



Law Council
OF AUSTRALIA

Ceremonial Farewell to Justice Garry Foster as Judge of the Family Court of Australia

Speech delivered via online by Dr Jacoba Brasch QC, Law Council of Australia President, at the Federal Circuit and Family Court of Australia, Parramatta Registry.

8 December 2021

May it please the Court.

I too acknowledge the traditional custodians of the lands on which we all meet, and pay my respects to their Elders: past, present and emerging.

It is a privilege to come before the Court on behalf of the Law Council of Australia and the 90,000 Australian lawyers we represent, to render thanks to Your Honour for your service to this Bench and this country, over a formidable career of almost half a century in the law. It is also a personal pleasure to speak today, as I warmly remember doing a CLE program alongside Your Honour in Tasmania some years ago, and more recently some AIFLAM arbitration work.

Your Honour has made a mammoth contribution to family law in Australia. You spent 27 years as a solicitor from the time of your admission in 1974, including 10 years as an accredited specialist.

For decades, you practised at Kogarah with T.C. Redmond & Foster, later Redmond Foster & McIntyre. The first namesake of the firm, Mr. T.C. Redmond, was Your Honour's maternal grandfather, and your master solicitor. Your time as a solicitor at the firm was as much a demonstration of family commitment as it was an accumulation of extraordinary experience and accomplishment in family law.

As a solicitor, Your Honour served as President of the New South Wales Young Lawyers, a suburban councillor for the Law Society of New South Wales, and President of the St George-Sutherland Law Society. At the Law Society, you were a prime mover for the importance of mandatory continuing legal education (**MCLE**). It was just one of the projects spearheaded by an outspoken and remarkably well-organised Committee, turned formal Section, of Young Lawyers.

This transformation was made following a memorable international Young Lawyers conference in Maui, Hawaii in 1980, which showed Your Honour and the other members of the 'Terrible Five' – Your Honour, Mr Kim Garling, the Honourable Greg Pearce, Richard Fisher AM, and Rob Kelly – just how effective a robust section of young lawyers could be.

Because of the advocacy of Your Honour and others, in 1987, Section 71 of the *Legal Practitioners Act* was amended, enabling the Council to establish a scheme of MCLE. Barristers in New South Wales and law societies in other states soon followed suit. As a result of your early campaigning as part of the NSW Young Lawyers and the Law Society Council, a motion was ultimately passed by the Council to implement a specialist accreditation plan in New South Wales in 1990. Family Law accredited solicitors were of course among the first four cohorts welcomed in 1993. These innovations have Your Honour's fingerprints all over them and this early leadership contributed enormously to the national profession.

In 2001, you went to the Bar, a valued member of Culwulla Chambers, to which Your Honour will now return as an arbitrator and mediator. Of course, you were then elevated to the Federal Magistracy in 2011. Your Honour has been an active member of the Family Law Section and served on the Board of AIFLAM.

Your Honour is a warm and welcoming judge, unfailingly pleasant to appear before. You would often invite counsel for a cup of tea after court, maintaining a collegiate and approachable manner. Your frank and forthright style in Court was relished. Your Honour has thrived on robust engagement with the Bar table and the organic discussions that result.

Far from sitting '*inscrutable as the sphinx*', Your Honour has been an active judge,

encouraging parties to find compromises, setting out the issues, and keeping matters on the rails for the sake of time and costs. You were spurred by a belief that if matters came before the Court quickly and resolved expeditiously, it would help take the heat out of frustrated family situations.

Counsel had to ensure they were on their toes when appearing in front of Your Honour, as you would not shy away from quizzing them on technical points of the *Taxation Act* or the *Corporations Act* as they related to family law, as part of property matters.

At Parramatta, you and fellow Justice Hannam made a brilliant team, creating your own case management system based on what would work for Parramatta. Rather than sticking to a rigid docket system, you made yourselves nimble, with judges taking on one another's hearings if matters resolved earlier than expected. The system was flexible, communicative and energetic. All court users came together to demonstrate a cooperative willingness to get matters heard, motivated by Your Honour's leadership.

The profession has been grateful for Your Honour's willingness to take on urgent hearings as a matter of priority. If lawyers approached the Court with a genuinely urgent matter, it would often go before Your Honour as soon as the following day. Given your heavy workload, you were remarkably open to taking urgent allocated matters, especially if they involved vulnerable children.

In your spare time, Your Honour is fond of tennis, rugby, reformer pilates and golf.

As for golf, Your Honour's enjoyment of that sport has invited analogies with the judicial task. One informant has reported that, despite Your Honour's belief that you are a decent golfer, an element of your game of which you cannot get rid, is the '*power fade*'.

Sometimes in Court when Your Honour gave your preliminary view, the power fade overtook you, and the Full Court politely advised that the ball had gone out of bounds and asked Your Honour to return the tee and start again.

Your Honour has taken on a fathering role to the Parramatta registry and its practitioners, always arranging functions for people if they were leaving.

You are generous with all around you, both with your time and in reaching out to practitioners and parties with a sense of empathy.

As a bringer of entertainment and goodwill, your Honour has not been averse to the odd practical joke around the registry. With some of the staff being rabid Rabbitohs fans, Your Honour's duty as a St. George man has been to confiscate and hide the plushie South Sydney football belonging to one of the Registry's coordinators.

Your Honour and your wife Maxine share three children and you are a loving father and grandfather. Today Your Honour, together with your family, ought stand back and reflect with immense pride upon a series of profound accomplishments from throughout your career.

Speaking of families, the families and children of this region have been the ultimate beneficiaries of Your Honour's dedication, leadership and principled administration of justice.

I wish Your Honour the best for the next chapter of your life and thank you for the service you have rendered to this Court and to the people of Australia.

May it please the Court.

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