

**Address on the occasion of the welcome on Thursday 22 October 2009 to
the Honourable Justice Karin Emerton upon her appointment to the
Supreme Court of Victoria by Michael Colbran QC, Chairman of the
Victorian Bar Council**

May it please the Court.

I appear on behalf of the Victorian Bar to congratulate Your Honour, Justice Emerton, on your appointment to this Court.

Your Honour brings to this Court a breadth and depth of intellect and scholarship well beyond professional qualifications in Law. You also bring wide experience in private and government practice – in policy and in advice at the highest level – and as an advocate.

Your Honour was born in Geneva where your father, a Commonwealth Public Servant, was on a posting to a United Nations agency.

Your father had a number of overseas postings. You began school in Geneva and commenced High School in Germany – at the Hildegard von Bingen Gymnasium in the City of Cologne.

Your family returned to Canberra, and there you attended Narrabundah High School.

Your Honour then began a combined Arts/Law course at the University of Sydney.

The combined course involves concurrent study, taking both Law subjects and Arts subjects each year. But, in the final Arts honours year, one takes no law subjects at all.

At this point we perhaps almost lost you to the law. In 1980 you took a first class honours arts degree and were awarded a postgraduate scholarship. You suspended the law element of your combined course and resumed your European education at the University of Paris – The Sorbonne - where you began work on a doctorate. While there you picked up a French Government scholarship

While at the Sorbonne you attended lectures by Jacques Derrida the eminent French Philosopher and founder of deconstruction. You were awarded your doctorate in 1987, your thesis (translated into English) was “Women in Philosophy - the Ethics of Difference.” I note that it was prepared without the benefit of deconstructional powers of word processing.

You then returned to Australia and resumed your law studies at the University of New South Wales. You completed the degree in 2 years. You won the Julius Stone Prize for Legal Theory, and graduated in 1989.

Your Honour was admitted to practise as a solicitor in New South Wales in June 1989 and began at Blake Dawson in July 1989. After less than a year at Blake Dawson you were seconded to the Policy and Research Division of the Victorian Attorney-General’s Department.

The Monday after you began with the Attorney-General’s Department, the Pyramid Building Society failed to open its doors.

Losses in the collapse of Pyramid have been put at some \$2 billion. The Victorian Government established a rescue scheme to compensate those who had lost their life’s savings at a cost of some \$900 million. Nearly 20 years ago, these were massive sums.

In an explosive political, economic and legal situation, Your Honour remained calm, balanced and clear. You were a key contributor across Government, Ministers, Departments and the permanent Public Service.

Your Honour was effectively the Attorney-General’s Advisor – a position Chief Justice Warren held under several Attorneys.

Your Honour worked on the Victorian compensation scheme; on the litigation against the Victorian Government Ministers; and on the ground-breaking policy work of new ways of thinking about financial regulation – in particular, of non-bank institutions.

Ray Finkelstein QC and Ron Merkel QC were briefed for the State Government in the litigation against it, and Your Honour worked closely with them.

As always, Your Honour's timing was impeccable. You returned to Blakes towards the end of July 1992. The Government fell in the October election.

Your Honour remained in the Corporate & Commercial Group at Blakes for about a year, and then came to the Bar.

You read with Kim Hargrave – now Justice Hargrave of this Court.

We asked Justice Finkelstein to give us some material for this welcome. After a characteristic and decisive laugh, His Honour said “if you want funny stories forget it.” Justice Finkelstein may not always be right but on this occasion he was.

But this is a welcome not a judicial roast. We did not find funny stories, but what we did find was universal acclamation of your scholarship, your industry and your balance in life.

Your Honour had three readers: Dr Jennifer Beard (now a member of the Refugee Tribunal); Rachel Ellyard; and Dr Vicky Priskich.

Each reader remarked on the same three things: the quality of their experience and instruction; the volume of serious *pro bono* work Your Honour was always doing; and the work-life-family balance of your making time for local primary school committee work.

You also served on several Bar Committees: 5 years on the Child Care Committee; 5 years on the Equal Opportunity Committee; and 4 years on the Women Barristers Association, including as Assistant Secretary and Assistant Convenor.

Your Honour appeared often with the Solicitor-General and in a wide variety of matters.

You also appeared with Chris Maxwell QC – as President of the Court of Appeal, on the Bench with the Chief Justice to welcome Your Honour.

In May 2007, Your Honour was appointed Crown Counsel (Advisings) for a 3-year term and in November 2007, you took silk – an application long overdue - and an award universally applauded by all who had worked with – or been opposed to – Your Honour.

Your Honour appeared in a number of cases with Mark Dreyfus QC – now the Federal Member for Isaacs. He regrets not being able to be here today.

Mark said, and I quote, “I can’t speak too highly” of Your Honour. This is a first. No one recalls Mark having delivered such a compliment before.

You appeared with him for the Victorian Government intervening in support of the Plaintiffs in the *Judicial Pensions* case.

Your Honour had, and I quote Dreyfus, “a huge hand” in writing the submissions. There were three principal lines of argument for the plaintiffs. Your Honour favoured and ran the *Melbourne Corporation* argument – and that was the argument that carried the day.

There is one exchange worth recording from the *Judicial Pensions* case between Geoff Nettle QC (now, of course, of the Court of Appeal) and Justice Gaudron.

In the context of more women judicial officers, and of a different life expectancy between men and women, Justice Gaudron asked: “Is there any evidence that women judges live longer than male judges?”

Nettle submitted and I quote, “because they work as hard, they probably die just as fast as male judges.”

Justice Gaudron came back: “Because they work *twice* as hard, they probably die twice as fast”.

Happily Her Honour is not qualified to give a medical prognostication but in any event we are sure that your Honour’s lifetime of industry and balance will ensure a long and fulfilling judicial career.

On behalf of the Victorian Bar, I wish Your Honour long, satisfying and distinguished service as a Judge of this Court. I wish Your Honour joy in your appointment.

May it please the Court.