

# Farewell to First President of the Children's Court: Judge Jennifer Coate

On 27 April 2006, the Children's Court formally farewelled its inaugural President before a Court packed with well wishers, practitioners family and friends.

From the Bar table there were warm, humourous, even touching, wishes extended by Mr Bill O'Shea, Immediate Past-President of the Law Institute of Victoria; Superintendent E. Dunne, from Victorian Police Prosecutions; and Ms Gill Callister, Executive Director, Office of Children, Department of Human Services.

On behalf of the Victorian Bar, its Chairman Kate McMillian S.C., gave the following address:



*Judge Jennifer Coate giving her farewell speech.*

I appear on behalf of the Victorian Bar to pay tribute to Your Honour's distinguished service as the First President of the Children's Court of Victoria. The Children's Court celebrates the centenary of its statute this year. Indeed just last week Your Honour hosted the launch by the Attorney-General of the exhibition now on display to mark that centenary.

That exhibition was assembled with support from the Victorian Law Foundation.

Until June 2000 the Children's Court was a division of the Magistrates' Court. The *Children and Young Persons (Appointment of President) Act 2000* established this Court as an independent court. It also provided for the appointment of a President and that the President

should be a judge of the County Court. Promptly upon passage of that Act Your Honour was appointed to the County Court and appointed the First President of this Court. However, Your Honour's leadership of this Court significantly predates your appointment as President. Since December 1995 you had been the Senior Magistrate of the Children's Court, and in September 1996 you also became a Deputy Chief Magistrate. Thus Your Honour has been the effective head of this court for more than ten years.

Many of Your Honour's important committee appointments began in 1996 and 1997. To name a few: Chair of the Health Services for Abused Victorian Children Advisory Group; Chair of the Anglicare Steering Committee for Group Conferencing Restorative Justice; Member of the Intercourt Family Violence Committee Protocols Committee chaired by Justice Brown; Member of the South Pacific Council of Children's and Youth Courts; Member of the Australian and New Zealand Youth and Children's Court Standing Committee; and Council and Board Member of the Australian Institute of Judicial Administration.

Both within Australia and internationally Your Honour has been an influential and effective leader. You headed the very successful 2002 International Congress on Children and Youth Rights held in Melbourne. Inactivity on the part of the Central Committee of the International

Association of Juvenile and Family Court Judges and Magistrates had raised a real threat that the 2002 Congress would have to be postponed. Your Honour made the decision locally that, and I quote, “We must and we shall continue.” You did, and your local leadership made the event go ahead and in the words of your New Zealand counterpart His Honour Judge Beecroft you “made it a raging success”.

Judge Beecroft — the Principal Youth Court Judge of New Zealand — had hoped to be present today and he has asked me to pass on his congratulations and best wishes to you. There are very few Australians that a New Zealander would publicly acknowledge looking up to and this is not a reference to Your Honour’s height, but Judge Beecroft speaks of your gracious personality, your principled approach to every issue, your unflinching enthusiasm and your dedication to youth and youth justice principles.

His Honour said that you will be sorely missed on the committee and Council of Australia New Zealand and South Pacific Children’s and Youth Courts. He said that Your Honour’s role in the development of those courts was pivotal. The Victorian Children’s Court has the best record of any Australian Children’s Court in relation to keeping children out of detention, whether on remand or under sentence and in a variety of supportive, non-custodial dispositions. Your Honour has consolidated and built on that record. Your Honour has worked tirelessly in the development of the new Act scheduled to come into operation in October — the *Children Youth and Families Act 2005*. This exhaustive 542-page statute will repeal and replace the current 1989 Act.

Your Honour has also played a key role in developing group conferencing in the criminal jurisdiction. The group conferencing program was introduced in 1995, utilising a general discretion under the 1989 Act. The program was under the auspices of Anglicare, hence the significance of Your Honour’s ten-year chairmanship since 1996 of the Anglicare Steering Committee that advised and assisted the Department of Human Services in developing group conferencing. In 2001 and 2002, group conferencing was expanded in Melbourne and extended to Gippsland and Hume on a three-year pilot. When the new Act comes into operation, group counselling will be available throughout Melbourne and the whole of rural Victoria.

In the child protection jurisdiction Your Honour worked closely with the

Department of Human Services to ensure the continued independence of the Court and the retention in the new Act of a legal process in which the family can present its position to the Court. Your Honour has also presided over the establishment and commencement of the Koori Children’s Court in September 2005. In this Your Honour drew on the knowledge and experience of your successor Judge Grant in his capacity as the supervising magistrate for Koori Courts. You, yourself, were the first to participate as the Children’s Court Officer in the Koori Children’s Court.

Since 2001 Your Honour has been a part time Commissioner of the Victorian Law Reform Commission. Justice Neave has praised your contributions to the Commission’s work in a variety of areas including but going beyond children’s issues, your precise, measured and careful approach and your very practical insights into the on-the-ground implications and not always obvious consequences of proposed reforms.

Your Honour’s red, striped and bright-coloured hose is legendary. On one occasion the solemnity of the court was broken by a loud exclamation from a small child, “Look Mum, it’s Mary Poppins.” Your imaginative awards at the Annual Children’s Court Christmas party, said to be the best in the legal precinct, will also be missed: awards such as to an advocate when, after considerable delay, he attended your court, he won the “I heard the page but ignored it” award. The advocate who gave the most creative excuse as to why I shouldn’t have to walk from Queen Street where pre-hearing conferences were held to South Melbourne for consequential directions won the “Fashionable but uncomfortable shoes” award.

Your Honour has been a firm, but fair and compassionate Children’s Court Judge. One counsel recalls a child protection case in which she represented parents who, at the end of the day, lost custody of their child. Your Honour explained the reasons at length and in terms the parents could understand. You expressed the hope that they might perhaps one day be in the situation to resume their role as custodial parents.

Yesterday Your Honour sat on the County Court Bench at the swearing in and welcoming of His Honour Judge Grant. Today Judge Grant is sitting with Your Honour in this court. The association with Judge Grant goes back some 14 years to March 1992. Your Honour’s first assignment as a magistrate was to sit with Magistrate Grant as he then was. There is

a pleasing symmetry in Judge Grant now sitting with you at your farewell and being introduced by you to the Court that you now hand over to him.

In his remarks last week at the launch of the centenary exhibition, the Attorney-General described Your Honour as, and I quote, “An exemplary First President who had brought diligence, integrity and imagination to the task.” The Victorian Bar agrees wholeheartedly with the Attorney-General’s description of Your Honour. In addition we would say, like all of the audience here today, that we hold Your Honour in very high regard.

On behalf of the Bar I thank you for your unparalleled service as the First President of the Children’s Court of Victoria and I wish Your Honour well in your full-time and permanent service on the County Court.

In her response to the well wishes, Judge Coate reflected on her term as President this way:

Thank you so much for your generous words. I have contemplated this moment for a long time now.

On Sunday April 30 my fourth consecutive appointment as head of the Children’s Court either as Senior Magistrate or President will end. I came to the Children’s Court for three years, nearly eleven years ago. Although there never seems like a right moment to go, this is the one I have chosen.

With the transition of the age increase [to the criminal jurisdiction of the Court] well underway, the Koori Children’s Court up and running, a new model of ADR legislated for and a new Act on the horizon, the Court is about to start a new phase in its development, in its second century on earth. 2006, as many of you would have heard last Friday, marks the first one hundred years of the Court. The Court has come of age and I hope you agree with me that it is wearing its age well.

Today, you have heard much about what I have done for the Court. But I see it differently. I see what being part of this Court has done for me over the past decade, how it has enriched me so deeply and personally in so many ways.

#### THE PIONEERING SPIRIT

Both before and during my years here, I have learnt much from and about the pioneering spirit of the judiciary who have worked in this Court. As some of you would have heard me say last Friday at the centenary of the Children’s Court,



*Judge Jennifer Coate and sitting magistrates of the Children's Court.*



*Kate McMillan S.C.*



*Ms Gill Callister makes a farewell speech as representative of the Department of Human Services.*



*Superintendent Emmett Dunne makes a farewell speech on behalf of the Prosecution.*



*Mr. Bill O'Shea makes a farewell speech on behalf of the Law Institute of Victoria.*



*Victoria Police Chief Commissioner Christine Nixon (centre) and invitees listening to Judge Jennifer Coate's farewell speech.*

there is much to learn from these first one hundred years.

"One can see many mistakes, some misguided views, some inappropriate laws and some grave errors of policy dotted throughout the history of the Court.

But there is an underlying theme in the judicial history of this Court of the striv-

ing of many passionate and committed judicial members to use the law and their statutory powers to achieve better lives for children and young people who have come before the courts over the decades.

I pay my respects to them, past present and future.

I have come to understand what Isaac Newton meant when he said: "If I have seen a little further, it is by standing on the shoulders of giants."

Greg Levine is one such giant for me. It was Greg's courage and perseverance when he was Senior Magistrate before I came to the Court which had a powerful influence on the Government's decision to build a new court.

He refused to be silenced about the need for a new building and the proper resourcing of it and that's what we achieved.

Another giant in this Court has been and remains Peter Power. He has brought to life a wish of mine that we had no way

of achieving without him. He is simply the first and last word on the law relating to the Children's Court. His constantly updated 12 chapters of research materials on the website are second to none.

#### HOPE

Here, I have learned much more about hope than I had ever understood. I have seen the hope of the committed advocates in this jurisdiction strive to get the results their clients are seeking even when the odds are poor. (And so is the pay.)

The hope of juvenile justice and child protection workers who try to get the formula right to address the reasons children and young people are brought to the court.

The hope in all of us who are the decision makers at this court that the decision

we make is the right one for that infant, child or young person.

That hope is always kept alive because of what is at stake — the ultimate hope of a better future for an infant, child or young person.

#### INSPIRATION

I have been inspired by the work and dedication of my colleagues. I have seen the thought, the analysis, the anxiety and the hard work that goes into their decision making in this Court. I have been inspired by and constantly found new energy through their cooperation and good humour.

I have been inspired by the dedication of judicial colleagues across Australia and the South Pacific and New Zealand working in this same area and in many jurisdictions across the South Pacific, many with nothing else to work with in the way of resources but energy and a vision of a better system.

I have been inspired by the Elders and respected members of the Aboriginal Community who have been prepared to sit with us, despite the history that passes between us, to try and find ways to improve the sentencing responses of this Court for young Koori people.

I have been inspired by many of the professionals that work in and around the jurisdiction, the lawyers, the social workers, the psychologists, the clinic staff led by their dedicated Clinical Director Dr Patricia Brown, the police and the police prosecutors, the pre-hearing conveners,

the security staff, and the Salvation Army and the Court Network service.

I have been and remain inspired by the extraordinary work of people like the foster carers who provide their warmth and support and care for those children and young people who need it.

#### RESPECT

Here, I have learned the real value of respect, which does not reside in the judicial title, the judicial gown and most definitely not the judicial wig.

I have learnt this in many ways and from many people but the most profound understanding of respect and its importance, I have gained from working with the Elders and respected members of the Aboriginal community in the Koori Children's Court. By listening to and watching them, it has enriched the meaning and importance of the word "respect" for me.

#### LEADERSHIP

Here, I have learned that leadership itself achieves nothing without the diligence and support and selflessness of those one hopes to lead. I have experienced that diligence and support not only from my colleagues but from the Court staff.

The Principal Registrar Godfrey Cabral and our current Principal Registrar Leanne de Morton have my gratitude and admiration. It is their work and professionalism and demeanour that are the daily face of the Court.

Any who know Leanne would describe her as not only the consummate professional, but simply unflappable, and so she is.

Even the chap that came to the registry counter seeking to rely on the Magna Carta, and requesting the court copy so he could refer to it, did not realize that our Leanne was having a little trouble understanding the true nature of his request. Ultimately, in endeavoring to both understand his request and accommodate it, she decided he must be looking for a protective worker called Maggie Carter, and so paged Maggie Carter to the upstairs registry counter. She believed him to be looking for a protective worker called Maggie Carter, she duly paged her to the counter.

The Court staff and the Court coordinator have been and remain the engine room of any court. During my time here I have been blessed with such fine coordinators as Sue Higgs and now Angela Carney. We simply would not function without our clerks and without our support staff here at Melbourne, Russell O'Callaghan and Janine Williams.

I have learned that no President can lead a Children's Court without people like Janet Matthew and David Whelan. Some of you have heard me speak of them often. It is because it is not possible to say enough about them. They have been much more to me than professional staff over the years, but have proven to be the source of friendship, support and humour.

There are many people in many government departments who have given our court guidance and support over the years and responded to many requests for assistance in many ways. I cannot possibly mention them all, but I do want to acknowledge John Griffin, the Executive Director of Courts, who has been nothing short of our constant champion, and Mick Francis who has done his best to look after us.

Some of my personal development and enrichment here has come in some surprising guises.

#### PLEADINGS

It may come as a surprise to you to hear that I have also learnt something about pleadings in this Court. It may come as a surprise to you, because we are not a court of pleadings.

I reminded Ross Nankivell recently that he taught me pleadings at Law School. I also reminded him, in case he didn't remember, that I found it hard. I struggled to achieve the elegant simplicity Ross tried to instil in us.

And now it has been found. In the

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recently introduced adjournment forms, some of you will know there is a section which requires the applicant to fill in the reason for an adjournment. This inspired applicant wrote: "Seeking an adjournment."

#### LOGIC

I have learnt much about logic.

No more shall I struggle with "All men are mortal, Socrates is a man and therefore he is mortal."

We now have the post-modern version. Thanks to one of my vigilant colleagues who picked up this piece of logic when enquiring of someone who was meant to be at court at 9.30 am, but did not arrive until 11am what the reason was for being late and received the answer, I thought court started at 10.00!

#### CLARITY OF EXPRESSION

I have learnt much about the need for clarity of expression in this Court and

indeed the legislation directs us to do our best to ensure that we are understood by all in the courtroom.

I knew I had most certainly failed the day I was asking questions of a legal practitioner, in an endeavour to establish something of the history of the case and the child's parentage, and he asked (albeit in a slightly hesitant way) "Is Your Honour concerned that she is the mother of the child?"

I reassured him that I was confident that I was not.

So you can see my life has been immeasurably enriched by this past decade.

The longer I stay here, the less I feel I know and the more I feel there is to do, so best I go now before I realize that I know nothing and have only just begun to do what is needed.

My leaving has been made so much easier by the announcement of Judge Paul Grant as the new President of the

Court. Judge Grant has been a valued friend and a much esteemed colleague for many years.

He has enjoyed a distinguished legal career on the Bench in the Magistrates Court and I have every confidence that he will not only maintain but grow in that reputation as President of the Children's Court. I am delighted that he has chosen to come onto this track and take over the running here.

There remains one task left for me to complete.

You have heard much of the race I have been running for the last decade. The crucial moment has arrived when the baton change must happen for the next President to commence the next decade. Go your hardest, Mr President.