', Children's, County and Supreme Courts as well as the Victorian Civil and Administrative Tribunal and the Federal Circuit, Family Court of Australia for the Loddon-Mallee region is an excellent development.

The support services that are built into the facility will help ensure that the court complex is a real success and something at which Bendigo, indeed Victoria, can be proud.

From the Victorian Bar's perspective the government's investment of \$152m is money very well spent. Unfortunately many courthouses in regional Victoria are in a very poor state of repair. We respectfully urge the Victorian Government to continue to rebuild, replace and upgrade courts so as to revitalise the regional justice system in Victoria. These are the first regional specialist courts in Victoria and they offer vital access to critical services. We thank the government for its investment and hope that it can do more in the years to come on this front.

Accessible and efficient courts contribute to public confidence in the justice system and the introduction of the Koori Court is a great example of how increased confidence in the system can be achieved. Court processes are of course very intimidating. But having Koori Court officers meet those involved in hearings to explain the system will play an integral role in helping them understand their interactions with the court. This will in turn enhance the prospect of healing and positive behavioural change where it's required.

Many members of the Victorian Bar have a strong connection with Bendigo. There is a very proud tradition of barristers working here on circuit in all kinds of matters. The opening of this facility reflects Bendigo's prominent position in Victoria's legal history. That rich history extends to a time well before Victoria came into existence as a state. Report from the Bendigo gold fields in the 1850s speak of sittings where alleged miscreant miners were judged by three fellow miners. Those miscreants were dependent by other miners who acted as their barristers. One such faux-barrister, James Nathan, successfully defended his client on a Friday, and on the following Monday was charged with the very same offence of blatantly ignoring mining boundaries. He was also found innocent by the same trio of quasi-judges. All of the parties later enjoyed a drink together and the entire affair was put behind them.

More seriously, I am told by William Lye OAM KC, a former president of the Asian Australian Lawyers Association, that Bendigo supplied the first lawyer

with Chinese background to be admitted to practice in the Supreme Court of Victoria.

Born and raised in Bendigo by Chinese parents from the Quandong province, Edward James Vincent nee Gan studied law at the University of Melbourne and established himself as a barrister and solicitor in Bull Street, Bendigo, in 1897.

Locals amongst today's audience might be familiar with legendary Bendigo lawyer, politician, journalist and author, Sir John Quick. Born in England in 1852, John Quick arrived in the Bendigo gold fields as a two year old. He began his working career at the tender age of 10. His first job was in an iron foundry followed by battery feeding in a mine and then the printing room at the Bendigo Evening News.

Having told himself shorthand, he became a junior reporter on the Bendigo Independent, which was later amalgamated with the Bendigo Advertiser. Quick moved to Melbourne and matriculated in 1874. With the aid of various scholarships from the University of Melbourne he graduated with a law degree in 1877 and 12 months later he was called to the Victorian Bar.

He also continued in journalism as the leader of The Age newspaper's parliamentary staff. That was obviously enough a remarkable achievement. But there was more to come.

In 1880 Quick won the legislative assembly seat of Sandhurst here in Bendigo where he returned to live and practice law. He lost his seat after redistribution in 1889 but voters had not heard the last of him.

He was a very strong believer in Federalism. He represented Bendigo at the 1893 Corowa Conference which marked the start of the popular movement for federation and helped frame the Commonwealth constitution in 1897.

He was knighted on 1 January 1901 for his outstanding contribution to federation, and in the same year was elected unopposed as the first federal member for Bendigo, a seat he held until 1913 when he was defeated by John Arthur. After that defeat Quick returned to the Bendigo law firm he had established with Barkley Highett in 1892 and wrote several books on government and the constitution.

In 1922 he was appointed deputy president of the Commonwealth Court of Conciliation and Arbitration. He was very well suited to the role. He retired in 1930.

A self-made man and a stalwart of the Bendigo legal fraternity, Quick rose from poverty and obscurity to become one of this nation's founding fathers. He remains a prominent figure here in Bendigo. The city erected a bronze bust of him in 1934 in the Queen Victoria Gardens which was unveiled by Sir John Latham, later Chief Justice of the High Court. The bust bears the motto, 'Qui Patitur Vincit'. He who preserves conquers.

Sir John Quick would be extremely proud of this first rate building. Who knows, perhaps its presence in the city will inspire another John Quick or another John Edward Vincent nee Gan or perhaps even another James Nathan.

I would like to conclude by thanking Your Honour Chief Justice Ferguson for extending the Bar an invitation to speak on this important occasion. We are most grateful. May it please the court.

CHIEF JUSTICE FERGUSON: Thank you, Mr Hay. Ms Juliana Smith who is representing the Law Institute of Victoria.

MS SMITH: May it please the court. I echo my esteemed colleagues who have spoken before me in respectfully acknowledging that we are meeting on the traditional land of the Dja Dja Wurrung and I pay my respects to their Elders both past, present and future, and the Elders from other communities who may be here

today. I celebrate their connection to this land, to country, to culture, knowledge and stories. I also thank Rodney Carter from the Dja Dja Wurrung Clans Aboriginal Cooperation for his Welcome to Country today.

It is an honour to be with you on this very special occasion and in particular I acknowledge Chief Justice Ferguson, President Emerton and Justice Robert Osborn.

I speak with you as a local solicitor from regional Victoria and a representative of the Law Institute of Victoria. Tanya Wolff, the president of the LIV expresses her regret that she is not able to be with us today.

I am honoured to speak on behalf of the solicitors of this state at this ceremonial sitting of the Victorian Court of Appeal to formally mark the first sitting of the Court of Appeal at the new Bendigo Law Courts.

We are standing in a civic building that marks a new era in the delivery of justice in the Bendigo area and indeed in the state of Victoria. Those of us who have been privileged to come here and work regularly can see how the new Bendigo Law Courts will potentially lead the way in how a courtroom can be.

As a local practitioner and a past duty lawyer who has worked in Bendigo since 2007, and on many occasions appeared at the law courts in Bendigo, I am one of the many who are experiencing a deep sense of gratitude walking into this new building. To the many people from all walks of life who have made this project happen, we say thank you.

Those of us who work in this building are privileged to have the opportunity to deliver professional services in such a purpose-built facility, where there is a tangible feeling of connection to the environment and culture. The thoughtfulness and dedication by all who have been involved in bringing this building to life is evidenced. The strong sense of calmness and space

inviting us to look outwards to the skyline will assist those in our community who are struggling, who are facing difficulties.

Professionals are able to work in an environment that is flexible and supportive where we can find privacy and calm spaces to speak with, understand and advise our clients. This building provides the opportunity to support, no matter the outcome.

There is no doubt that aesthetics and the mood of the place impacts the human psyche and how we relate to one another. This building places the community at its heart and gives comfort that delivery of justice does not stand still and we can strive to meet community expectations in a proactive and a positive manner.

For practitioners the improvement from the old court is immense. We all loved the beautiful old court and we have all been privileged to work in such a historical building. As the saying goes: if those walls could talk.

We will look back fondly with a smile, but we are ever so grateful to be here today. We all know the old court building was no longer fit for the modern day, and it was time to let go. We now have a greater understanding of the human condition and what is required to support court participants to address issues and the notion of therapeutic jurisprudence.

The new Bendigo Law Courts put Bendigo on the map and have an opportunity to provide services and deliver justice in an increasingly therapeutic, flexible and efficient manner. Many who enter this building need to tell their story, and they need to be heard. This building will support that process. The technology and functionality in the new building will mean we will have what we need to achieve best practice in supporting clients, and it will provide greater access to justice for the community.

This new building is also a remarkable design triumph. Functionality,



safety, and efficiency have been key to the design, and as well as helping practitioners to do their work, it is geared to the community, who will be moving through this space. These design elements have been carefully thought out. An important and much needed element are separate entrances, allowing separation between parties attending court, and separate circulation pathways for those in custody and operational staff. These separate pathways were not available at the old court, and they are a very welcome part of the new court's design.

Another welcome element is the private spaces for mediation and meetings, obviously crucial in a new court. I remember a family violence matter in the old court where I had to speak with a client behind the photocopier. Now there will be quiet areas where you can have a private discussion.

Importantly, the design of the building is informed by the culture and connection to country of the Dja Dja Wurrung, Bendigo's traditional owners. The Dja Dja Wurrung Clans Aboriginal Corporation were closely involved with the project to integrate the Djaara culture into the space, and the building features artworks by Djaara artists throughout.

It has been a 20-year journey towards completion of this facility. Many practitioners in the Bendigo area have been advocating for this new court for all of that time, and the urgency became increasingly apparent over the years. I wish to acknowledge the advocacy of the Bendigo Law Association throughout this process. There are many local practitioners no longer with us, or retired, who will not have the privilege to work in this building. However, I wish to acknowledge those members of our profession who have played a part in bringing this dream of a new court in Bendigo to life.

It is interesting to note that the goal of the Bendigo Law Association, founded in 1896 when the old court building was completed, included the promotion of good feeling and proper conduct. This building will surely achieve

that purpose. It is also fitting that the historical minute book of the Bendigo Law Association, dating back to that time, will find a home in this building. That minute book refers to the librarian of the Supreme Court in Melbourne making visits to Bendigo to catalogue books at the court in Bendigo.

So as fortunate and grateful as we are about moving into this new, exciting era, there is also a sadness in leaving the old court two blocks away. It is a beautiful building with many stories to tell. One of them relates to a mosaic of tiles in the building. One tile is out of place, and that tile is said to ward off bad spirits. I am not sure if it did, but that off-centre tile will no doubt stay in the local folklore at least among lawyers. In 2019, we had the privilege of His Honour Justice Kirby visiting our old court, and I noted His Honour identifying that tile without any delay.

I have worked often in the old court building, and I am sure my colleagues join me in hoping that beautiful old building is acknowledged and honoured for its long service, and I know that work is underway. My colleagues and the local community share my excitement that this wonderful facility is now open and operating. May it please the court.

CHIEF JUSTICE FERGUSON: Thank you. Good morning, everyone. On behalf of the whole of the Supreme Court of Victoria, as Chief Justice, I would like to begin by acknowledging the traditional custodians of the land on which we stand of the Dja Dja Wurrung, the Djaara people, and also the lands on which those joining us remotely are located. I too celebrate their connection to this land, to country, to culture, knowledge and stories. I pay my respects to their Elders and knowledge-holders past and present and extend that respect to all First Nations people who are present today or watching online.

It is a real pleasure to be here in Bendigo at the Bendigo Law Courts with my colleagues from the Court of Appeal: on my right, Justice Emerton, the president of the Court of Appeal, and on my left, Justice Osborn, also of the

Court of Appeal.

I would like to thank each of the previous speakers for your words and your thoughts. It is truly wonderful to hear from all aspects of people who will be involved in this new court complex, thank you. I would also like to acknowledge other members of the judiciary, the Director of Public Prosecutions, the legal profession and the community who are present in court and watching on the livestream.

As has been mentioned the purpose of this sitting is to mark the first time that the Supreme Court is sitting in this new building. My congratulations and the Court's congratulations goes to everyone who has been involved in the Bendigo Law Courts development. The entire community can be immensely proud of this new regional landmark and it is not overstating it to say it is an extraordinary achievement.

From the Court's perspective, I would particularly like to thank Court Services Victoria and the members of the steering committee that oversaw this development. Many of them are here today. In particular I would like to note regional coordinating Magistrate Aumair who was a member of the steering committee and who also chaired the transition working group for the operational implementation. And of course Justice Osborn, also a member of the steering committee. I want to thank Magistrate Aumair and the other steering committee members for their work and dedication. I acknowledge and thank Justice Osborn for the energy he has committed to the Bendigo Law Courts project in addition to his work as a judge. His wisdom, pragmatism, and lived experience were invaluable to this project.

Bendigo is one of 12 regional districts that the Supreme Court sits in, being a court for the state of Victoria, not just a court for Melbourne. It is a city that has developed considerably since its pall mall based courts were built in the 1890s. With its growing population it is important that Bendigo and the

Loddon-Mallee communities have access to the services they need in a modern, responsive and culturally sensitive space.

The last three years have thrown unexpected challenges at all of us. We have had to adapt to changing circumstances. Somewhat rapidly, we have had to innovate, and we have had to build flexibility into ourselves and our workplaces.

My message today is that we must keep moving forward. We must continue to ask ourselves how we can improve and what we can do better differently.

The courts are no exception. They must respond to the changing needs and expectations of users and people in the community. The Bendigo Law Courts, this new building and its operations, reflects this.

For a start this ceremonial sitting is being publicly livestreamed. Livestreaming is just one example of technological innovation which has played a significant role in increasing access to justice and enabling people to see the work of the courts. The importance of accessibility and flexibility cannot be understated, particularly for regional communities like Bendigo that are not located in one central place.

The new courts, as has been mentioned, are also multi-jurisdictional. They will service the Magistrates' and Children's Court and the Victorian Civil and Administrative Tribunal as well as the Supreme, County, Federal Circuit and Family Circuit Court on a circuit basis. As also has been mentioned, it will provide specialist courts for the Koori Community and for Family Violence and an Assessment and Referral Court for drug and mental health matters.

Going to court can be stressful, confusing and a foreign experience, especially for people who are unfamiliar with the legal environment. Legal problems seldom materialise without other problems, whether they are health

related, financial, cultural, social or otherwise.

We must remember that the people we see in court are not just the professionals who are at work. They are also often people who are facing hardship and feeling overwhelmed by the legal process. The aim of these law courts is to create a space which supports the people and organisations who use them. We can see this in the open plan design and natural lighting, the safe waiting areas and the ability for parties to remain separate from each other.

The operating model here means that regardless of which court someone is attending, they will have access to services in spaces that are calm, secure and comfortable and importantly, located in one place.

The building is architecturally significant. Its design reflects the culture of the Dja Dja Wurrung people and Bendigo's much more recent heritage as a mining town. Every day many of those passing by or entering the courts will see the spectacular design of Bunjil, the ancestral creator and knowledge keeper on Bendigo's skyline. Once inside, Bunjil's silhouette, along with the other beautiful artworks by the Djaara artists stand as symbols of the Dja Dja Wurrung's unbroken connection to land, to community and to culture.

The Djaara language is used to name more than 40 meeting rooms, courtrooms, mediation rooms and other spaces throughout the building. The courtroom we are in today is a magnificent courtroom for this court to sit in. The references and connections to the Dja Dja Wurrung are integral to the setting in which justice is delivered. They shape the experience of the community when interacting with the legal environment.

The opening of the Bendigo Law Courts marked a new era for the delivery of justice. This court complex has been designed as a modern court should be: by listening to and looking through the eyes of the users, with systems that work together and in a calm environment that fosters the best outcomes that justice can deliver.

Inevitably, the needs and expectations of users and the people in the community will change with the times. What does not change is the promise we make each day when we open the court that people will be heard. That is what happened in the design and development of this building. Upholding our promise to listen means that courts must continue to evolve so that we can serve the community to the very best of our ability.

The Supreme Court of Victoria continues to look for ways to improve the experience of going to court. The environment here at Bendigo is one part of that improvement. Over the coming months and years, I look forward to seeing the delivery of open, accessible, quality justice for all in this building.

I now invite Justice Emerton, president of the Court of Appeal, to address the court.

PRESIDENT EMERTON: Thank you, Chief Justice. I too would like to begin by acknowledging the traditional custodians of the land on which we are gathered, the Djaara people, and I pay my respects to their Elders past and present. I extend that respect to all First Nations people here today.

Can I also, on behalf of the Court of Appeal, acknowledge those of you from the profession in Bendigo who are here today and those of you who have come up from Melbourne and thank you for your attendance. It is an enormous pleasure to be sitting in such a beautiful courtroom in this historic and elegant city.

The Court of Appeal conducted one of its first regional circuits here very shortly after its creation. Unfortunately, because of COVID, the court has not sat in Bendigo since August 2018. That is almost five years ago, and that is way too long an absence. The court will be sitting in a criminal appeal immediately upon the conclusion of this ceremonial sitting, and there will be a further circuit in August of this year, which will be conducted over several days and will most likely involve a number of criminal cases and a civil appeal. There

will, I am sure, be many other Court of Appeal circuits here after that.

The multijurisdictional character of this court building is of particular significance, I feel. The Court of Appeal does not operate in isolation from the other jurisdictions housed in this building. To the contrary: its job is to respond to the conduct of proceedings in other jurisdictions, all of which are users of this court building. Indeed, the first case which the Court of Appeal will hear in this building later today - or later this morning, I should say - involved an applicant who was the subject of orders in both the Magistrates' Court and the County Court.

Can I also express my appreciation of the architectural significance of the building and the sensitive manner in which it has been designed in order to support the people and organisations that use the justice system. It is very different from the building in which we sit in Melbourne, which is the embodiment of 19th century authority. It is imposing and grand and populated by the ghosts and symbols of a former time, and it is not at all friendly to its users.

This new building reflects the evolution of the way in which the courts and the tribunals are endeavouring to serve the community. It also recognises the special connection of the Djaara people to this area and the importance of the Koori Courts. It is a landmark development both physically and conceptually.

It is pleasing that the court building is located within an educational precinct. The Court of Appeal has developed the practice of using its circuits to provide the opportunity for local secondary and tertiary students to observe proceedings and have discussions with members of the court about the nature and purpose of those proceedings. It is most important that the court's educative functions extend to regional areas of Victoria and that this new facility will materially contribute to that. The variety of spaces within this court building

is unique, as are the opportunities that this variety provides for the community to engage with the court and to learn about its functions.

So thank you again for your attendance today. The Court of Appeal is very pleased to be sitting here and looks forward to many more sittings in this beautiful courthouse.

CHIEF JUSTICE FERGUSON: Thank you. Before adjourning, I would again extend thanks to all those who are here this morning, those that are watching online, particularly people who have come some distance to be here this morning. The court very much appreciates that and thanks you for your attendance. The court will now adjourn.

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