

Mr Catanzariti said:

Your Honour is known at the bar for your skill, intellect, commitment and sound judgment in your areas of practice. Your Honour has appeared extensively in the Federal Court of Australia over the years, in a wide variety of other courts and tribunals, including the High Court, the Supreme Courts of New South Wales, Victoria, Queensland, the Copyright Tribunal and the Human Rights Commission. You have also appeared in various Royal Commissions, including most recently as Senior Counsel for two former directors of HIH in the Royal Commission into the collapse of HIH.

Gageler SC said:

Your Honour's friends and colleagues attribute many fine qualities to your Honour, all befitting your elevation to judicial office. These include: a genuine interest in a very broad range

of human activities; an eye for detail; a single-mindedness manifesting itself in a willingness assiduously to acquire new knowledge where new knowledge is required to master the case at hand; an innate appreciation of human nature; and an ability quickly to understand the human dimensions and dynamics that have led to any particular dispute.'

In response, his Honour said:

I am looking forward to serving as a judge of this Court. It has a relatively short, but distinguished history. I have appeared before many of its judges at one time or another over the last 20 or so years. Two whom I would like to mention are the late Justice Lockhart and the late Justice Lehane. Leaving aside their extraordinary intellectual powers, they both had well-deserved reputations for their unfailing courtesy on the bench. That is something for which I would like to be remembered too. Of course, as my former colleagues remind me, time will tell.'

The Hon Justice David Yates

On 2 December 2009, the Hon Justice David Yates was sworn in as a judge of the Federal Court of Australia.

His Honour was raised and educated in Wollongong, New South Wales, before moving to Sydney, initially to study music. His Honour subsequently commenced a law degree at the University of Sydney, but remains a fine pianist according to Tom Bathurst QC who spoke on behalf of the Australian Bar Association and New South Wales Bar Association. Mr Joe Catanzariti spoke on behalf of the Law Council of Australia and the Law Society of New South Wales. Mr Ian Govey spoke on behalf of the Australian Government. His Honour responded to the speeches.

Mr Govey, Mr Catanzariti and Bathurst QC all referred to the breadth of his Honour's practice at the bar. Mr Catanzariti said:

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.

Bathurst QC said:

It is a tribute to your Honour's unassuming nature that although you have, for a 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 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.'

Bathurst QC also said:

...your Honour also had a real ability to empathise with your clients whilst maintaining your independence. A good example was in a trademark 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 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 your usual impeccable self.

In response, his Honour acknowledged the opportunities presented to him during his career, both as a solicitor at Sly & Russell – a terrific firm to work in – and at the bar. Of his career at the bar, his Honour mentioned in particular the experience gained and lessons learned from as junior to Theo Simos QC, Ken Handley QC, John Emmerson QC and Bob Ellicott QC.

His Honour said:

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 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.

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 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.

His Honour also referred to the team work involved in litigation:

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.

In concluding remarks, his Honour said:

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 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.