

County Court Criminal Division

Her Honour Judge Lisa Hannan – Head of Criminal Division

Judge Paul Higham welcomed as a County Court Judge

On Monday, 28 August 2017, a ceremony was held to welcome His Honour Judge Paul Higham as a Judge of the County Court. Judge Higham's appointment was announced by the Attorney-General on 14 August 2017.



His Honour Judge Higham

With a successful career in the law spanning more than 35 years, His Honour was admitted to the Bar of England and Wales in February 1982, commencing practice in the fields of Trusts, General Common Law and Labour and Employment Law. However, in 1985 His Honour moved into criminal defence work and ancillary human rights law and, by 1987, this was his exclusive practice.



Chief Judge Kidd welcomes Judge Higham

His Honour appeared in many criminal trials, including international drug trials, money laundering and corporate fraud matters and murder trials at the historic Old Bailey, the Central Criminal Court of England and Wales. He also practiced nationally as a defence advocate in numerous sexual offence cases, including those alleging historic abuse, and became a leader in this area.

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His Honour relocated to Melbourne in 2005 and attended Melbourne University, studying the law subjects required for admission in Australia and completed a six-month law clerkship at a busy Melbourne criminal law firm. After being admitted to practice in 2006, His Honour then returned to the firm as in-house Counsel.

On signing the Bar Roll in 2007, His Honour continued to practice exclusively in the field of criminal defence work and ancillary human rights law, appearing in numerous trials in both the County and Supreme Courts. His Honour also appeared in the Victorian Court of Appeal.

For the last 30 years, working primarily as a defence barrister, His Honour has gained a reputation for caring deeply for the law and strongly supporting the right of all to have representation and allowing them the opportunity to tell their story.

As said by Ms Belinda Wilson, speaking at Judge Higham's welcome on behalf of the Law Institute of Victoria, His Honour "has believed deeply in justice, the rights of all and of equality – unshakeable positions held and delivered passionately through your life as a lawyer and articulate advocacy".

Ms Batrouney QC, speaking at His Honour's welcome on behalf of the Victorian Bar, spoke of his "philosophy of seeing and presenting the humanity in the accused and telling his or her story".

The Criminal Division takes great pleasure in welcoming Judge Higham to the Court and we wish His Honour well in the next phase of his career. Judge Higham's welcome ceremony can be viewed [here](#).

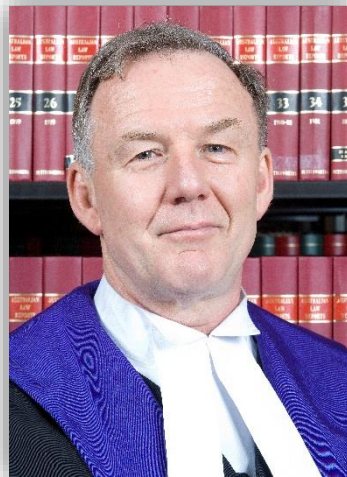


Judge Higham's welcome ceremony

Retirement of Judge David Parsons as a County Court Judge

On 25 August 2017, His Honour Judge David Parsons retired as a Judge of the County Court after 11 years on the bench. His Honour was appointed on 22 August 2006.

Prior to his appointment as a Judge, His Honour had practiced in the law for more than 30 years, with over 20 years at the Victorian Bar, with the last five of those years as Silk.



His Honour Judge Parsons

On completing his articles, His Honour left Melbourne in April 1974 to work in Alice Springs at the Central Australian Aboriginal Legal Aid Service, where he practiced for almost three years. His Honour then moved to practice in Darwin with the Aboriginal Legal Service for nearly two years, before being admitted to the Bar in Darwin.

During this time, His Honour worked closely with the Aboriginal community, earning a reputation for his understanding and rapport with Aboriginal people. He appeared before the Supreme Court and Magistrates' Court in criminal and civil trials and before the Aboriginal Land Claims Commissioners in land claims and mining negotiations.

On returning to Melbourne in 1982, His Honour signed the Victorian Bar Roll, where he read with Robert Richter QC. He continued to practice criminal and civil law, also appearing in native title and land rights cases, before the Aboriginal Land Commissioners in the Federal Court and High Court.

His Honour's generosity of spirit, dedication and concern for people carried over into his role as a Judge of the County Court where he played a significant role as a judge in the Criminal Division. His Honour's involvement with the Aboriginal community continued, particularly in assisting with the establishment and, later, the expansion of the County Koori Court. He also continued his involvement with a number of organisations, including, amongst others, the Law Council of Australia's Indigenous Affairs Committee, the Koori Heritage Trust and Stolen Generation Victoria.

His Honour's good humour and reputation for being unerringly fair will be missed by the Court, and we wish him well in his retirement. We look forward to his Honour returning as a Reserve Judge.



Legislation Update

Jury Directions and Other Acts Amendment Act 2017

The *Jury Directions and Other Acts Amendment Act 2017* will make various amendments to a number of Acts and will commence on 1 October 2017, with one exception. Some amendments to the *Juries Act 2000*, as described below, **commenced** on 30 August 2017.

The new **s.39(2)(2A)** of the *Juries Act 2000* provides that each person arraigned must be given a reasonable opportunity to make each peremptory challenge that is allowed under subsection (1).

The new **s.39(2)(2B)** of the *Juries Act 2000* provides that each person arraigned must be given an adequate opportunity to view the face of the potential juror before the potential juror is seated.

The new **s.39(2)(2C)** of the *Juries Act 2000* provides that there is no requirement for a 'jury parade'. That is, the requirement that a potential juror walk past each accused person.

Justice Legislation (Court Security, Juries and Other Matters) Act 2017

The *Justice Legislation (Court Security, Juries and Other Matters) Act 2017* received Royal Assent on 29 August 2017. Amongst other amendments, the Act amends the *Juries Act 2000* to:

- require that potential jurors are identified by number and not by name unless it is in the interests of justice to identify them by name. A new s.30A was inserted into the *Juries Act 2000*;
- reduce the number of defence peremptory challenges and prosecution stand asides in criminal trials to the following:
 - where one accused person is arraigned, the number of prosecution stand asides and defence peremptory challenges is reduced to three;
 - where two or more accused persons are arraigned the number of prosecution stand asides and defence peremptory challenges is reduced to two for each person arraigned; and
 - sections 38(1)(c) and 39(1)(c) are repealed. These sections currently provide that where there are three or more accused persons arraigned the number of prosecution stand asides and defence peremptory challenges is four.
- clarify that an accused person may exercise their right to a peremptory challenge personally or it may be exercised by



their legal practitioner or a clerk of their legal practitioner. Section 39(3) was amended to reflect this; and

- provide direction in relation to the circumstances in which additional jurors may be empanelled. A new s.23(2) was inserted into the *Juries Act 2000* which provides that in making an order under subsection (1) the court may consider:
 - the length of the trial;
 - the nature of the trial; and
 - any other factor that may result in a juror being discharged during the trial.

The amendments to the *Juries Act 2000* will commence on 1 May 2018 if they are not proclaimed earlier.

Crimes Legislation Amendment (Public Order) Act 2017

The *Crimes Legislation Amendment (Public Order) Act 2017* **commenced** on 13 September 2017. The Act makes a number of reforms to public order offences including:

- the introduction of the new s.10KA of the *Control of Weapons Act 1990* which gives police the power to direct that a person wearing a face covering leave a designated area if the person refuses to remove the face covering when requested to do so and police reasonably believe that they are wearing the face covering to conceal their identity or protect themselves from the effects of capsicum spray.
- the abolition of the Common Law offences of **riot**, **rout** and **affray**. The new s.195G of the *Crimes Act 1958* abolishes these Common Law Offences.
- the introduction of the new statutory offence of **affray**. The new s.195H of the *Crimes Act 1958* creates this offence which provides that a person commits an offence if they use or threaten unlawful violence which would cause a reasonable person to be terrified. The offence is punishable by five years imprisonment, or seven years imprisonment if the person was wearing a face covering to conceal their identity or protect against the effects of capsicum spray.
- the introduction of the new statutory offence of **violent disorder**. The new s.195I of the *Crimes Act 1958* creates this offence which provides that violent disorder occurs where six or more persons use or threaten unlawful violence with a common goal, and their conduct causes injury to a person or damage to property. The offence is punishable by 10 years imprisonment or 15 years imprisonment if the person was wearing a face covering to conceal their identity or protect against the effects of capsicum spray.



Next Edition

The next edition of the County Court Criminal Division Update will be published in October 2017.

Any suggestions can be sent to Ryan Mallia or Nancy Molloy:

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