



12 August 2010

Welcome to the Honourable Justice Peter Almond

Address at the ceremonial sitting to welcome The Honourable Justice Peter Almond upon his appointment to the Supreme Court of Victoria by Cameron Macaulay SC, Vice-Chairman of the Victorian Bar Council

May it please the Court.

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

The Chairman, Michael Colbran, is interstate and has asked me to pass on his apologies and congratulations. However, it is a particular pleasure for me, as a one-time junior to Your Honour, to deliver this address.

Your Honour has practised law for more than 30 years since your admission to practice in April 1980 – more than 28 of those years as a barrister.

Your Honour was educated at the Yarra Valley Grammar School at Ringwood and at the University of Melbourne – graduating in Arts and Law in 1978, and then completing a Master's degree in Law in 1985.

Your Honour served articles with Sewell, King & Hedstrom, and you were admitted to practice in April 1980.

You remained with the firm as an employee solicitor for two years, coming to the Bar and signing the Bar Roll in May 1982. You read with Jeffrey Loewenstein.

In the 1980's, Your Honour developed a diverse general litigation practice, with trial work initially in the Magistrates' and County Courts but with interlocutory work, and some trial work in this Court and the Federal Court.

Necessarily, as you became more senior – and much more so once you took silk – you undertook large and complex cases, often representing major corporations and regulators, such as ASIC, APRA, NEMMCO and the Australian Stock Exchange.

However, particularly in your early days at the Bar, you took cases on a more human scale, each of course as vitally important to your clients as the later ones.

In the late 1980s, for example, you represented a tobacconist charged with obscenity. The charge was based on a novelty item the man had in his window called "the perky pecker".

In eloquent demonstration of the triviality and absurdity of the circumstances – and, no doubt, consistently with a sophisticated and highly developed ‘case concept’ - Your Honour had “the perky pecker” hopping up and down the Bar table. The charge was dismissed.

Your Honour had five readers: Ian Percy, Maya Rozner, Robert Peters, Suresh Senathirajah and Jason Pizer. All are still in active practice at the Bar.

All speak of the value of Your Honour’s tutelage and personal professional example – and of your continuing interest in, and support of, them.

Silks to whom Your Honour was a junior praise your meticulous preparation – in particular, scrutinising discovery and uncovering material for cross-examination. You were never less than fully prepared yourself, and never reluctant to take a witness.

Your Honour took silk in November 1999.

In answer to the Bar News question as to your area of practice, you said: “Commercial [but] now willing to try anything”. Seemingly, that has extended to even being a judge!

Your practice still remained grounded in commercial law. And you were briefed as the leader in a share of the foreign exchange cases in which you’d so excelled as a junior.

But you also ventured into new territory. For example, you developed a specialty in telecommunications law – not only the Australian telecommunications framework and legislation; but also appearing in the Supreme Court of Samoa, instructed by the Attorney-General of Samoa to represent the Samoan Telecommunications Regulator.

You represented the Dairy Adjustment Authority in the test cases on the statutory schemes for de-regulation of the dairy industry.

And you represented the Australian Stock Exchange in proceedings arising out of the de-mutualisation of the Exchange.

In that case, *Wenzel v The Australian Stock Exchange*, Your Honour was opposed to Vickery QC (now Justice Vickery) and your instructor was Emiliou Kyrou (then of Mallesons; now Justice Kyrou). In the celebratory wind-down after the successful conclusion of the case, Your Honour, a modern debonair, introduced your instructor to the delights of apple martini – shaken, not stirred.

Beyond your practice Your Honour contributed significantly to the Bar. You were a Director and Member of the List A Committee for some six years – of those, serving as List Chairman for four years. You were a Deputy Member of the Supreme Court Board of Examiners.

In addition to your five readers, Your Honour served as Senior Mentor to a number of other new barristers.

You presented papers in the Bar Continuing Professional Development Seminars; at the Leo Cussen Institute; and at the RMIT University.

So, what of Your Honour outside of the Bar?

At University, Your Honour was known as “Fonz” – the Henry Winkler character from the American series “Happy Days” – because you wore the same old leather motorcycle jacket every day.

Your sport was hockey, and you developed a fierce reputation in that.

But less well-known is the extreme sport of indoor cycling – along the long passage of your Carlton house – at which you once suffered injury to your wrist.

Your Honour met Carmel Mulhern at the 1998 ABA conference in London and Dublin. She was then a solicitor at Mallesons, but apparently registered at the conference by some mischievous friends, as ‘Judge Mulhern’. After the conference, Carmel and said two friends from the Bar (Rachel Doyle and Sarah Hinchey) went on for a few days in a cottage in the Loire Valley belonging to Justice Gaudron (to whom Carmel had been an Associate). Your Honour, being the ‘blokey’ sort of guy you were, joined “the girls” trip – exemplifying your canny sense of strategy.

Your relationship with Carmel developed but was put to the test in the early 2000s when Your Honour brought Carmel with you to deliver a new table, which you had crafted, for a “hut” in a remote area of the northern Snowy Mountains which you jointly-owned with others.

Your four-wheel drive became snowed in – possibly because it had not been moved to lower ground after the delivery - and Carmel, who had never before been on cross-country skis, made the 20 kilometres trip to get out through deep, fresh snow that balled and caked on your skis.

Presumably Your Honour claims the episode as clever design. You and Carmel went on to be married, and together you have 3 young children: Freya (nearly 6), Hugh (4 ½) and Bridget (nearly 3).

This same hut was also the scene of Your Honour’s determined, and eventually successful, saving of “the hut” from the January 2003 Canberra bushfire that spread into the Kosciusko National Park.

Your Honour gathered fire-fighting pumps and hoses and drove to the hut with those of your partners in the hut who were there. (One had apparently absented himself to Europe, skiing.) A fire services helicopter landed and offered to take you all out. You stayed. You got information about the fire and its direction and speed. You did a back burn – then sheltered in the hut. The firestorm passed over. Other huts in the area were destroyed. You could have been killed, of course, but your efforts did save your hut.

Your Honour has had a distinguished career as a barrister – demonstrating many qualities that will make you a good judge – in particular, picking the vital issue and making a call on what is worth fighting. Many of your cases have not proceeded to trial for that reason – or if they have, in only limited compass.

A good example was when Your Honour was lead counsel for the majority shareholders in an oppression action against the company by a minority shareholder.

The case had been winding its way through the courts for more than five years in circumstances involving extreme vexation between the parties.

Your Honour’s meticulous preparation convinced you that one of the numerous claims made against your client, the allegation of oppression, was undefendable. You so advised. Initially your client exploded in rage and stormed out of your chambers.

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Appropriate concessions on the oppression point, and a well-targeted open offer at trial which was not accepted, ensured an overall favourable trial outcome, held on appeal. The trial judge and the Court of Appeal highlighted the correctness of the concessions. The client later conceded that the best decisions he ever made were to engage Your Honour and to follow your advice.

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

May it please the Court.