

Court of Appeal

Justice Robert Redlich



is also a man who lacks a large ego or a sense of self-importance. He does, however, have a fierce commitment to justice and the rule of law. There are many who regret that he will no longer be available as a trial judge.

No doubt now he will be able to burn

the midnight oil reading Appeal Books rather than transcript. The intellectual rigour which he has shown as a trial judge (and which he showed as counsel) will have a new outlet.

We welcome his Honour's appointment.

Court of Appeal

Justice Marcia Neave



In welcoming him to the Supreme Court on 11 November 2002, Jack Rush QC said of Justice Robert Redlich:

Your Honour's thoroughness and attention to detail in the preparation and presentation of a case have been likened to that of a Swiss master craftsman who takes a clock apart completely so as to know every tiny piece and then puts it all together again.

Those who have appeared before his Honour in the 3½ years since Jack Rush spoke those words are unanimous in the view that his Honour has taken that same thoroughness and attention to detail with him to the Bench.

Those who appeared before him in the case of *R v Lam & Ors* speak of his Honour's complete dedication to the job in hand and his capacity by reason of that work ethic combined with intellect and courtesy to repeatedly give prompt and unchallengeable rulings (some 31 of them) on difficult and complex issues.

The editors are aware of at least one counsel in that case — losing counsel — who consistently referred to his Honour's mastery of the detail of the case and to the huge workload which his Honour imposed upon himself during the conduct of that trial.

His Honour has shown himself not only to be a first class lawyer, with a first class mind but also a first class trial judge. He

like me, who were not much interested in property law, rather suffered through it.

Justice Neave left Melbourne University to become Dean of Law at the University of Adelaide. She was one of the first three women in Australia to be appointed to a Chair in Law. After five years there she returned to a personal Chair in the Law Faculty at Monash University. She has been appointed a Fellow of the Hauser Global Law Faculty at New York University Law School, one of only two Australian academics to have been so recognized. She is also a Fellow of the Academy of Social Sciences in Australia, a distinction she shares with a number of other judges including Justice Paul Finn of the Federal Court, Justice Michael Kirby of the High Court and retired Justices Sir William Deane, Sir Anthony Mason and Sir Ninian Stephen.

JUSTICE Marcia Neave, recently appointed to the Court of Appeal has had, on any account, a stellar legal career. She attended Melbourne University Law School from which she emerged with the Supreme Court prize. In so doing, she collected more exhibitions than any other student since Sir Zelman Cowen. Upon discerning this, Sir Zelman, who was Dean of the Law School at the time, offered her a tutorship immediately — and without interview. She proceeded to write the first Australian casebook on the law of property with Ronald Sackville, now a Justice of the Federal Court. It was acknowledged widely as a huge and brilliant work — even if some

In parallel with her distinguished academic career, Justice Neave has demonstrated a continuing, practical commitment to law reform. She was for a time Director of Research with the NSW Law Reform Commission. She headed the Victorian Government's inquiry into prostitution in 1985, an appointment greeted in the *Herald-Sun* under the headline "Mother of Two to head Brothel Inquiry." From 1986–1992, she was a part-time Commissioner of the old Victorian Law Reform Commission. She headed

the Commonwealth Administrative Review Council for five years until 2000. She was appointed Foundation Chair of the reconstituted Victorian Law Reform Commission in 2000, a position she occupied until her nomination to the Bench.

She was made an Officer of the Order of Australia in 1999. Her citation read: "For service to the law, particularly in relation to law reform in the area of social justice as it relates to issues affecting women, and to legal education." In 2001 she received a Centenary Medal for her work with the Administrative Review Council.

Despite these formidable achievements, Justice Neave's appointment has not been without its critics — and in particular from one columnist in the *Herald-Sun*. Referring to this, the President of the Law Institute, Ms Cathy Gale, in her welcoming speech said that she had been disheartened by the criticism, particularly as it appeared founded on the view that in the appointment of a judge, attitude counted more than experience. She responded "that diversity within an organization is a strength, not a weakness, and I believe that (Justice Neave's) contribution to the Bench will indeed be a great strength".

Justice Neave's contribution, while based on her legal brilliance, is likely to be made on even broader foundations. She brings to her position many personal qualities and an experience of life that qualify her splendidly for judicial office. She is a legal polymath. She possesses an almost unique capacity to master, quickly and confidently, very different areas of legal speciality. This has been nowhere better illustrated than in her recent tenure as Law Reform Commissioner. In that role she has had to conduct inquiries inter alia into the law relating to homicide, workplace privacy, tenancy, sex offences, bail and intellectual disability. It is a measure of her grasp (and that of her research team) that the Commission's recommendations in every one of these areas have been implemented in legislation or are included in Bills which are before the Parliament.

Her Honour has communication skills of the highest order. It is not possible to achieve the outcomes just described unless one is capable of speaking clearly, directly, openly and honestly to the widest diversity of interested parties, whether they be professional organizations, community groups, people suffering disadvantage, members of staff,

academics, policy advisers, politicians and many others.

This is accompanied by a rare measure of open-mindedness. Despite the attempt of her journalistic critic to assign her a particular legal or judicial orientation, Justice Neave is well known for her willingness and capacity to approach new problems with intellectual rigour, a commitment to arriving at conclusions based on the interrogation of evidence, self-awareness, and independence of mind. We all have biases. But it is her Honour's ability to see and acknowledge her own, as a precondition to engaging in informed and impartial decision-making, that marks her out.

Finally, Justice Neave brings to her new role a thoughtfully founded and highly developed ethical sense. It was noted several times in the speeches welcoming her appointment that she had been, throughout her career, committed not just to principled decision-making but also to the achievement of justice for people less privileged than herself. This is complemented in her personal life by a commitment to values such as openness, trust, integrity, reciprocity, and respect. It is these qualities, as much as any other in the purely legal sphere, which qualify her for her new appointment and ensure that she will make a most distinguished judicial contribution.

Supreme Court

Honourable Justice Anthony L. Cavanough



ON 16 May 2006 the Banco Court was packed for the welcome to Justice Anthony Lewis Cavanough on the occasion of his appointment to the Supreme Court of Victoria. The Bench was also graced by the presence of Chief Justice Marilyn Warren AC and Justice of Appeal Peter Buchanan, the most senior member of that Court present in Melbourne. This innovation in the conduct of Supreme Court welcomes is to be applauded.

The formal milestones of Justice

Cavanough's career are impressive enough. After education at Stella Maris Primary School and St Bede's College Mentone, he graduated from Monash University Bachelor of Economics and Bachelor of Laws with Honours. With his now colleague Justice Kevin Bell he was equal runner-up for the Supreme Court Prize. He served articles with Mr Matt Walsh of Mallesons. After admission to practice in February 1979 he became Associate to Sir Gerard Brennan, then a Judge of the Federal Court and President of the Administrative Appeals Tribunal. He signed the Bar Roll on 19 June 1980 at a celebratory dinner at which Sir Alistair Adam addressed the new readers, the second intake of the Bar Readers' Course. He read with Peter Heerey at Latham Chambers and after a successful practice as a junior, during which time he had six readers, John Buxton, Denny Meadows, Samantha Burchell, Peter Morrissey, Katherine Rees and Peter Gray, he took silk in 1996. He was a member of the Bar Council and served on a number of Council committees, including joint committees with the Law Institute. For three years he served as a sessional Hearing Commissioner for the Federal Human Rights and Equal Opportunity Commission.

Behind the foregoing lies a career at the Victorian Bar of a man whose intellectual capacity, integrity, commonsense and diligence are matched by a warmth, humour and courtesy which have made him many life-long friends along the way.

His time with Sir Gerard Brennan introduced him to the field of administrative law which was to become his great speciality. In the mid 1970s modern administrative law at the federal level in Australia was launched with the establishment of the Administrative Appeals Tribunal and the introduction of the Administrative Decisions (Judicial Review) Act, the Freedom of Information Act and the office of Ombudsman. It usually takes a few years for major legislative changes to work their way into the tribunal and court system. So by the time his Honour joined Sir Gerard, federal administrative law was still in something of a Garden of Eden period (it was much later that the serpent intruded in the form of privative clauses, the mysterious doctrine of jurisdictional error and other complications).

While in Canberra his Honour shared a house with Jack Hammond, another Associate of Sir Gerard's (and the one who had pipped the two second place-getters for the Supreme Court Prize). His Honour's tastes in music were always of a somewhat conservative and middle-brow kind. One night the Cavanaugh/Hammond establishment was done over. The thief did a thorough job and removed everything that was not nailed down, including Jack Hammond's record collection. But there was one exception. The discriminating burglar left untouched his Honour's Bing Crosby records.

In reading with Peter Heerey on the 12th floor of Latham Chambers his Honour joined a stable from which four have gone on to judicial office; as well as

his Honour, they are Justice Sally Brown (Family Court), Justice Susan Kenny (Federal Court) and Justice Kevin Bell (Supreme Court). Comparisons with Mr Bart Cummings spring to mind.

Latham Chambers was one of the first of the modern chambers to be established by the Bar itself outside Owen Dixon Chambers. In the chambers where his Honour read, and stayed (after an initial interlude at Equity Chambers, of which more anon) for his remaining 26 years at the Bar, were Don Ryan (now of the Federal Court) Graeme Thompson, Craig Porter and David O'Callaghan. Others on the 12th floor included Ross Sundberg (now of the Federal Court), Robert Osborne (now of the Supreme Court) Jeff Sher, Richard Stanley, Jack Forrest, Tom Danos, John Emmerson, Chris Jessup (now of the Federal Court) and David Martin. It was a most congenial environment, as witness the fact that most of those not beguiled by offers from Attorneys-General remain there to this day.

In Equity Chambers his Honour joined Father Frank Brennan SJ (St Ignatius Loyola, the founder of the Jesuit Order, was keen for its members to have varied experiences — whether the Victorian Bar, with crash and bash cases in the magistrates' courts, was quite the sort of thing he had in mind must remain a matter for speculation). Others were Colin McDonald, now a silk in Darwin, Gerard Maguire, Mick Dodson and Maureen Smith. In those pre-IKEA days the long deserted chambers were fitted out with desks built by somebody's father, 40-year-old curtains and other fittings consistent with the earnest ambience of socially aware chambers.

A famous chambers-warming party included many Bench and Bar notables

from the Celtic Club — Kevin Anderson, Murray McInerney, Jim Gorman, Frank Vincent, Brian Thomson and honorary Celt, Len Ostrowski. Also present was a young James Allsop from Sydney (now of the Federal Court). A Protestant guest (such was the tolerance and generosity of the hosts that even these were included) enquired as to the meaning of the freshly painted "Frank Brennan SJ" on the door. Quick as a flash James responded "Son of a Judge, of course".

The morning after there appeared over the door of the suite a coat of arms with the crossed keys of St Peter. This was removed, but the name "Vatican Chambers" stuck.

His Honour's practice flourished, especially in the field of administrative law, but also in other areas, including some *causes célèbres* such as the *Bank of Melbourne* case (led by Neil McPhee and Joe Santamaria) and *Giannarelli* (led by Peter Heerey). But so successful was he on behalf of clients complaining of breach of natural justice, or very unreasonable decisions on a Wednesday (known in the trade as Wednesbury unreasonableness) that governments, and particularly the Federal government, paid him the sincerest form of flattery by increasingly retaining him.

His Honour was a prodigious worker and burner of much oil at midnight and later. As a natural consequence, he was not the earliest of risers. Once he took silk, his juniors would wait anxiously for the 10 am call: "I'm just getting on the train, can you hold the fort till I get there."

But not all was work. His Honour excelled at cricket and would turn out for the annual Bar v Law Institute fixture. His abiding passion, however, was, and remains, the turf. His Honour's late father, Maurice Cavanaugh, was the author of the

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definitive history of the Melbourne Cup, first published in 1960 and subsequently updated in a further eight editions before his death in 2001.

His Honour each year organises for the Bar's Melbourne Cup Calcutta a table made up of past and present Lathamites and others of similar ilk. His Honour is in charge of all investment decisions, which for a long time have been successful to an extent that would excite envy amongst Macquarie Bank executives (well, almost).

However, the inevitable happened in 2005 and the table became a loss leader. But of course there were no recriminations, and all concentrated on recollection of past glories, which must surely come again.

Of all his Honour's fortunate experiences in the law, none have proved of greater value than his meeting his wife Gabrielle, then a solicitor with Freehills. They were introduced on the steps of the Supreme Court by his old friend Michael Fleming, fellow St Bede's boy, Monash Eco/Law grad, Brennan Associate, Heerey Reader, and Lathamite.

His Honour and Gabrielle have two daughters, the elder of whom is following her parents into the law. At Law School Amanda was given the exercise of writing a headnote. She showed a draft to his Honour. As his many juniors will attest, production of a draft document and a red pen trigger obsessive compulsive behavioural reactions in this otherwise well-adjusted and mild-mannered man. His Honour made many helpful suggestions for the improvement of the content, style, structure, grammar and syntax of the draft. Unfortunately Amanda's lecturer did not greet the settled draft with the admiration one must be sure would be felt by any counsel or judge who read it. A dismal mark was received. Demands on his Honour's time for academic assistance by his daughter have much diminished.

The Bar is delighted with his Honour's appointment and is confident he will add lustre to the Supreme Court of Victoria.

County Court

Judge Paul Grant



HIS Honour Paul Douglas Grant was welcomed to the County Court Bench on 26 April 2006.

His Honour was born and raised in Altona. There is a family connection with the area stretching back a number of generations.

His Honour attended Altona High School and assumed that his destiny lay in teaching. Almost as an afterthought, law was included as a preference and Monash University obliged with an offer to undertake arts and law degrees. His Honour enjoyed his years at Monash, including developing snooker skills, reading the great Russian authors, spending many hours listening to music in the John Medley Library and learning the piano. These extra-curricular pursuits were interspersed with some study before graduating Bachelor of Arts in 1975 and Bachelor of Laws in 1977.

A move to Geelong soon followed. Articles were served at the firm of Fraser Desmond & Hampson, before admission to practice in early 1979, and subsequent employment with Hodges Hall & Co, also in Geelong. Exposure to Court appearance work persuaded his Honour to pursue the art of advocacy.

During this time, and in keeping with a keen sense of social justice, time was also spent as a volunteer and committee member with the South Barwon Legal Service. There was, as always, a full life away from the law. There were many

fun-filled times attending card nights that extended well into the following day, as well as impromptu volleyball and three or four-a-side football matches in what was then known as Kardinia Park. Match breaks were regularly taken at the nearby Sawyers Arms.

A crowning moment in his Honour's many sporting achievements came in a cricket match between Geelong lawyers and the local police. His Honour played a masterful opening stand that more than offset the less than effective bowling efforts of his team mates.

In about 1980 serious consideration was given to a position outside the law. Fortunately, his Honour thought the better of it, and instead, decided to try his hand at the Bar. His Honour read with the late Graeme Morrish QC, recognising and learning from his mentor's considerable skills as a lawyer and advocate. They became good friends. The Bar Roll was signed in June 1980 and it marked the beginning of an enduring interest in the criminal law. A busy criminal practice was soon established.

His Honour's legal career took another turn in 1985 when he joined up with friends Peter Gordon and Rob Stary at Slater & Gordon, to set up a branch office in Footscray. Together they built up a bustling legal practice. There was further work as a volunteer, this time with the Western Suburbs Legal Service. It was an exciting and rewarding time. It also provided opportunity to put some polish on snooker skills at the Footscray Mechanics Institute. And one cannot forget the many lively discussions enjoyed with friends over chocolate cake at the famous Cockatoo Cafe.

In 1988 His Honour was appointed a Magistrate and sat in the City Court and the Children's Court. The first years on the Magistrates Court Bench were a valuable and enjoyable learning experience under the auspices of such learned Magistrates as John Dugan and, as she then was, Sally Brown, now her Honour Justice Sally Brown. There followed nine years at Broadmeadows with Bob Kumar, a person who had greatly impressed his Honour when he appeared in his Court as counsel.

In 2001 his Honour became the State's co-ordinating Magistrate and in 2003 came appointment as Deputy Chief Magistrate. In 2004 came appointment as supervising magistrate for Koori Courts in Victoria. This role was tackled with his Honour's customary enthusiasm, visiting Koori Courts throughout the State and working with elders. In the role of President of the Children's Court, his Honour hopes to expand the Children's Koori Court to rural areas.

Throughout his legal career, his Honour has exhibited a tireless and enthusiastic commitment to social justice. This has in part been evident by membership of the Victorian Death Review Committee, the Community Council Against Violence Working Party, advisory group for health services for abused Victorian children, and the Metropolitan Regional Aboriginal Justice Advisory Committee.

His Honour continues to enjoy a range of interests outside the law, including membership of a particular bookclub whose members include a number of brother Judges.

Despite deep affiliation with the Western suburbs, the "Dees" hold unswerving support. It is rumoured that a Melbourne guernsey presented at a milestone birthday remains one of his Honour's prized possessions.

His Honour is a proud family person. He is devoted to his wife and friend Lisa, and to sons Tom and Phil. They have recently returned from an inaugural overseas holiday and eagerly look forward to many further overseas travels together.

His Honour is widely regarded in the legal profession as a fair-minded, compassionate and good lawyer. There are countless friends within the legal profession, as well as registrars and court staff of the various courts in which his Honour has worked to date.

His Honour acknowledged at the Welcome his very positive impression of the way his friend, Magistrate Bob Kumar, treated all people who came before him with respect, regardless of background or circumstances. It is this very same quality in his Honour that endears him to so many. The role of President of the Children's Court was previously held by her Honour Judge Coate. She is widely recognised as having led the Children's Court with distinction. The Bar is confident his Honour will prove a worthy successor and will further enhance the reputation of that Court. The Bar wishes his Honour a long and fruitful career on the Bench.